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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 333, 347, 348, and 359

RIN 3064–AC55

Filing Procedures, Corporate Powers, International Banking, Management Official Interlocks, Golden Parachute and Indemnification Payments

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC has adopted a final rule amending its procedures relating to filings, mutual to stock conversions, international banking, management official interlocks and golden parachute payments. The changes are mostly technical in nature or clarify previous FDIC positions; however, the final rule includes a waiver provision to its regulations. The waiver provision grants discretionary power to the FDIC Board of Directors to waive regulatory provisions that are not based on statutory requirements.

DATES: September 22, 2003.

FOR FURTHER INFORMATION CONTACT: Division of Supervision and Consumer Protection: Steven D. Fritts, Associate Director, (202) 898–3723, Mindy West, Examination Specialist, (202) 898–7221; Legal Division: Supervision and Legislation Branch, Robert C. Fick, Counsel, (202) 898–8962, Susan van den Toorn, Counsel, (202) 898–8707.

SUPPLEMENTARY INFORMATION:

I. Background

Part 303 of the FDIC's regulations (part 303) generally describes the procedures to be followed by both the FDIC and applicants with respect to applications and notices required to be filed by statute or regulation. On December 27, 2002, the FDIC issued in final form a revised part 303 to reflect a recent internal reorganization at the FDIC and to remove the delegations of authority from the regulation. *See:* 67 FR 79246. On the same date, the FDIC issued the Notice of proposed rulemaking (''the notice of proposed rulemaking'') for revisions to parts 303, 347, 348, and 359 and technical corrections to other regulations in chapter III. *See:* 67 FR 79271.

II. Final Rule Part 303

The FDIC is amending § 303.2 to clarify how the statutory definitions in the FDI Act apply to part 303. Several provisions in part 303 utilize terms, such as ''bank,'' ''company,'' and ''depository institution holding company,'' that are defined in the FDI Act. The FDIC is clarifying that unless such terms are expressly defined differently in part 303, those terms will have the meanings given them in the FDI Act. Therefore, § 303.2 specifies that wherever a term that is defined in the FDI Act is used in part 303, it will have the meaning given the term in the FDI Act except to the extent part 303 expressly defines that term differently.

The FDIC is amending § 303.4—*Computation of time,* to clarify when the general rule regarding the commencement of the various time periods in part 303 applies. Several subparts of part 303 include a provision that specifies when a particular time period commences. See, for example, subpart E—Change in Bank Control. It is the FDIC's intention that in those instances where a specific provision exists, the specific provision prevails over the general rule set forth in § 303.4. The FDIC is modifying the first sentence of § 303.4 to clarify that the general rule only applies to the extent there is no specific provision regarding when a particular time period commences.

The FDIC is revising § 303.11(g) to provide a time within which the FDIC has to respond to an institution or institution-affiliated party that files a response to a notice of intent or temporary order issued pursuant to this section. The FDIC believes that 30 days is a reasonable time in which to review any response submitted by an institution or institution-affiliated party. Additionally, the FDIC is placing the last sentence of current § 303.11(g)(3)(ii) into a separate paragraph to clarify that it applies to § 303.11(g)(3) in its entirety, and not only to § 303.11(g)(3)(ii).

The FDIC is adding a provision setting forth its authority to waive any non-statutorily required provision for good cause. New § 303.12 provides that the Board may, for good cause and to the extent permitted by statute, waive the applicability of any provision of chapter III. The provisions could be waived, in whole or in part, at any time by the Board when good cause is shown, subject to the provisions of the Administrative Procedure Act and the provisions of chapter III. Any provision of the rules may be waived by the Board on its own motion or on petition if good cause is shown.

The FDIC is revising § 303.22(a)(1) in order to clarify the rating required for a bank or thrift holding company to be eligible for expedited processing for a proposed institution seeking deposit insurance. The existing § 303.22(a)(1) rating for a thrift holding company of a ''2'' is inappropriate since the Office of Thrift Supervision has ratings of ''A'', ''S'', and ''U''. Revised § 303.22(a)(1) would provide that an eligible holding company would be defined as a bank or thrift holding company that has consolidated assets of at least $150 million or more; a BOPEC rating of at least ''2'' for bank holding companies or an above average or ''A'' rating for thrift holding companies; and at least 75 percent of its consolidated depository institution assets comprised of eligible depository institutions.

The FDIC is amending several sections in subpart E to clarify that the acquisition of control of a parent company of a state nonmember bank generally requires a change in control notice. Section 7(j)(18) of the FDI Act (12 U.S.C. 1817(g)(18)) indicates that the Change in Bank Control Act applies to acquisitions of control of companies that control insured depository institutions. It has long been the FDIC's interpretation that a change in control notice is required whenever any person acquires control of a company that controls, directly or indirectly, a state nonmember bank. Such control could be indirect in that the company exerts control of the bank through one or more intermediate companies of a multi-tiered organization. The amendments merely clarify the regulations in this regard. Specifically, the FDIC is adding a definition of ''parent company'' to the definitions listed in § 303.81; adding a reference to parent company in the

provisions requiring a change in control notice for a state nonmember bank in § 303.82; adding to § 303.83(a) exemptions for acquisitions of the voting shares of bank holding companies, and for acquisitions of the voting shares of savings and loan holding companies, and adding technical conforming changes to various sections in 12 CFR 303.80 through 303.83.

It has also been the FDIC's practice not to require a change in control notice in those cases where either the Board of Governors of the Federal Reserve System or the Office of Thrift Supervision reviews a change in control notice for the proposed transaction. For example, where a person proposes to acquire control of a bank holding company that controls a state nonmember bank, and the Board of Governors of the Federal Reserve System reviews a change in control notice for the same transaction, the FDIC considers it an unnecessary duplication for the acquirer to also file a change in control notice with the FDIC. The changes codify the FDIC's practice in that regard.

The FDIC is also clarifying when an acquisition subject to the Change in Bank Control Act may be consummated. Section 7(j) of the FDI Act, 12 U.S.C. 1817(j), generally provides that any person acquiring control of an insured depository institution must give the appropriate federal banking agency sixty days prior written notice of such proposed transaction. Previous § 303.85 could be interpreted to permit consummation of the proposed transaction prior to the expiration of that 60-day period. In order to eliminate the potential for misunderstandings regarding the time period available to the FDIC for considering a proposed change in bank control transaction, the FDIC is amending 12 CFR 303.85 (a) and (b) to make clear that the 60-day notice period commences on the day after the date that the appropriate regional director accepts the notice as substantially complete.

In § 303.86 the FDIC is providing a more descriptive heading for paragraph (c) by including the phrase, ''waiving publication, acting before close of public comment period'' and amending paragraph (c) by substituting ''paragraphs (a) and (d)'' for ''this paragraph.''

The FDIC adopted a technical correction to § 303.244 creating a cross-reference to § 359.4(a)(4) of this chapter regarding golden parachutes and severance plan payments to make clear the responsibilities of an applicant seeking approval of filings. Specifically, insured depository institutions, depository institution holding companies or institution-affiliated parties making requests for such payments often overlook the requirement that a party submitting such an application demonstrate that it does not possess and is not aware of any information, evidence, documents or other materials which would indicate that there is a reasonable basis to believe, at the time such payment is made, that the institution-affiliated party who is to benefit from a golden parachute or severance plan engaged in any breach of fiduciary duty or other misconduct that would have a material adverse effect on the bank; is substantially responsible for the bank's insolvency; violated any law which would have a material effect on the bank; or violated certain federal criminal and currency-reporting laws. In addition, with regard to part 359 of this chapter, the FDIC is revising the reference in § 359.1(f)(1)(ii)(C) to part 303 to read, ''303.101(c).''

III. Other Regulatory Changes

Technical corrections are made to part 333.4—Conversions from mutual to stock, form to correct references to part 303 of this chapter. The old citations in § 333.4(a) and (c) is replaced with: ''subpart I of part 303 of this chapter.''

A technical correction is made to part 347—International Banking § 347.108(f) to reference the correct citation with regard to procedures for applications and notices for obtaining FDIC approval to invest in foreign organizations. Procedures are set out in subpart J of part 303 of this chapter, not subpart D of part 347 as provided for in the prior regulation.

A technical correction is also being made to part 348—Management Official Interlocks, § 348.2 regarding the definition of Management official to correct the cross-reference to part 303 of this chapter. The correct citation should be to 12 CFR 303.101(b).

IV. Request for Public Comment as Part EGRPRA and Regulatory Flexibility Act Regulatory Review.

Consistent with our obligation pursuant to Section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA, 12 U.S.C. 3311), the FDIC requested public comment to identify any areas of part 303, not merely those sections for which changes were being proposed, that are outdated, unnecessary, or unduly burdensome. The FDIC also requested public comment on whether part 303 should be continued without change, amended or rescinded to minimize any significant economic impact it may have on a substantial number of small insured institutions (*i.e.,* those with assets of $150 million or less) consistent with our obligation pursuant to Section 610 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The FDIC received no comments in response to this EGRPRA request. While no comments were received specifically with regard to the EGRPRA request, the FDIC notes that the federal financial regulatory agencies are soliciting comments on their plan to identify and eliminate outdated, unnecessary or unduly burdensome regulations imposed on insured depository institutions. *See:* 68 FR 35589 (June 16, 2003). The request for comment includes application regulations such as 12 CFR part 303. Written comments must be received no later than September 15, 2003.

V. Overview of Comments Received

As noted above, FDIC published a notice of proposed rulemaking in the **Federal Register** on December 27, 2002, and requested comments on the proposed amendments. The FDIC received 3 comment letters from organizations. All of the comment letters were opposed to the waiver provision in the proposed regulation. The organizations filing comments were two national trade organizations and one state-based nonprofit organization. The commenters stated they believed that if the FDIC waived regulations not required by statute, it is likely that the agency will waive public comment, public notice requirements, and other vital parts of the merger application process. Consequently, they argue, the public's input into mergers that affect access to credit and capital for minority and low- and moderate-income communities will be cut-off. Comments further stated that in order for a regulatory process to be fair to all parties, the agency cannot waive a process for some banks and not others. They argue that waivers on a case-by-case basis are arbitrary and result in uneven regulatory enforcement. In the notice of proposed rulemaking, the waiver provision would be limited to non-statutorily required provisions and for good cause. As such, the provision would not permit the FDIC to waive the public comment, public notice requirements of the merger application process since those procedures are required by statute. *See:* 12 U.S.C. 1828(c)(3). It is the FDIC's intention to utilize the waiver provision only in extraordinary circumstances. For example, the FDIC had seen the need for such a waiver provision from time to

time when an institution has failed to meet the record keeping requirements of the deposit insurance regulations and without a waiver of such requirements, accountholders in a failed bank situation would suffer substantial penalties because of the bank's failure to keep adequate records. Consequently, the FDIC is adopting the waiver provision as proposed.

VI. Regulatory Flexibility Act Analysis

Pursuant to 5 U.S.C. 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* the FDIC hereby certifies that the amendments set forth in this final rule will not have a significant economic impact on a substantial number of small entities. The final rule makes primarily technical changes to the existing rule.

VII. Paperwork Reduction Act

This final rule does not create or modify any collection of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, no information has been submitted to the Office of Management and Budget for review.

VIII. Plain Language Requirement

Section 722 of the Gramm-Leach-Bliley Act of 1999 (GLBA) requires the federal banking agencies to use ''plain language'' in all proposed and final rules published after January 1, 2000. The proposed rule requested comments on how the rule might be changed to reflect the requirements of GLBA. No comments were received.

IX. Assessment of Impact of Federal Regulation on Families

The FDIC has determined that the final rule will not affect family well-being within the meaning the section 654 of the Treasury and General Government Appropriations Act, 1999, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects

12 CFR Part 203

Administrative practice and procedure, Banks, banking, Bank merger, Branching, Foreign investments, Golden parachute payments, Insured branches, Interstate branching, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 333

Banks, banking, Corporate powers.

12 CFR Part 347

Banks deposit insurance, Banks, Credit, Foreign banking, Foreign investments, Insured branches, Investments, Reporting and recordkeeping requirements, United States investments abroad.

12 CFR Part 348

Antitrust, Banks, banking, Holding companies, Reporting and recordkeeping requirements.

12 CFR Part 359

Bank deposit insurance, Banks, banking, Golden parachute payments, Indemnity payments.

■ For the reasons set out in the preamble, the FDIC hereby amends 12 CFR parts 303, 333, 347, 348 and 359.

PART 303—FILING PROCEDURES

■ 1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817, 1818, 1819, (Seventh and Tenth), 1820, 1823, 1828, 1828a, 1831a, 1831e, 1831o, 1831p–1, 1831w, 1835a, 3104, 3105, 3108, 3207, 15 U.S.C. 1601–1607, 6716.

§ 303.2 [Amended]

■ 2. In § 303.2 remove the phrase, ''For purposes of this part,'' and add in its place the phrase, ''Except as modified or otherwise defined in this part, terms used in this part that are defined in the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) have the meanings provided in the Federal Deposit Insurance Act. Additional definitions of terms used in this part are as follows:''.

§ 303.4 [Amended]

■ 3. In § 303.4 after the phrase, ''For purposes of this part,'' add the words, ''and except as otherwise specifically provided,''.

■ 4. In § 303.11, paragraph (9)(3)(ii) is revised to read as follows:

§ 303.11 Decisions.

* * * * *

(g) * * *

(3) * * *

(ii)(A) Any other relevant information, mitigation circumstance, documentation, or other evidence in support of the applicant's position. An applicant may also request a hearing under § 303.10.

(B) Failure by an applicant to file a written response with the FDIC to a notice of intent or a temporary order within the specified time period, shall constitute a waiver of the opportunity to respond and shall constitute consent to a final order under this paragraph (g). The FDIC shall consider any such response, if filed in a timely manner, within 30 days of receiving the response.

* * * * *

■ 5. Section 303.12 is added to read as follows:

§ 303.12 Waivers.

(a) The Board of Directors, of the FDIC (Board) may, for good cause and to the extent permitted by statute, waiver the applicability of any provision of this chapter.

(b) The provisions of this chapter may be suspended, revoked, amended or waived for good cause shown, in whole or in part, at any time by the Board, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Board on its own motion or on petition if good cause thereof is shown.

■ 6. In § 303.22, paragraph (a)(1) is amended by revising the second sentence to read as follows:

§ 303.22 Processing.

(a) * * *

(1) * * * An eligible holding company is defined as a bank or thrift holding company that has consolidated assets of at least $150 million or more; a BOPEC rating of at least ''2'' for bank holding companies or an above average or ''A'' rating for thrift holding companies; and at least 75 percent of its consolidated depository institution assets comprised of eligible depository institutions.

* * * * *

■ 7. Section 303.80 is revised to read as follows:

§ 303.80 Scope.

This subpart sets forth the procedures for submitting a notice to acquire control of an insured state nonmember bank or a parent company of an insured state nonmember bank pursuant to the Change in Bank Control Act of 1978, section 7(j) of the FDI Act (12 U.S.C. 1817(j)).

■ 8. Section 303.81 is revised to read as follows:

§ 303.81 Definitions.

For purposes of this subpart:

(a) *Acquisition* includes a purchase, assignment, transfer, pledge or other disposition of voting shares, or an increase in percentage ownership resulting from a redemption of voting shares of an insured state nonmember bank or a parent company.

(b) *Acting in concert* means knowing participation in a joint activity or parallel action towards a common goal of acquiring control of an insured state nonmember bank or a parent company, whether or not pursuant to an express agreement.

(c) *Control* means the power, directly or indirectly, to direct the management or policies of an insured bank or a parent company or to vote 25 percent or more of any class of voting shares of an insured bank or a parent company.

(d) *Parent Company* means any company that controls, directly or indirectly, an insured state nonmember bank.

(e) *Person* means an individual, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, and any other form of entity; and a voting trust, voting agreement, and any group of persons acting in concert.

■ 9. Section 303.82 is amended by revising paragraphs (a), (b), (c) and (d) to read as follows:

§ 303.82 Transactions requiring prior notice.

(a) *Prior notice requirement.* Any person acting directly or indirectly, or through or in concert with one or more persons, shall give the FDIC 60 days prior written notice, as specified in § 303.84, before acquiring control of an insured state nonmember bank or any parent company, unless the acquisition is exempt under § 303.83.

(b) *Acquisition requiring prior notice*—(1) *Acquisition of control.* The acquisition of control, unless exempted, requires prior notice to the FDIC.

(2) *Rebuttable presumption of control.* The FDIC presumes that an acquisition of voting shares of an insured state nonmember bank or a parent company constitutes the acquisition of the power to direct the management or policies of an insured bank or a parent company requiring prior notice to the FDIC, if, immediately after the transaction, the acquiring person (or persons acting in concert) will own, control, or hold with power to vote 10 percent or more of any class of voting shares of the institution, and if:

(i) The institution has registered shares under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l); or

(ii) No other person will own, control or hold the power to vote a greater percentage of that class of voting shares immediately after the transaction. If two or more persons, not acting in concert, each propose to acquire simultaneously equal percentages of 10 percent or more of a class of voting shares of an insured state nonmember bank or a parent company, each such person shall file prior notice with the FDIC.

(c) *Acquisition of loans in default.* The FDIC presumes an acquisition of a loan in default that is secured by voting shares of an insured state nonmember bank or a parent company to be an acquisition of the underlying shares for purposes of this section.

(d) *Other transactions.* Acquisitions other than those set forth in paragraph (b)(2) of this section resulting in a person's control of less than 25 percent of a class of voting shares of an insured state nonmember bank or a parent company are not deemed by the FDIC to constitute control for purposes of the Change in Bank Control Act.

* * * * *

■ 10. Section 303.83 is amended by revising paragraphs (a)(1) through (a)(2), (a)(6) and (a)(7), (b)(1) and (b)(2), and by adding a new paragraph (a)(8), to read as follows:

§ 303.83 Transactions not requiring prior notice.

(a) * * *

(1) The acquisiiton of additional voting shares of an insured state nonmember bank or a parent company by a person who:

(i) Held the power to vote 25 percent or more of any class of voting shares of the institution continuously since the later of March 9, 1979, or the date that the institution commenced business as an insured state nonmember bank or a parent company; or

(ii) Is presumed, under § 303.82(b)(2), to have controlled the institution continuously since March 9, 1979, if the aggregate amount of voting shares held does not exceed 25 percent or more of any class of voting shares of the institution or, in other cases, where the FDIC determines that the person has controlled the institution continuously since March 9, 1979;

(2) The acquisition of additional shares of a class of voting shares of an insured state nonmember bank or a parent company by any person (or persons acting in concert) who has lawfully acquired and maintained control of the institution (for purposes of § 303.82) after complying with the procedures of the Change in Bank Control Act to acquire voting shares of the institution under this subpart;

* * * * *

(6) The receipt of voting shares of an insured state nonmember bank or a parent company through a pro rata stock dividend;

(7) The acquisition of voting shares in a foreign bank, which has a insured branch or branches in the United States. (This exemption does not extend to the reports and information required under paragraphs 9, 10, and 12 of the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)(9), (10), and (12)) and;

(8) The acquisition of voting shares of a depository institution holding company that either the Board of Governors of the Federal Reserve System or the Office of Thrift Supervision reviews pursuant to the Change in Bank Control Act (12 U.S.C. 1817(j)).

(b) *Prior notice exemption.* (1) The following acquisitions of voting shares of an insured state nonmember bank or a parent company, which otherwise would require prior notice under this subpart, are not subject to the prior notice requirements if the acquiring person notifies the appropriate FDIC office within 90 calendar days after the acquisition and provides any relevant information requested by the FDIC:

(i) The acquisition of voting shares through inheritance;

(ii) The acquisition of voting shares as a bona fide gift; or

(iii) The acquisition of voting shares in satisfaction of a debt previously contracted in good faith, except that the acquirer of a defaulted loan secured by a controlling amount of a state nonmember bank's voting securities or a parent company's voting securities shall file a notice before the loan is acquired.

(2) The following acquisitions of voting shares of an insured state nonmember bank or a parent company, which otherwise would require prior notice under this subpart, are not subject to the prior notice requirements if the acquiring person notifies the appropriate FDIC office within 90 calendar days after receiving notice of the acquisition and provides any relevant information requested by the FDIC.

(i) A percentage increase in ownership of voting shares resulting from a redemption of voting shares by the issuing bank or a parent company; or

(ii) The sale of shares by any shareholder that is not within the control of a person resulting in that person becoming the largest shareholder.

* * * * *

■ 11. Section 303.85 is amended by revising paragraphs (a) and (b) to read as follows:

§ 303.85 Processing.

(a) *Acceptance of notice, additional information.* The FDIC shall notify the person or persons submitting a notice under this subpart in writing of the date the notice is accepted as substantially complete. The FDIC may request additional information at any time.

(b) *Commencement of the 60-day notice period: consummation of acquisition.* (1) The 60-day notice period specified in § 303.82 shall

commerce on the day after the date of acceptance of a substantially complete notice by the appropriate regional director. The notificant(s) may consummate the proposed acquisition after the expiration of the 60-day notice period, unless the FDIC disapproves the proposed acquisition or extends the notice period.

* * * * *

■ 12. Section 303.86 is amended by revising paragraph (c) to read as follows:

§ 303.86 Public Notice requirements.

* * * * *

(c) *Shortening or waiving public comment period, waiving publications; acting before close of public comment period.* The FDIC may shorten the public comment period to a period of not less than 10 days, or waive the public comment or newspaper publication requirements of paragraph (a) of this section, or act on a notice before the expiration of a public comment period, if it determines in writing either that an emergency exists or that disclosure of the notice, solicitation of public comment, or delay until expiration of the public comment period would seriously threaten the safety and soundness of the bank to be acquired.

* * * * *

■ 13. In section 303.244, paragraphs (c)(4) and (c)(5) are revised and new paragraph (c)(6) is added to read as follows:

§ 303.244 Golden parachute and severance plan payments.

* * * * *

(c) * * *

(4) The cost of the proposed payment and its impact on the institution's capital and earnings;

(5) The reasons why the consent to the payment should be granted; and

(6) Certification and documentation as to each of the points cited in § 359.4(a)(4).

* * * * *

PART 333—EXTENSION OF CORPORATE POWERS

■ 14. The authority citation for part 333 continues to read as follows:

Authority: 12 U.S.C. 1816, 1818, 1819 (''Seventh'', ''Eighth'' and ''Tenth''), 1828, 1828(m), 1831p–1(c).

§ 333.4 [Amended]

■ 15. In § 333.4, paragraphs (a) and (c) are amended by removing the words ''§ 303.15 of this chapter'' and adding in their place the words ''subpart I of part 303 of this chapter.''

PART 347—INTERNATIONAL BANKING

■ 16. The authority citation for part 347 continues to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 1828, 3103, 3104, 3105, 3108: Title IX, Pub. L. 98–181, 97 Stat. 1153.

■ 17. Section 347.108 is amended by revising paragraph (f) to read as follows:

§ 347.108 Obtaining FDIC approval to invest in foreign organizations.

* * * * *

(f) *Procedures.* Procedures for applications and notices under this section are set out in subpart J of part 303 of this chapter.

PART 348—MANAGEMENT OFFICIAL INTERLOCKS

■ 18. The authority citation for part 348 continues to read as follows:

Authority: 12 U.S.C. 1823(k), 3207.

■ 19. In § 348.2, paragraph (j)(1)(iii) is revised to read as follows:

§ 348.2 Definitions.

* * * * *

(j) * * *

(iii) A senior executive officer as that term is defined in 12 CFR 303.101(b).

* * * * *

PART 359—GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

■ 20. The authority citation for part 359 continues to read as follows:

Authority: 12 U.S.C. 1828(k).

§ 359.1 [Amended]

■ 21. In § 359.1(f)(1)(ii)(C) remove the reference to ''§ 303.14(a)(4)'' and add in its place, ''§ 303.101(c)''.

Dated at Washington, DC, this 4th day of August, 2003.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 03–20451 Filed 8–20–03; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–13–AD; Amendment 39–13200; AD 2003–12–15]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce RB211 Series Turbofan Engines; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 2003–12–15 that applies to Rolls-Royce (RR) plc RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 series turbofan engines that was published in the **Federal Register** on June 25, 2003. A service bulletin was incorrectly identified by revision number and revision date in the Compliance section, paragraph (a) and the Optional Terminating Action section, paragraph (f). This document corrects these items. In all other respects, the original document remains the same.

EFFECTIVE DATE: Effective June 25, 2003.

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.

SUPPLEMENTARY INFORMATION: A final rule AD, FR Doc 03–15449, that applies to Rolls-Royce (RR) plc RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 series turbofan engines, was published in the **Federal Register** on June 25, 2003 (68 FR 37735). The following corrections are needed:

§ 39.13 [Corrected]

■ On page 37736, in the third column, in the Compliance section, paragraph (a), in the third line, ''dated August 6, 2002,'' is corrected to read ''Revision 2, dated September 26, 2002,''.

■ On page 37738, in the first column, in the Optional Terminating Action section, paragraph (f) in the third line, ''Revision 1, dated August 6, 2002,'' is corrected to read ''Revision 2, dated September 26, 2002,''.

Issued in Burlington, MA, on August 14, 2003.

Marc J. Bouthillier,

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

[FR Doc. 03–21412 Filed 8–20–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–32–AD; Amendment 39–13285; AD 2003–17–10]

RIN 2120–AA64

Airworthiness Directives; McCauley Propeller Systems, Inc. Propeller Hub Models B5JFR36C1101, C5JFR36C1102, B5JFR36C1103, and C5JFR36C1104

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for McCauley Systems, Inc. propellers that are installed on, but not limited to, BAE Systems (Operations) Limited Jetstream Model 4101 airplanes. That AD currently requires a one-time fluorescent penetrant inspection (FPI) of propeller blade retention areas for cracks. This AD requires initial and repetitive FPI or Ultrasonic Inspection (UT) of propeller blade retention areas for cracks, replacement of high time propeller blades, and a one-time inspection of propeller hubs. This AD is prompted by four reports of significant cracks found in propeller blade shanks since the issuance of AD 2003–15–01. We are issuing this AD to prevent propeller blade failure or hub failure due to cracking, which could result in failure of the propeller and loss of control of the airplane.

DATES: Effective August 21, 2003. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of August 21, 2003.

We must receive any comments on this AD by October 20, 2003.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

- By mail: Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–NE–32–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov.*

You can get the service information referenced in this AD from McCauley Propeller Systems, 3535 McCauley Drive, Vandalia, OH 45377.

You may examine the AD docket by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA. You may examine the service information 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.

FOR FURTHER INFORMATION CONTACT: Timothy Smyth, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Room 107, Des Plaines, IL 60018; telephone: (847) 294–7132; fax: (847) 294–7834.

SUPPLEMENTARY INFORMATION: On July 14, 2003, the FAA issued AD 2003–15–01, Amendment 39–13243 (68 FR 42244, July 17, 2003). That AD applies to the following McCauley Systems, Inc. propeller assemblies that are installed on, but not limited to, BAE Systems (Operations) Limited Jetstream Model 4101 airplanes:

- Hub Model B5JFR36C1101, with Model 114GC series propeller blades.
- Hub Model C5JFR36C1102, with Model L114GC series propeller blades.
- Hub Model B5JFR36C1103, with Model 114HC series propeller blades.
- Hub Model C5JFR36C1104, with Model L114HC series propeller blades.

That AD requires a one-time FPI of propeller blade retention areas for cracks. That AD was prompted by a report of a significant crack in a propeller blade shank and two reports of cracks in the hubs of the same propeller model. That condition, if not corrected, could result in a failure of the propeller blade or hub and loss of control of the airplane.

Actions Since AD 2003–15–01 Was Issued

Since that AD was issued, four additional propeller blade cracks have been reported. Based on examination of these cracked propeller blades, a repetitive inspection interval has been established.

Relevant Service Information

We have reviewed and approved the technical contents of McCauley Alert Service Bulletin (ASB) 246C, Revision 3, dated August 12, 2003, that describes procedures for FPI or UT of propeller blades. We have also reviewed and approved the technical contents of McCauley ASB245A, Revision 1, dated August 13, 2003, that describes procedures for a one-time eddy current inspection of propeller hubs.

Differences Between This AD and the Service Information

McCauley ASB246C, Revision 3, dated August 12, 2003, requires the operator to perform a blade shake check at 72-hour internals. This AD does not require the blade shake check. McCauley ASB245 A, Revision 1, dated August 13, 2003, requires initial and repetitive hub inspections. This AD does not require repetitive hub inspections, but does require a different compliance internal.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other McCauley Systems, Inc. propeller hub Models B5JFR36C1101, C5JFR36C1102, B5JFR36C1103, and C5JFR36C1104, of the same type design. We are issuing this AD to prevent propeller blade failure or hub failure due to cracking, which could result in failure of the propeller and loss of control of the airplane. You must use the service information described previously to perform these actions.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Changes to 14 CFR Part 39—Effect on the AD

On July 10, 2002, we issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs our 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.

Interim Action

These actions are interim actions and we may take further rulemaking actions in the future.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''AD Docket No. 2003–NE–32–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it. If a person contacts us verbally, and that contact relates to a substantive part of this AD, we will summarize the contact and place the summary on the docket. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications with you. You may get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov.*

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. *See* **ADDRESSES** for the location.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have 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.

For the reasons discussed above, I certify that the 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. Will not have significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 2003–NE–32–AD'' in your request.

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. The FAA amends § 39.13 by adding the following new airworthiness directive:

2003–17–10 McCauley Propeller Systems, Inc.: Amendment 39–13285. Docket No. 2003–NE–32–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective August 21, 2003.

Affected ADs

(b) This AD supersedes AD 2003–15–01, Amendment 39–13243.

Applicability

(c) This AD applies to McCauley Propeller Systems, Inc. propeller hub models that are listed in Table 1 of this AD, and are installed on, but not limited to, BAE Systems (Operations) Limited Jetstream Model 4101 airplanes. Table 1 follows:

TABLE 1.—PROPELLER MODELS BY HUB MODEL AND BLADE MODEL

Propeller hub model	With propeller blade model installed
B5JFR36C1101	114GC series.
C5JFR36C1102	L114GC series.
B5JFR36C1103	114HC series.
C5JFR36C1104	L114HC series.

Unsafe Condition

(d) This AD is prompted by four reports of significant cracks found in propeller blade shanks since the issuance of AD 2003–15–01. We are issuing this AD to prevent propeller blade failure or hub failure due to cracking, which could result in failure of the propeller and loss of control of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

Initial Inspection of Propeller Blades

(f) Inspect propeller blades for cracks in the retention area using either the fluorescent penetrant inspection (FPI) procedure specified in paragraphs 5.A. through 5.L. of McCauley Alert Service Bulletin (ASB) 246C, Revision 3, dated August 12, 2003, or using the ultrasonic inspection (UT) procedure specified in paragraphs 6.A. through 6.F. of McCauley ASB246C, Revision 3, dated August 12, 2003. Use the compliance times specified in the following Table 2:

TABLE 2.—COMPLIANCE TIMES FOR THE INITIAL FPI OR UT OF PROPELLER BLADES

If the propeller blade time-since-new (TSN) is:	Or if:	Then inspect:
(1) 10,000 hours TSN or more	The blade was overhauled at least twice.	Within 10 hours time-in-service (TIS) after the effective date of this AD.
(2) 6,000 hours TSN or more	The blade was overhauled at least once.	Within 200 hours TIS after the effective date of this AD or at 10,010 hours TIS whichever is later.
(3) Fewer than 6,000 hours TSN	The blade has not been overhauled.	At the next overhaul.

Credit for Previous Inspection

(g) The one-time inspections done using AD 2003–15–01, published July 17, 2003, constitute compliance with the initial inspection requirements of this AD.

Repetitive Inspection of Propeller Blades

(h) For blades that have 10,000 hours or more TSN or that have been overhauled at

least twice, inspect propeller blades for cracks in the retention area using either the FPI procedure specified in paragraphs 5.A. through 5.L. of McCauley ASB246C, Revision 3, dated August 12, 2003, or using the UT procedure specified in paragraphs 6.A. through 6.F. of McCauley ASB ASB246C, Revision 3, dated August 12, 2003, at the following intervals:

(1) Inspect within 100 hours TIS after the initial inspection, or within 10 hours TIS after the effective date of this AD, whichever is later.

(2) Thereafter, repetitively inspect within every 100 hours TIS, for a maximum of five repetitive inspections.

(i) The repetitive inspection of paragraph (h) of this AD applies when the blade reaches 10,000 hours TIS.

Blade Replacement

(j) Replace propeller blades as follows:

(1) Remove from service blades with cracks.

(2) For blades that pass all of the repetitive inspections in paragraph (h)(2) of this AD, replace with blades that have never been overhauled, within 100 hours TIS after the fifth repetitive inspection.

Eddy Current Inspection (ECI) of Propeller Hubs

(k) For propeller hubs that have been overhauled one or more times, perform a one-time ECI of the propeller hub, within 300 hours TIS after the effective date of this AD. Use the procedures specified in the Accomplishment Instructions of McCauley ASB245A, Revision 1, dated August 13, 2003.

(l) Remove hubs with crack indications from service.

Reporting Requirements

(m) Report findings of the FPI or UT using the procedures specified in paragraph 7. of McCauley ASB246C, Revision 3, dated August 12, 2003. Report the finding of the hub inspection using the procedures specified in paragraph 5.H.(5) of ASB245A, Revision 1, dated August 13, 2003. The Office of Management and Budget (OMB) has approved the reporting requirements specified in paragraph 7. of McCauley ASB246C, Revision 3, dated August 12, 2003, and reporting requirements specified in paragraph 5.H.(5) of ASB245A, Revision 1, dated August 13, 2003, 2003, and assigned OMB control number 2120–0056.

Alternative Methods of Compliance (AMOCs)

(n) You must request AMOCs as specified in 14 CFR 39.19. All AMOCs must be approved by the manager, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Room 1007, Des Plaines, IL 60018.

Material Incorporated by Reference

(o) You must use the service information specified in Table 3 to perform the inspections required by this AD. The Director of the Federal Register approved the incorporation by reference of the documents listed in Table 3 of this AD in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You can get a copy from McCauley Propeller Systems, 3535 McCauley Drive, Vandalia, OH 45377. You may review copies 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. Table 3 follows:

TABLE 2.—INCORPORATION BY REFERENCE

Service Bulletin No.	Page	Revision	Date
McCauley, ASB245A Total Pages: 12.	ALL	1	August 13, 2003.
McCauley, ASB246C Total Pages: 27.	ALL	3	August 12, 2003.

Related Information

(p) None.

Issued in Burlington, Massachusetts, on August 18, 2003.

Francis A. Favara,

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

[FR Doc. 03–21519 Filed 8–19–03; 2:45 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15727; Airspace Docket No. 03–ACE–69]

Modification of Class E Airspace; Corning, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action modifies the Class E airspace area at Corning, IA. A review of controlled airspace for Corning Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2E. A discrepancy in the airspace extension was also detected. The area is modified and enlarged to conform to the criteria in FAA Order 7400.2E.

DATES: This direct final rule is effective on 0901 UTC, December 25, 2003. Comments for inclusion in the Rules Docket must be received on or before October 7, 2003.

ADDRESSES: Send comments on this rule to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–15727/Airspace Docket No. 03–ACE–69, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Municipal Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone (816) 329–2525.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface of the earth at Corning, IA. An examination of controlled airspace for Corning Municipal Airport reveals it does not meet the criteria for 700 AGL airspace required for diverse departures as specified in FAA Order 7400.2E, Procedures for Handling Airspace Matters. The criteria in FAA Order 7400.2E for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. This amendment also modifies the extension to the Corning, IA Class E airspace by defining it with the 009° bearing from the Corning nondirectional radio beacon (NDB) versus the current 010° bearing. This amendment brings

the legal description of the Corning, IA Class E airspace area into compliance with FAA Order 7400.2E. This area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticiipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–15727/Airspace Docket No. 03–ACE–69.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regualtion (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 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 Federal Aviation Administration Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Corning IA

Corning Municipal Airport, IA
(Lat. 40°59′39″N, long. 94°45′18″ W)
Corning NDB
(Lat. 40°59′47″N, long. 94°45′25″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Corning Municipal Airport and within 2.6 miles each side of the 009° bearing from the Corning NDB extending from the 6.3-mile radius to 7 miles north of the airport.

* * * * *

Issued in Kansas City, MO, on August 11, 2003.

Herman J. Lyons, Jr.

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–21461 Filed 8–20–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15726; Airspace Docket No. 03–ACE–68]

Modification of Class E Airspace; Clarion, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action modifies the Class E airspace area at Clarion, IA. A review of controlled airspace for Clarion Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2E. A discrepancy in the airspace extension was also detected. The area is modified and enlarged to conform to the criteria in FAA Order 7400.2E.

DATES: This direct final rule is effective on 0901 UTC, December 25, 2003. Comments for inclusion in the Rules Docket must be received on or before October 6, 2003.

ADDRESSES: Send comments on this rule to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–15726/Airspace Docket No. 03–ACE–68, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except

Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Municipal Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface of the earth at Clarion, IA. An examination of controlled airspace required for Clarion Municipal Airport reveals it does not meet the criteria for 700 AGL airspace required for diverse departures as specified in FAA Order 7400.2E, Procedures for Handling Airspace Matters. The criteria in FAA Order 7400.2E for an airspace to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. This amendment also modifies the extension to the Clarion, IA Class E airspace area by defining it with the 308° bearing from the Clarion nondirectional radio beacon (NDB) versus the current 310° bearing. This amendment brings the legal description of the Clarion, IA Class E airspace area into compliance with FAA Order 7400.2E. This area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–15726/Airspace Docket No. 03–ACE–68.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted 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.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 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 Federal Aviation Administration Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Clarion, IA

Clarion Municipal Airport, IA
(Lat. 42°44′31″ N., long. 93°45′32″ W.)
Clarion NDB
(Lat. 42°44′45″ N., long. 93°45′32″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Clarion Municipal Airport and within 2.6 miles each side of the 308° bearing from the Clarion NDB extending from the 6.3-mile radius to 7.4 miles northwest of the airport.

* * * * *

Issued in Kansas City, MO, on August 11, 2003.

Herman J. Lyons, Jr.

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–21460 Filed 8–20–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15725; Airspace Docket No. 03–ACE–67]

Modification of Class E Airspace; Chariton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action modifies the Class E airspace area at Chariton, IA. A review of controlled airspace for Chariton Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2E. A discrepancy in the airspace extension was also detected. The area is modified and enlarged to conform to the criteria in FAA Order 7400.2E.

DATES: This direct final rule is effective on 0901 UTC, December 25, 2003. Comments for inclusion in the Rules Docket must be received on or before October 5, 2003.

ADDRESSES: Send comments on this rule to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–15725/Airspace Docket No. 03–ACE–67, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Municipal Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface of the earth at Chariton, IA. An examination of controlled airspace for Chariton Municipal Airport reveals it does not meet the criteria for 700 AGL airspace required for diverse departures as specified in FAA Order 7400.2E, Procedures for Handling Airspace Matters. The criteria in FAA Order 7400.2E for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. This amendment also modifies the extension to the Chariton, IA Class E airspace area by defining it with the 348° bearing from the Chariton nondirectional radio beacon (NDB) versus the current 350° bearing. This amendment brings the legal description of the Chariton, IA Class E airspace area into compliance with FAA Order 7400.2E. This area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in **Federal Register** and a notice of proposed remaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this remaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–15725/Airspace Docket No. 03–ACE–67.'' The postcard will be date/time stamped and returned to the commented.

Agency Findings

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.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 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 Federal Aviation Administration Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Chariton, IA

Chariton Municipal Airport, IA

(Lat. 41°01′ 11″ N, long. 93°21′35″ W)
Chariton NDB
(Lat 41°01′00″ N, long. 93°21′43″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Chariton Municipal Airport and within 2.6-miles east and 4.4 miles west of the 348° bearing from the Chariton NDB, extending from the 6.5-mile radius to 7 miles north of the airport.

* * * * *

Issued in Kansas City, MO, on August 11, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–21459 Filed 8–21–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15454; Airspace Docket No. 03–ACE–52]

Modification of Class E Airspace; Wichita Mid-Continent Airport, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

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

SUMMARY: This action corrects a direct final rule; request for comments that was published in the **Federal Register** on Tuesday, July 15, 2003, (68 FR 41691) [FR Doc. 03–17766]. It corrects an error in the McConnell Air Force Base (AFB) airport reference point.

DATES: This direct final rule is effective on 0901 UTC, October 30, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 03–17766, published on Tuesday, July 15, 2003, (68 FR 41691) modified Class E airspace at Wichita Mid-Continent Airport, KS. The modification was to provide the appropriate Class E airspace to protect aircraft executing newly developed instrument approach procedures at Cessna Aircraft Field, Wichita, KS, to correct discrepancies in the Wichita Mid-Continent Airport, KS Class E airspace area and to bring the legal description into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. This Class E airspace area is defined, in part, by the McConnell AFB airport reference point. On August 4, 2003, a revised McConnell AFB airport reference point was published. This correction incorporates the revised McConnell AFB airport reference point into the Wichita Mid-Continent Airport, KS Class E airspace area and its legal description.

■ Accordingly, pursuant to the authority delegated to me, the Wichita Mid-Continent Airport, KS Class E airspace, as published in the **Federal Register** on Tuesday, July 15, 2003, (68 FR 41691), [FR Doc. 03–17766] is corrected as follows:

§ 71.1 [Corrected]

■ On page 41692, Column 2, paragraph headed ''ACE KS E5 Wichita Mid-Continent Airport, KS,'' sixth and seventh lines, change:

''Wichita McConnell Air Force Base, KS
(Lat. 37°37′33″ N., long. 97°16′03″ W.)''

to read ''miles south of the airport.''

''Wichita McConnell Air Force Base, KS
(Lat. 37°37′23″ N., long. 97°16′24″ W.)''

Issued in Kansas City, MO, on August 11, 2003.

Herman J. Lyons, Jr.

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–21458 Filed 8–20–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15299; Airspace Docket No. 03–AWP–9]

Modification of Class E Airspace; Window Rock, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This confirms the effective date of the direct final rule that modifies Class E airspace at Window Rock, AZ.

EFFECTIVE DATE: 0901 UTC, September 4, 2003.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Air Traffic Division, Airspace Branch, AWP–520, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6611.

SUPPLEMENTARY INFORMATION: The FAA published a direct final rule with request for comments (FR Document 03–15526) in the **Federal Register** on June 19, 2003 (68 FR 36743). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on September 4, 2003. No adverse comments were received, and thus this action confirms that the direct final rule will be effective on that date.

Issued in Los Angeles, California.

John Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 03–21457] Filed 8–20–03; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1260

RIN 2700–AC77

NASA Grant and Cooperative Agreement Handbook—Financial Reporting

AGENCY: National Aeronautics and Space Administration

ACTION: Final rule.

SUMMARY: This final rule amends the NASA Grant and Cooperative Agreement Handbook by updating the requirement for submission of quarterly Federal Cash Transactions Reports (Standard Form (SF) 272s) to reflect the existing practice of submitting these reports electronically, and clarifying the circumstances under which NASA may suspend or terminate grantee advance payments. The intended effect of this change is to formalize a process change (electronic submission of quarterly financial reports) and to ensure that NASA takes corrective action in a timely and coordinated fashion when grantee financial reports are late.

EFFECTIVE DATE: August 21, 2003.

FOR FURTHER INFORMATION CONTACT: Rita Svarcas, NASA Headquarters, Code HK, Washington DC, (202) 358–0464, e-mail: *Rita.Svarcas@nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

This change amends the NASA Grant and Cooperative Agreement Handbook to reflect NASA's implementation of the Department of Health and Human Services' Payment Management System (DHHS/PMS), including electronic submission of grantees' quarterly Federal Cash Transactions Reports (SF 272s). The changes also clarify NASA's

policies and internal practices with regard to suspension or termination of advance payments. This change delegates responsibility for suspension and termination of advance payments to the NASA Financial Management Office in certain cases involving financial reporting. In all other cases, the Grant Officer retains responsibility for suspension and termination of advance payments. Additionally, this change amends the withholding provision. The change removes a phrase in that provision addressing withholding of future awards, as the phrase duplicates another provision and is not directly relevant to withholding of advance payments. The withholding provision is also amended to more specifically state the conditions under which NASA may withhold advance payments consistent with existing guidance and procedures contained in the Grant and Cooperative Agreement Handbook.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the change updates and clarifies existing operational practices.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose any new recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in CFR Part 1260

Grant Programs—Science and Technology.

Tom Luedtke,

Assistant Administrator for Procurement.

■ Accordingly, 14 CFR Part 1260 is amended as follows:

■ 1. The authority citation for 14 CFR 1260 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1) and Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301, *et seq.*)

PART 1260—GRANTS AND COOPERATIVE AGREEMENT

■ 2. Section 1260.26 is revised to read as follows:

§ 1260.26 Financial management.

Financial Management

August 2003

(a) Advance payments through a Letter of Credit will be made by the Financial Management Office of the NASA Center assigned financial cognizance of the grant, using the Department of Health and Human Services' Payment Management System (DHHS/PMS), in accordance with procedures provided to the Recipient. The Recipient shall submit a Federal Cash Transactions Report (SF 272), and, when applicable, a Continuation Sheet (SF 272A) electronically to DHHS/PMS within 15 working days following the end of each Federal Fiscal quarter (*i.e.*, December 31, March 31, June 30, and September 30). One Federal Cash Transactions Report shall be submitted for all grants financed under a letter of credit arrangement with each NASA Center.

(b) In addition, the Recipient shall submit a final SF 272 in paper form to NASA within 90 calendar days after the expiration date of the grant. The final SF 272 shall pertain only to the completed grant and shall include total disbursements from inception through completion. The report shall be marked ''Final''. The final SF 272 shall be submitted to the Financial Management Office, with a copy sent to the NASA Grant Officer.

(c) Unless otherwise directed by the Grant Officer, any unexpended balance of funds which remains at the end of any funding period, except the final funding period of the grant, shall be carried over to the next funding period, and may be used to defray costs of any funding period of the grant. This includes allowing the carry over of funds to the second and subsequent years of a multiple year grant. This provision also applies to subcontractors performing substantive work under the grant. For grant renewals, the estimated amount of unexpended funds shall be identified in the grant budget section of the Recipient's renewal proposal. NASA reserves the right to remove unexpended balances from grants when insufficient efforts have been made by the grantee to liquidate funding balances in a timely fashion.

[End of provision]

■ 3. Section 1260.56 is revised to read as follows:

§ 1260.56 Withholding.

Withholding

August 2003

If a Recipient fails to comply with the project objectives, the terms and conditions of this award, or reporting requirements under this or previous NASA awards, NASA may withhold advance payments under this award including its augmentations, and may also withhold advance payments under future awards to the Recipient, pending correction of the deficiency by the Recipient. Upon determination that the deficiency has been corrected, the cognizant NASA Financial Management Office shall resume advance payments and release of previously withheld amounts after coordination with the Grant Officer.

■ 4. Section 1260.75 is amended by revising paragraphs (b)(1) and (c)(2) to read as follows:

§ 1260.75 Summary of report requirements.

* * * * *

(b) * * *

(1) The Federal Cash Transactions Report (SF 272) shall be submitted by the recipient, in accordance with § 1260.26, as a condition of receiving advance payments. Instructions and answers to payment questions will be provided by the NASA Financial Management Office of the Center that has been assigned financial cognizance of the grant. (*See* § 1260.152.)

* * * * *

(c) * * *

(2) A Final Federal Cash Transactions Report, SF 272, is required from the recipient for each grant, in accordance with §§ 1260.26 and 1260.152. The report is due within 90 calendar days after the expiration date of the grant or cooperative agreement.

* * * * *

■ 5. Section 1260.76 is amended by revising paragraphs (d) and (e) and adding new paragraphs (f), (g), and (h) to read as follows:

§ 1260.76 Termination and enforcement.

* * * * *

(d) Failure of the recipient to provide a required report can result in the Agency and the public being denied information about grant activities, NASA officials having less information for making decisions, grant closeout being delayed, and confidence being undermined as to whether the recipient will meet the requirements under other grants. Because NASA grants provide for advance payments, a recipient could be fully paid before final reports are

due. At this point, it is too late to withhold payment on the existing grant. Consistent with §§ 1260.122(h) and 1260.162(a), NASA may suspend or terminate advance payments from recipients that fail to comply with reporting requirements.

(e) To remedy failure to furnish timely reports, special condition at § 1260.56, Withholding, should be used when awarding a new grant or modifying an existing grant with non-responsive organizations. Special condition at § 1260.56 allows NASA to suspend or terminate advance payments under an institution's letter of credit pending receipt of the satisfactorily completed reports required in § 1260.75.

(f) The NASA Financial Management Office, notifying the Grant Officer, shall take action to either suspend or terminate a recipient's advance payments when—

(1) A recipient organization is unwilling or unable to establish a financial management system that meets the requirements of advance payments as evidenced by an audit report or failure to comply with the NASA requirements;

(2) A recipient organization is unwilling or unable to report, on an accurate and timely basis, cash disbursements or cash balances as required by NASA. Advance payments shall be temporarily suspended when two (2) successive quarterly reports are late or when two (2) reports are late in a fiscal year; or

(3) A recipient organization has demonstrated an unwillingness or inability to establish procedures that will minimize time elapsing between drawdowns and related disbursements.

(g) In addition to the situations delineated in paragraph (f) of this section, the NASA Grant Officer may direct the NASA Financial Management Office to either suspend or terminate a recipient's advance payments under circumstances where a recipient has otherwise failed to comply with the project objectives, the terms and conditions of the award, or NASA reporting requirements.

(h) The Financial Management Office (for the cases set forth in paragraph (f) of this section) or the Grant Officer (for all other cases) may resume advance payments and may release any previously withheld amounts when the recipient has taken corrective action that makes suspension or withholding no longer necessary. To release for payment amounts they have previously withheld, grant officers shall send a memorandum to the Financial Management Office. The Financial Management Office shall likewise coordinate any release of withheld payments with the grant officer.

■ 6. Section 1260.152 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 1260.152 Financial reporting.

* * * * *

(b) Recipients are required to submit the report electronically to the Department of Health and Human Services' Payment Management System (DHHS/PMS) within 15 working days following the end of each Federal fiscal quarter. Reports are required for each quarter whether or not advances have been made during that quarter.

(c) Additionally, recipients shall submit a final SF 272 in paper form to the NASA Financial Management Office, and shall furnish a copy of the final SF 272 to the appropriate grant officer.

[FR Doc. 03–21437 Filed 8–20–03; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 732, 740, 744, 750, 752, 754, 758, 770, and 772

[Docket No. 030728186–3186–01]

RIN 0694–AC81

Export Clearance—Conformance of Export Administration Regulations With Foreign Trade Statistics Regulations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) to add references to the Automated Export System (AES) and to conform the EAR to certain provisions of the Foreign Trade Statistics Regulations (FTSR) including provisions related to AES promulgated on July 17, 2003. It also conforms some terminology in part 758 to that found elsewhere in the EAR and updates references to another government agency to reflect a name change.

DATES: This rule is effective September 22, 2003.

FOR FURTHER INFORMATION CONTACT: For information on the relationship of this rule to the export of crude oil or unprocessed Western Red Cedar (15 CFR part 754), contact Eugene Lewis, Acting Director, Deemed Exports and Short Supply Division, *elewis@bis.doc.gov* or (202) 482–6109. For other information concerning this rule, contact Thomas W. Andrukonis, Director, Office of Enforcement Analysis, *tandruko@bis.doc.gov* or (202) 482–4255.

SUPPLEMENTARY INFORMATION:

Background

The Foreign Trade Statistics Regulations (FTSR) (15 CFR part 30) require submission to the government of certain information regarding exports either through a Shipper's Export Declaration (SED) or the Automated Export System (AES). On July 17, 2003 (68 FR 42534), the Census Bureau amended these regulations to require, *inter alia,* filing via AES rather than an SED for all exports of items listed on the Commerce Control List when a filing under the FTSR is required. The EAR (15 CFR Subchapter C) also provide rules that complement the FTSR for transactions that are subject to the EAR. This rule amends the EAR by revising two sections in part 758 to conform more closely to the Foreign Trade Statistics Regulations (FTSR) and by revising one such to conform to terminology used elsewhere in the EAR. This rule also amends parts 732, 740, 744, 752, 754, 758, 770, and 772 to add references to AES in places where references to SEDs appear. These amendments are needed because, without them, the EAR would appear to require that an SED be filed even when the FTSR requires that the filing take place via AES. Additionally, in parts 740 and 744 this rule replaces statements that an SED must be filed with the carrier with statements that the SED or AES must be filed in accordance with the requirements of the FTSR. This rule replaces the phrase ''U.S. Customs Service'' with ''Bureau of Customs and Border Protection'' and, in one instance, with ''Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement'' to reflect the names of the agencies that currently perform the functions formerly performed by the U.S. Customs Service. The specific changes made by this rule are described below.

This rule amends section 732.5 and paragraph 740.1(d) by adding references to AES to their headings. This rule amends paragraph 732.3(n)(1) to add a reference to AES immediately following the reference to SEDs and to replace the phrase ''U.S. Customs Service'' with ''Bureau of Customs and Border Protection.''

This rule amends paragraph 740.1(d) to remove a reference to paragraph 758.2 because paragraph 758.1 describes the requirements of AES. This rule amends

footnote number 1 to paragraph 740.13(d)(1) to add a reference to AES immediately following the reference to SEDs. Paragraphs 740.15(c)(1)(iv), 740.15(c)(2)(iv), 744.7(b)(1)(iv), and 744.7(b)(2)(iv) are amended to add references to AES immediately following the references to the SED and to amend the statement that the SED must be filed with the carrier to a statement that the SED or AES must be filed in accordance with the FTSR. Paragraph 740.13(d)(1) deals with certain ''mass market'' software that is eligible for License Exception TSU. Paragraph 740.15(c) is a provision of License Exception AVS dealing with shipments to U.S. or Canadian vessels, planes, and airline installations or agents. Paragraph 744.7(b) provides an exception for U.S. and Canadians carriers to restrictions on certain exports to and for the use of certain foreign vessels or aircraft.

This rule amends paragraphs 750.7(b), 752.7(b) and 752.15(a) to add references to AES in places where references to SEDs appear. Additionally, paragraph 752.15(a) is amended to state that SEDs or AES records must be submitted in accordance with the requirements of the FTSR as well as section 758.1 of the EAR (previously this paragraph did not mention the FTSR) and to eliminate references to the now non-existent Bureau of Census Monthly Reporting System.

This rule amends paragraphs 754.2(h)(2), 754.2(i)(3), 754.2(j)(2), 754.4(d)(3)(ii), and 754.4(c)(4) to add references to AES to the previously existing references to SEDs and amends paragraph 754.2(j)(2) to correct the mailing address listed therein. Section 754.2 deals with exports of crude oil. Paragraphs (h)(2) and (i)(3) provide language that must be on the SED or AES record when certain license exceptions are used. Paragraph (j)(2) provides that the exporter must submit a copy of the SED or AES record directly to BIS. This requirement is in addition to the requirements of the FTSR. Section 754.4 deals with exports of unprocessed Western Red Cedar. Paragraph (c)(4) describes language that must be on the SED or AES record when license exception WRC is used. Paragraph (d)(3)(i) requires exporters to retain a copy of the SED or AES record.

This rule amends paragraph 758.1(b)(2) to require an SED or AES submission for exports requiring a license under the EAR, not just those authorized by such a license. This change conforms the EAR requirement to that of the FTSR found at 15 CFR 30.55(h)(2)(ii). This rule also makes conforming changes to paragraphs 758.1(b)(1) and (b)(3). This rule amends paragraph 758.1(e) to add the parenthetical ''U.S. principal party in interest'' immediately following the word ''exporter.'' This change clarifies the latter term and conforms the EAR to the FTSR (15 CFR 30.4).

This rule amends the introductory paragraph to section 758.2 to remove all references to AES ''Option 3''; to replace the word ''four'' with the word ''three'' and the word ''three'' with the word ''two'' when referring to filing options because the Census July 17, 2003 rule removed Option 3, leaving a total of three options, numbered 1, 2, and 4, two of which are electronic. This rule also amends some citations to the FTSR as needed to reflect changes made by the Census July 17, 2003 rule and replaces the phrase ''U.S. Customs Service'' with ''Bureau of Customs and Border Protection.''

This rule amends the fourth sentence of paragraph 758.2(a) to make clear that the agency 30 day time limit for reviewing Option 4 Letters of Intent runs from the date of referral of the Letter of Intent to the agency by the Census Bureau and that any agency objections must be received by the Census Bureau within the 30 days or the agency will be deemed not to object. These changes conform EAR paragraph 758.2(a) to the corresponding requirements of the FTSR (15 CFR 30.62(b)(1)).

This rule amends paragraph 758.2(c)(3) to replace the listing of the countries that have been designated as terrorist supporting by the Secretary of State with the phrase ''Country Group E:1.'' This change conforms this paragraph with the usage elsewhere in the EAR.

This rule amends paragraphs 758.7(b)(1)(i), 758.7(b)(6), section 758.9, paragraphs 770.2(e)(2)(ii), 770.2(f), and section 772.1(definition of NLR) to add references to AES wherever references to SED appear. This rule also amends section 758.9 to replace the phrase ''U.S. Customs Service'' with ''Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement''. Paragraphs 758.7(b)(1)(i) and (b)(6) deal with authority to inspect items about to be exported and with detention and seizure of shipments, respectively. Section 758.9 makes clear that part 758 of the EAR does not relieve anyone from compliance with other laws. Paragraphs 770.2(e)(ii) and 770.2(f) address documentation requirements when shipping numerical control systems and parts, accessories; and equipment exported as scrap, respectively. Section 772.1 contains definitions of terms found elsewhere in the EAR.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp., p. 783 (2002)), as extended by the Notice of August 7, 2003 (68 FR 47833, August 11, 2003), continues the Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a current, valid OMB control number. In accordance with the PRA, 44 U.S.C. Chapter 35, OMB approved on April 26, 2002, with control number 0607–0512, the collection of all information associated with the AES and SED. The Census Bureau has estimated that each electronic SED will take approximately 3 minutes to complete and that each paper SED will take approximately 11 minutes to complete. This rule does not change the number of transactions for which such filing is necessary nor does it change the amount of information that will have to be filed for any transaction. This rule also involves a collection of information by BIS that bears OMB control number 0694–0027. The burden hour estimated associated with the collection that this rule involves (submitting a copy of the Shipper's Export Declaration or Automated Export System record to BIS when exporting certain crude oil), is nine annual burden hours. BIS believes that this rule will not change the number of burden hours.

3. This rule does not contain policies with Federalism implications as this term is defined in Executive Order 13132.

4. We find good cause to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment (5 USC 553(b)(B)) because they are unnecessary as the changes made by this rule simply make certain provisions of the Export Administration Regulations conform to other rules that have been lawfully promulgated. No other law requires that a notice of final rulemaking and an opportunity for public comment be given for this rule. Because a notice of final rulemaking and an opportunity for public comment are

not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 USC 601 *et seq.*) are not applicable.

List of Subjects

15 CFR Parts 732, 740, 750, 752, and 758

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 744

Exports, Foreign trade, Reporting and Recordkeeping requirements.

15 CFR Part 754

Exports, Foreign trade, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

15 CFR Parts 770 and 772

Exports, foreign trade.

■ Accordingly, parts 732, 740, 744, 750, 752, 754, 758, 770, and 772 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

PART 732—[AMENDED]

■ 1. The authority citation for part 732 is revised to read as follows:

Authority: 50 USC app. 2401 *et seq.*; 50 USC 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 66 FR 47833, August 11, 2003.

■ 2. Section 732.3 is amended by revising the second sentence of paragraph (n)(1) to read as follows:

§ 732.3 Steps regarding the ten general prohibitions.

* * * * *

(n) * * *

(1) * * * You should skip the Steps in § 732.4 of this part regarding License Exceptions and proceed directly to the Steps in § 732.5 of this part regarding recordkeeping, clearing the Bureau of Customs and Border Protection with the appropriate Shipper's Export Declaration or Automated Export System record, and using the required Destination Control Statement.

* * * * *

■ 3. Section 732.5 is amended by revising the heading to read as follows:

§ 732.5 Steps regarding Shipper's Export Declaration or Automated Export System record, Destination Control Statements, and recordkeeping.

* * * * *

PART 740—[AMENDED]

■ 4. The authority citation for part 740 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.*; Sec. 901–911, Pub. L. 106–387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 66 FR 47833, August 11, 2003.

■ 5. Section 740.1 is amended by revising the heading and the third sentence of paragraph (d) to read as follows:

§ 740.1 Introduction.

* * * * *

(d) *Shippers Export Declaration or Automated Export System Record.* * * * *See* § 758.1 of the EAR for Shipper's Export Declaration or Automated Export System (AES) requirements.

* * * * *

■ 6. Section 740.13 is amended by revising footnote number one to paragraph (d)(1) to read as follows:

§ 740.13 Technology and software—unrestricted (TSU).

* * * * *

(d) * * *

[1] ''Mass market'' software may fall under the classification of ''general use'' software for export clearance purposes. Exporters should consult the Census Bureau FTSR for possible SED or AES requirements.

■ 7. Section 740.15 is amended by revising paragraphs (c)(1)(iv) and (c)(2)(iv) to read as follows:

§ 740.15 Aircraft and vessels (AVS).

* * * * *

(c) * * *

(1) * * *

(iv) Shipped as cargo for which a Shipper's Export Declaration (SED) or Automated Export System (AES) record is filed in accordance with the requirements of the Foreign Trade Statistics Regulations (15 CFR part 30), except that an SED or AES record is not required when any of the commodities, other than fuel, is exported by U.S. airlines to their own aircraft abroad for their own use.

(2) * * *

(iv) Shipped as cargo for which a Shipper's Export Declaration (SED) or Automated Export System (AES) record is filed in accordance with the requirements of the Foreign Trade Statistics Regulations (15 CFR part 30), except that an SED or AES record is not required when any of these commodities is exported by U.S. airlines to their own installations and agents abroad for use in their aircraft operations.

* * * * *

PART 744—[AMENDED]

■ 8. The authority citation for part 744 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of November 9, 2001, 66 FR 56965, 3 CFR, 2001 Comp., p. 917; Notice of August 7, 2003, 66 FR 47833, August 11, 2003.

■ 9. Section 744.7 is amended by revising paragraphs (b)(1)(iv) and (b)(2)(iv) to read as follows:

§ 744.7 Restrictions on certain exports to and for the use of certain foreign vessels or aircraft.

* * * * *

(b) * * *

(1) * * *

(iv) Shipped as cargo for which a Shipper's Export Declaration (SED) or Automated Export System (AES) record is filed in accordance with the requirements of the Foreign Trade Statistics Regulations (15 CFR part 30), except that an SED or AES record is not required when any of the commodities, other than fuel, is exported by U.S. airlines to their own aircraft abroad for their own use.

(2) * * *

(iv) Shipped as cargo for which a Shipper's Export Declaration (SED) or Automated Export System (AES) record is filed in accordance with the requirements of the Foreign Trade Statistics Regulations (15 CFR part 30), except that an SED or AES record is not required when any of these commodities is exported by U.S. airlines to their own installations and agents abroad for use in their aircraft operations.

* * * * *

PART 750—[AMENDED]

■ 10. The authority citation for part 750 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 66 FR 47833, August 11, 2003.

■ 11. Section 750.7 is amended by revising the fourth sentence of paragraph (b) to read as follows:

§ 750.7 Issuance of licenses.

* * * * *

(b) * * * Exporters must use the complete license number when preparing a Shipper's Export Declaration (SED) or Automated Export System (AES) record and any other export control documents, and in communicating with the Department of Commerce concerning the license.

* * * * *

PART 752—[AMENDED]

■ 12. The authority citation for part 752 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp. p. 219; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 66 FR 47833, August 11, 2003.

■ 13. Section 752.7 is amended by revising the first sentence of paragraph (b)(1) to read as follows:

§ 752.7 Direct shipment to customers.

* * * * *

(b) * * *

(1) *Exports by an SCL holder.* The SCL holder may make a direct shipment by entering on the Shipper's Export Declaration or Automated Export System record the name and address of the customer as ultimate consignee and adding the notation ''by order of (name and address of consignee requesting the direct shipment).''

* * * * *

■ 14. Section 752.15 is amended by revising paragraph (a) to read as follows:

§ 752.15 Export clearance.

(a) *Shipper's Export Declaration (SED) or Automated Export System (AES) record.* The SED or AES record covering an export made under an SCL must be prepared in accordance with requirements of the Foreign Trade Statistics Regulations (15 CFR part 30) and § 758.1 of the EAR.

(1) *Item descriptions.* Item descriptions on the SED or AES record must indicate specifically the ECCN and item description conforming to the applicable CCL description and incorporating any additional information where required by Schedule B (*e.g.,* type, size, name of specific item, *etc.*).

(2) *Value of shipments.* There is no value limitation on shipments under the SCL; however, you must indicate the value of each shipment on the respective SED or AES record.

(3) *SCL number.* The SED or AES record must include the SCL number followed by a blank space, and then the consignee number identifying the SCL's approved consignee to whom the shipment is authorized.

* * * * *

PART 754—[AMENDED]

■ 15. The authority citation for part 754 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et. seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 30 U.S.C. 185(s), 185(u); 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 66 FR 47833, August 11, 2003.

■ 16. Section 754.2 is amended by revising paragraphs (h)(2), (i)(3), and (j)(2) to read as follows:

§ 754.2 Crude oil.

* * * * *

(h) * * *

(2) A person exporting crude oil pursuant to this License Exception must enter on any required Shipper's Export Declaration (SED) or Automated Export System (AES) record the letter code ''SS–SPR'' or the equivalent code as set forth in Appendix C to 15 CFR part 30.

(i) * * *

(3) A person exporting crude oil pursuant to this License Exception must enter on any required Shipper's Export Declaration (SED) or Automated Export System (AES) record the letter code ''SS–SAMPLE'' or the equivalent code as set forth in Appendix C to 15 CFR part 30.

(j) * * *

(2) *Shipper's Export Declaration or Automated Export System.* In addition to the requirements of paragraph (j)(1) of this section, for each export under License Exceptions TAPS, the exporter must file with BIS a Shipper's Export Declaration (SED) or Automated Export System (AES) record covering the export not later than 21 days after the export has occurred. The SED or AES record shall be sent to the following address: Director, Deemed Exports and Short Supply Division, Office of Strategic Trade and Foreign Policy Controls, Bureau of Industry and Security, PO Box 273, U.S. Department of Commerce, Washington, DC 20044.

* * * * *

■ 17. Section 754.4 is amended by revising paragraphs (c)(4) and (d)(3)(ii) to read as follows:

§ 754.4 Unprocessed western red cedar.

* * * * *

(c) * * *

(4) A person exporting any item pursuant to this License Exception must enter on any required Shipper's Export Declaration (SED) or Automated Export System (AES) record the letter code ''SS–WRC''.

(d) * * *

(3) * * *

(ii) A copy of the Shipper's Export Declaration of Automated Export System record.

* * * * *

PART 758—[AMENDED]

■ 18. The authority citation for part 758 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 66 FR 47833, August 11, 2003.

■ 19. Section 758.1 is amended by revising paragraphs (b)(1), (2), and (3) and the third sentence of paragraph (e) to read as follows:

§ 758.1 The Shipper's Export Declaration (SED) or Automated Export System (AES) record.

* * * * *

(b) * * *

(1) For all exports of items subject to the EAR that are destined to Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria, regardless of value (*see* 15 CFR 30.55);

(2) For all exports subject to the EAR that require a license regardless of value, or destination;

(3) For all exports of commodities and mass market software subject to the EAR when the value of the commodities or mass market software classified under a single Schedule B Number (or Harmonized Tariff Schedule number) is over $2,500, except as exempted by the Foreign Trade Statistics Regulations (FTSR) in 15 CFR part 30 and referenced in paragraph (c) of this section; or

* * * * *

(e) *Signing the Shipper's Export Declaration or transmitting data via AES.*

* * * The person who signs the SED or transmits data via AES, whether exporter (U.S. principal party in interest) or agent, is responsible for the truth, accuracy, and completeness of the SED or AES record, except insofar as that person can demonstrate that he or she reasonably relied on information furnished by others.

* * * * *

■ 20. Section 758.2 is amended by revising the introductory paragraph, the fourth sentence of paragraph (a) and paragraph (c)(3) to read as follows:

§ 758.2 Automated Export System (AES).

The Census Bureau's Foreign Trade Statistics Regulations (FTSR) (15 CFR Part 30) contain provisions for filing Shipper's Export Declarations (SEDs) electronically using the Automated Export System (AES). In order to use AES, you must apply directly to the Census Bureau for certification and approval through a Letter of Intent (*see* 15 CFR 30.60(b) and Appendix A to part 30 of the FTSR). Three AES filing options are available for transmitting shipper's export data. Option 1 is the standard paper filing of the SED, while the other two options are electronic. Option 2 requires the electronic filing of all information required for export prior to export (15 CFR 30.61(a) and 30.63); Option 4 is available only for approved filers (approval by Census Bureau, Bureau of Customs and Border Protection, BIS and other agencies) and requires no information to be transmitted prior to export, with complete information transmitted within 10 working days of exportation (15 CFR 30.61(b) and 30.62).

(a) *Census' Option 4 Application Process.*

* * * If the Census Bureau receives neither notification of denial, nor a request for an extension from the agency within 30 days of the date of referral of the letter of intent to the agency, the applicant is deemed to be approved by that agency. * * *

* * * * *

(c) BIS Option 4 evaluation criteria.

* * * * *

(3) Exports are destined to a country in Country Group E:1 (Supplement No.1 to part 740 of the EAR).

* * * * *

■ 21. Section 758.7 is amended by revising the first sentence of paragraph (b)(1)(i) and the third sentence of paragraph (b)(6) to read as follows:

§ 758.7 Authority of the Office of Export Enforcement, the Bureau of Industry and Security, Customs Offices and postmasters in clearing shipments.

* * * * *

(b) * * *

(1) * * *

(i) *Purpose of inspection.* All items declared for export are subject to inspection for the purpose of verifying the items specified in the SED or AES record, or if there is no SED or AES record, the bill of lading or other loading document covering the items about to be exported, and the value and quantity thereof, and to assure observance of the other provisions of the Export Administration Regulations.

* * * * *

(6) * * * In addition to the authority of Customs officers to seize and detain items, both Customs officials and officials to the Office of Export Enforcement are authorized to detain any shipment held for review of the SED or AES record, or if there is no SED or AES record, the bill of lading or other loading document covering the items about to be exported, or for physical inspection of the items, whenever such action is deemed to be necessary to assure compliance with the EAR.

* * * * *

■ 22. Section 758.9 is revised to read as follows:

§ 758.9 Other applicable laws and regulations.

The provisions of this part 758 apply only to exports regulated by BIS. Nothing contained in this part 758 shall relieve any person from complying with any other law of the United States or rules and regulations issued thereunder, including those governing SEDs, AES records, and manifests, or any applicable rules and regulations of the Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement.

PART 770—[AMENDED]

■ 23. The authority citation for part 770 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 66 FR 47833, August 11, 2003.

■ 24. Section 770.2 is amended by revising the first sentences in paragraphs (e)(2)(ii) and (f) to read as follows:

§ 770.2 Item interpretations.

* * * * *

(e) * * *

(2) * * *

(ii) When preparing the Shipper's Export Declaration (SED) or Automated Export System (AES) record, a system being shipped complete (*i.e,* machine and control unit), should be reported under the Schedule B number for each machine. * * *

(f) *Interpretation 6: Parts, accessories, and equipment exported as scrap.* Parts, accessories, or equipment that are being shipped as scrap should be described on the SED or AES record in sufficient detail to be identified under the proper ECCN. * * *

* * * * *

PART 772—[AMENDED]

■ 25. The authority citation for part 772 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 66 FR 47833, August 11, 2003.

■ 26. Section 772.1 is amended by revising the definition of NLR to read as follows:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

* * * * *

NLR. NLR (''no license required'') is a symbol entred on the Shipper's Export Declaration or an Automated Export System record certifying that no license is required.

* * * * *

Dated: August 15, 2003.

Matthew S. Borman,

Acting Assistant Secretary for Export Administration.

[FR Doc. 03–21471 Filed 8–20–03; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF DEFENSE

48 CFR Part 217

[DFARS Case 2002–D041]

Defense Federal Acquisition Regulation Supplement; Multiyear Contracting Authority Revisions

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 820 of the National Defense Authorization Act for Fiscal Year 2003. Section 820 restricts the use of multiyear contracts for supplies to only those for complete and usable end items, and restricts the use of advance procurement to only those long-lead items necessary in order to meet a planned delivery schedule for complete major end items.

DATES: Effective date: August 21, 2003.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before October 20, 2003, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2002–D041 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations

Council, Attn: Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2002–D041.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends DFARS Subpart 217.1 to implement Section 820 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314). Section 820 amends the multiyear contracting authority at 10 U.S.C. 2306b(i) to specify that DoD may obligate funds for procurement of an end item under a multiyear contract only if the item is a complete and usable end item; and that DoD may obligate funds for advance procurement of property only for those long-lead items necessary to meet a planned delivery schedule for complete major end items that are programmed under the contract to be acquired with funds appropriated for a subsequent fiscal year (including an economic order quantity of such long-lead items when authorized by law).

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule primarily pertains to DoD planning and budget considerations with regard to multiyear contracts. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2002–D041.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 820 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), which restricts the use of multiyear contracts for supplies to only those for complete and usable end items, and restricts the use of advance procurement to only those long-lead items necessary in order to meet a planned delivery schedule for complete major end items. Section 820 became effective upon enactment on December 2, 2002. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 217

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR Part 217 is amended as follows:

■ 1. The authority citation for 48 CFR Part 217 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 217—MULTIYEAR CONTRACTING

■ 2. Section 217.172 is amended as follows:

■ a. By revising paragraph (a);

■ b. In paragraph (b) by adding, before the period, the parenthetical ''(10 U.S.C. 2306b(a)(6))''; and

■ c. In paragraph (d)(1), in the parenthetical, by removing ''10 U.S.C. 2306b(l)(1)'' and adding in its place ''10 U.S.C. 2306b(l)(1)(B)(i)(II)''. The revised text reads as follows:

217.172 Multiyear contracts for supplies.

(a) This section applies to all multiyear contracts for supplies, including weapon systems and other multiyear acquisitions specifically authorized by law. For additional policies that apply only to multiyear contracts for weapon systems and other multiyear acquisitions specifically authorized by law, see 217.173.

* * * * *

■ 3. Section 217.173 is amended as follows:

■ a. By revising the heading and paragraph (b) introductory text;

■ b. By redesignating paragraph (b)(5) as paragraph (b)(7); and

■ c. By adding new paragraphs (b)(5) and (b)(6). The revised and added text reads as follows:

217.173 Multiyear contracts for weapon systems and other multiyear acquisitions specifically authorized by law.

* * * * *

(b) The head of the agency must ensure that the following conditions are satisfied before awarding a multiyear contract under the authority described in paragraph (a) of this section or for other multiyear acquisitions specifically authorized by law:

* * * * *

(5) The contract is for the procurement of a complete and usable end item (10 U.S.C. 2306b(i)(4)(A)).

(6) Funds appropriated for any fiscal year for advance procurement are obligated only for the procurement of those long-lead items that are necessary in order to meet a planned delivery schedule for complete major end items that are programmed under the contract to be acquired with funds appropriated for a subsequent fiscal year (including an economic order quantity of such long-lead items when authorized by law (10 U.S.C. 2306b(i)(4)(B)).

* * * * *

■ 4. Section 217.174 is amended by revising paragraphs (a)(1) and (a)(2) and by adding paragraph (c) to read as follows:

217.174 Multiyear contracts that employ economic order quantity procurement.

(a) * * *

(1) A multiyear contract providing for economic order quantity procurement in excess of $20 million in any one year (10 U.S.C. 2306b(l)(1)(B)(i)(I)); or

(2) A contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20 million in any one year (10 U.S.C. 2306b(l)(1)(B)(ii); Section 8008(a) of Public Law 105–56 and similar sections in subsequent DoD appropriations acts).

* * * * *

(c) See 217.173(b)(6) for additional provisions regarding procurement of economic order quantities of long-lead items.

[FR Doc. 03–21309 Filed 8–20–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 219

[DFARS Case 2003–D003]

Defense Federal Acquisition Regulation Supplement; Competitiveness Demonstration Codes Update

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update the list of industry categories designated by DoD for enhanced small business participation under the Small Business Competitiveness Demonstration Program.

EFFECTIVE DATE: August 21, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Euclides Barrera, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0296; facsimile (703) 602–0350. Please cite DFARS Case 2003–D003.

SUPPLEMENTARY INFORMATION:

A. Background

Policy for the Small Business Competitiveness Demonstration Program is in FAR subpart 19.10. One of the objectives of the Program is to expand small business participation in certain targeted industry categories. Each Federal agency participating in the Program designates its own targeted categories in consultation with the Small Business Administration. DoD's targeted categories are in DFARS 219.1005(b).

This final rule updates the North American Industry Classification System (NAICS) codes shown for the targeted industry categories at 219.1005(b)(10), for consistency with the 2002 NAICS listing published by the U.S. Census Bureau. In addition, to simplify the descriptions of targeted categories, the entries for research and development have been combined with the entries for manufacturing at 219.1005(b)(5), (6), and (7). These changes are administrative only and have no impact on the Program.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2003–D003.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 219

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR Part 219 is amended as follows:

■ 1. The authority citation for 48 CFR Part 219 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

■ 2. Section 219.1005 is amended in paragraph (b), in the table, by revising paragraphs (5), (6), (7), and (10) to read as follows:

219.1005 Applicability.

* * * * *

(b) * * *

NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS)

Description	NAICS code
* * * * * * *	
(5) Aircraft Engine and Engine Parts Manufacturing (including Research and Development)	336412
(6) Guided Missile and Space Vehicle Manufacturing (including Research and Development)	336414
(7) Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing (including Research and Development)	336419
* * * * * * *	
(10) (i) Cellular and Other Wireless Telecommunications	517212
(ii) Satellite Telecommunications	517410
(iii) Other Telecommunications	517910

[FR Doc. 03–21314 Filed 8–20–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 237

[DFARS Case 2002–D042]

Defense Federal Acquisition Regulation Supplement; Contractor Performance of Security-Guard Functions

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 332 of the National Defense Authorization Act for Fiscal Year 2003. Section 332 provides temporary authority for contractor performance of security-guard functions at military installations or facilities to meet the increased need for such functions since September 11, 2001.

EFFECTIVE DATE: August 21, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; facsimile (703) 602–0350. Please cite DFARS Case 2002–D042.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 68 FR 7443 on February 14, 2003, to implement Section 332 of the National

Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314). Section 332 authorizes DoD to waive the prohibition at 10 U.S.C. 2465(a), to permit contractor performance of security-guard functions at military installations or facilities to meet the increased need for such functions since September 11, 2001.

Three respondents submitted comments on the interim rule. Two of the respondents expressed their support for the rule. A third respondent stated that a contracting officer's representative (COR) may be appointed to an installation's Provost Marshal or Security Office and questioned whether the rule should specify that contracting offices must ensure that CORs are duly trained. DoD believes that training of CORs is already adequately addressed in DFARS 201.602–2(2), which states that a COR must be ''qualified by training and experience commensurate with the responsibilities to be delegated in accordance with department/agency guidelines.'' Therefore, DoD believes that no change to the rule is needed, and has adopted the interim rule as a final rule.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule applies only to security-guard functions in excess of those being performed on military installations or facilities as of September 10, 2001. While the rule is expected to result in additional opportunities for small business concerns to perform security-guard functions, the overall impact is not expected to be substantial.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 237

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR part 237, which was published at 68 FR 7443 on February 14, 2003, is adopted as a final rule without change.

[FR Doc. 03–21310 Filed 8–20–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 252

[DFARS Case 2003–D007]

Defense Federal Acquisition Regulation Supplement; Caribbean Basin Country—Dominican Republic

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add the Dominican Republic to the list of Caribbean Basin countries whose products DoD may acquire under the Trade Agreements Act, in accordance with a determination of the United States Trade Representative.

EFFECTIVE DATE: August 21, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2003–D007.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the clause at DFARS 252.225–7021, Trade Agreements, to add the Dominican Republic to the definition of ''Caribbean Basin country.'' The rule implements the direction of the United States Trade Representative to treat the products of the Dominican Republic as eligible products in acquisitions subject to the Trade Agreements Act (68 FR 27883, May 21, 2003).

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2003–D007.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR Part 252 is amended as follows:

■ 1. The authority citation for 48 CFR Part 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7021 [Amended]

■ 2. Section 252.225–7021 is amended as follows:

■ a. By revising the clause date to read ''(AUG 2003)''; and

■ b. In paragraph (a)(1) by adding, in alphabetical order, ''Dominican Republic'' to the list of countries.

[FR Doc. 03–21313 Filed 8–20–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 252

[DFARS Case 2002–D016]

Defense Federal Acquisition Regulation Supplement; Liability for Loss Under Vessel Repair and Alteration Contracts

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to increase a contractor's liability for loss or damage under vessel repair and alteration contracts, from $5,000 to $50,000 per incident. The increased dollar ceiling is based on adjustments for inflation, the need to provide a financial incentive for contractors to minimize loss and damage, and common insurance practices.

EFFECTIVE DATE: August 21, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Euclides Barrera, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132,

3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0296; facsimile (703) 602–0350. Please cite DFARS Case 2002–D016.

SUPPLEMENTARY INFORMATION:

A. Background

DoD uses the clause at DFARS 252.217–7012, Liability and Insurance, in master agreements for repair and alteration of vessels. The clause holds a contractor liable for loss or damage resulting from defective contractor workmanship and materials, and contains a liability ceiling for any other contractor-incurred loss or damage. This rule increases the contractor's liability ceiling from $5,000 to $50,000 per incident.

DoD published a proposed rule at 68 FR 7491 on February 14, 2003. One respondent submitted comments on the proposed rule. A summary of DoD's analysis of the comments is provided below:

Comment: The respondent took issue with the increase in the contractor's liability ceiling from $5,000 to $50,000, and instead recommended a ceiling of $7,465 based on actual inflation experienced by the shipbuilding industry since 1982 when the $5,000 ceiling was established.

DoD Response: Do not concur. The increase was not based solely on inflation factors. The increase from $5,000 to $50,000 was determined to be appropriate as a result of a Navy study of incidents of contractor-incurred damages under vessel repair and alteration contracts during a recent 3-year period, which indicated that 70 percent of the incidents were for amounts below $50,000, whereas only 30 percent of the incidents were for amounts of $5,000 or less. The objective of the increase is to provide a financial incentive for contractors to minimize loss and damage.

Comment: The respondent does not agree with DoD's position that the increased dollar ceiling is necessary to provide a financial incentive for contractors to minimize loss or damage. The clause at DFARS 252.217–7012 already provides a strong financial incentive for contractors to minimize loss or damage. Under the clause, the Government's assumption of risk is essentially limited to loss or damage resulting from accidents. To require contractors to assume more of the costs associated with accidental damage to vessels will not necessarily result in a reduced number of occurrences, but will force contractors to price the costs of assumption of additional risks (due to higher ceilings) into their cost proposals for Navy ship repair work.

DoD Response: Do not concur. Increasing the ceiling is consistent with the commercial insurance practice of setting a deductible that lowers claim frequency, eliminates insubstantial claims, and provides an incentive for the insured to avoid losses. Any increased contract costs that might result from the higher ceiling should be offset by the reduced number of claims submitted to the Government.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* DoD has prepared a final regulatory flexibility analysis, which is summarized as follows:

This rule increases a contractor's liability for loss or damage to a Government vessel, materials, or equipment, from $5,000 to $50,000 per incident. The rule will apply to small entities that have a master agreement with DoD for repair and alteration of vessels. There is no available estimate of the total number of small entities that will be subject to the rule. However, the Naval Sea Systems Command (NAVSEA), which is responsible for the maintenance and repair of the majority of vessels, has collected data indicating that, during the period from May 1997 to October 2002, there were 61 occurrences of contractor-caused damages. Of those, 13 occurrences (21 percent) were attributed to small entities. Entities with master agreements for repair and alteration of vessels will need to increase their insurance coverage from $5,000 to $50,000. DoD considered using a liability ceiling of less than $50,000, but believes the $50,000 ceiling to be appropriate because—

1. This ceiling should capture a majority of claims, since a NAVSEA study has shown that 70 percent of incidents of contractor-incurred damages during a recent 3-year period were for amounts less than $50,000;

2. The increase should provide an incentive for contractors to reduce the number of such occurrences, thereby reducing vessel ''down-time'' for maintenance and repair and making more efficient use of scarce maintenance dollars; and

3. The increase is consistent with the commercial insurance practice of setting a deductible that lowers claim frequency, eliminates insubstantial claims, and provides an incentive for the insured to avoid losses.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR Part 252 is amended as follows:

■ 1. The authority citation for 48 CFR Part 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.217–7012 [Amended]

■ 2. Section 252.217–7012 is amended as follows:

■ a. By revising the clause date to read ''(AUG 2003)''; and

■ b. In paragraph (b)(6), by removing ''$5,000'' and adding in its place ''$50,000''.

[FR Doc. 03–21311 Filed 8–20–03; 8:45 am]

BILLING CODE 5001–08–P

Proposed Rules

Federal Register
Vol. 68, No. 162
Thursday, August 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

Farm Service Agency

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Parts 1910, 1941 and 1965

RIN 0560–AH01

Revisions to Direct Farm Loan Programs Appraisal Regulations

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Farm Service Agency's (FSA) regulations governing real estate and chattel appraisals. In the loan making process, the rule proposes to allow FSA to obtain appraisals after loan funds become available and the applicant is determined eligible. Also, the rule proposes to increase the dollar threshold that determines when a real estate appraisal is required. In loan servicing, the rule proposes to raise the dollar threshold for real estate appraisals in partial release situations, and allow the Agency to release real estate security without appraising the retained real estate in some cases. All these changes will reduce FSA's appraisal costs and enhance the timeliness of program delivery of certain loan making and servicing actions.

DATES: Comments on this rule must be received on or before October 20, 2003 to be given full consideration.

ADDRESSES: Written comments may be mailed to the Farm Service Agency, U.S. Department of Agriculture, Farm Loan Programs, Loan Servicing and Property Management Division, Attention: Director, 1400 Independence Avenue, SW., STOP 0523, Washington, DC 20250–0523, or comments will be accepted when submitted at *http://www.regulations.gov.* All written comments received in connection with this rule will be available for public inspection 8:15 a.m.–4:45 p.m., Eastern Standard Time, except holidays, at 1250 Maryland Avenue, SW., Suite 500, Washington, DC 20024–0523.

FOR FURTHER INFORMATION CONTACT: Michael Cumpton, Senior Loan Officer, Farm Service Agency; telephone: 202–690–4014; Facsimile: 202–690–0949; E-mail: *mike_cumpton@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601, the Agency has determined that there will not be a significant economic impact on a substantial number of small entities. All Farm Service Agency direct loan borrowers and all entities affected by this rule are small businesses according to the North American Industry Classification System, and the United States Small Business Administration. There is no diversity in size of the entities affected by this rule and the costs to comply with it are the same for all entities.

In this rule, FSA is proposing revisions to both loan making and loan servicing regulations. In loan making, the Agency will not require a real estate appraisal completed by a certified general appraiser when real estate is used to secure an operating loan (OL) of less than $50,000. This action will affect less than 5 percent of the OL's processed per year, or approximately 720 applicants. This would result in an annual savings to the Agency of approximately $540,000 ($750/appraisal). In loan servicing, the Agency will increase the dollar threshold for requiring a certified real estate appraisal from $10,000 to $25,000 when considering partial releases, subordinations, exchanges, or other real estate servicing actions. The Agency estimates that this will eliminate the need for approximately 150 certified real estate appraisals, for a savings to the Agency annually of approximately $112,500.

The Agency does not expect these changes to impose any additional cost on the borrowers. In fact, the reduced need for appraisals should benefit borrowers with increased timeliness of loan decisions by the Agency. Therefore, the costs of compliance from this rule are deemed not significant. Accordingly, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact Statement

The environmental impacts of this rule have been considered in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.,* the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR part 799, and part 1940, subpart G. FSA has completed an environmental evaluation and concluded that the rule requires no further environmental review. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement. A copy of the environmental evaluation is available for inspection and review upon request.

Executive Order 12988

This rule has been reviewed in accordance with E.O. 12988, Civil Justice Reform. In accordance with this executive order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Executive Order 12372

For reasons set forth in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures of $100 million or more in any 1 year for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This proposed rule contains no Federal mandates, as defined under title II of the UMRA, for State, local, and tribal governments or the private sector. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does this proposed rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Paperwork Reduction Act

The amendments to 7 CFR Chapter XVIII contain no new information collections that require approval under the Paperwork Burden Reduction Act of 1995 for OMB control numbers 0560–0158, 0560–0162, and 0560–0178.

Federal Assistance Programs

These changes affect the following FSA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans

Discussion of the Proposed Rule

This rule proposes to amend the regulations that govern the requirement for appraisals for FSA Farm Loan Programs (FLP) direct loans.

Application Processing

FSA proposes to remove the requirement for obtaining a real estate or chattel appraisal as part of the application process in 7 CFR 1910.4(b)(21). Under existing regulations, when real estate is to be taken as security, FSA usually obtains the appraisal by contracting with a qualified appraiser, prior to approval of a loan. Chattel appraisals are completed by FSA employees who have been adequately trained and delegated chattel appraisal authority. The proposed rule will allow FSA to approve loans with the condition that an acceptable appraisal, which reflects at least adequate collateral for the loan, will be obtained before the loan is closed. Therefore, FSA will not be required to wait on a real estate appraisal and may conditionally approve the loan.

The primary benefit to FSA is one of cost savings. As previously discussed, existing procedures require that an appraisal be obtained prior to loan approval. Because availability of loan funds is subject to Congressional appropriations, all FSA farm loans are approved subject to the availability of funds. When appropriation levels are inadequate to meet loan demand, approved applications are held until funding becomes available. Sometimes, a year or more may pass before loan funds become available for an applicant, particularly in the farm ownership (FO) loan program. In such cases, the real estate appraisal purchased prior to loan approval is outdated when funding becomes available, and FSA must purchase a new appraisal. Thus, FSA pays for two real estate appraisals for one loan. Under this proposed rule, FSA will not purchase an appraisal until funds are available for the loan, thus, eliminating the need for second appraisals and the costs associated with them. While delays in funding can occur, the appraisal requirement will not cause any additional delay in most loan closings as loan funds are usually available without delay. On the Agency's, ''Request for Obligations of Funds,'' applicants will agree that the 15-working day loan closing requirement may be exceeded to obtain the necessary appraisals. FSA will endeavor to minimize any delays. This change does not affect FSA's responsibility for ordering and funding the cost of real estate and chattel appraisals for loan making purposes.

Operating Loan Real Estate Appraisal Limits

FSA proposes to amend 7 CFR 1941.25 to require that a real estate appraisal be obtained when real estate is taken as primary security for an operating loan (OL) and the amount of the loan to be secured by the real estate exceeds $50,000. The section currently provides no threshold dollar amount. FSA has determined that OL loans of $50,000 or less generally constitute less risk than larger loans due to the relatively small dollar amount involved. In addition, operations with credit needs in this range are normally not complex. Loan officials will no longer have to wait for an appraisal in such cases before conducting a loan analysis and making a credit decision. Therefore, applicants will receive loan funds on a more timely basis. This revision adds consistency with the existing Low Documentation policy for operating loans of $50,000 or less, reduces the number of real estate appraisals required, and reduces FSA's real estate appraisal expenses.

Real Estate Security Servicing

FSA proposes to increase the transaction amount triggering the need for a real estate appraisal referenced in 7 CFR 1965.13(d), from $10,000 to $25,000. This will reduce the number of appraisals required by the Agency when borrowers wish to sell some portion of their real estate. Also, FSA is currently required to appraise the real property retained when processing a partial release. This measure ensures that the property retained by the borrower, after the sale, is not adversely affected by the loss of the tract sold (such as when the sale removes access to a paved road). The proposed rule would eliminate this requirement in most cases as this determination can usually be made without an appraisal. FSA may still obtain an appraisal on the property to be sold or retained when necessary to protect the government's financial interests.

List of Subjects

Part 1910

Agriculture, Credit, Loan programs—housing and community development, Low and moderate income housing, Sex discrimination.

Part 1941

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

Part 1965

Foreclosure, Credit, Loan programs—agriculture, Loan programs—housing and community development, Rural areas.

Accordingly, 7 CFR chapter XVIII is proposed to be amended as follows:

PART 1910—GENERAL

1. The authority citation for part 1910 continues to read as follows:

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

Subpart A—Receiving and Processing Applications

2. In § 1910.4 revise paragraph (b) by removing paragraph 21 and redesignating paragraph 22 as paragraph 21.

3. In § 1910.4 revise paragraph (j)(1)(i) to read as follows:

§ 1910.4 Processing applications.

* * * * *

(j) * * *

(1) * * *

(i) Receipt by the applicant of a signed copy of the Agency's request for obligation of funds on the appropriate Agency form is written notice of loan approval and any conditions that must be met prior to loan closing. Loan approval conditions may include, but are not limited to, obtaining required real estate and chattel appraisals.

* * * * *

PART 1941—OPERATING LOANS

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

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

5. Revise § 1941.25 paragraph (a)(4) to read as follows:

§ 1941.25 Appraisals.

(a) * * *

(4) A real estate appraisal is required when real estate is taken as primary security, as defined in § 1941.4, and the amount of the loan to be secured by the real estate exceeds $50,000.

* * * * *

PART 1965—REAL ESTATE

6. The authority citation for part 1965 continues to read as follows:

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

Subpart A—Servicing of Real Estate Security for Farm Loan Programs Loans and Certain Note-Only Cases

7. In § 1965.13 revise introductory paragraph (d) to read as follows:

§ 1965.13 Consent by partial release or otherwise to sale, exchange or other disposition of a portion of or interest in security, except leases.

* * * * *

(d) *Appraisals.* A new appraisal report for the security to be transferred or released will be obtained in accordance with § 761.7 of this title as necessary to protect the financial interests of the Government or when the transaction involves more than $25,000. A new appraisal report for the security to be retained will be obtained in accordance with that section as necessary to protect the financial interests of the Government. Appraisal reports under this section may show the present market value of the property being transferred or released and the property being retained on a single appraisal report or on separate appraisal reports. The value of rights to mining products, gravel, oil, gas, coal or other minerals will be specifically included as a part of the appraised value of the real estate security.

* * * * *

Signed in Washington, DC, on August 14, 2003.

J.B. Penn,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 03–21422 Filed 8–20–03; 8:45 am]

BILLING CODE 3410–05–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 106, 114, 9004, and 9034

[Notice 2003–14]

Candidate Travel

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission requests comments on proposed changes to its rules covering the proper rates and timing for payment of candidate travel on private means of transportation that are not offered for commercial use, including government conveyances. The proposed rule would provide more comprehensive guidance than the current regulations by establishing a single, uniform valuation scheme for campaign travel that does not depend on whether the service provider is a corporation, labor organization, individual, partnership, limited liability company or other entity, or on whether the destination city is served by regularly scheduled commercial service. The proposed rules would apply to all Federal candidates including publicly funded presidential candidates. No final decisions have been made by the Commission on any of the proposed revisions in this Notice. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before September 19, 2003. If the Commission receives sufficient requests to testify, it will hold a hearing on these proposed rules on October 1, 2003, at 9:30 a.m. Commenters wishing to testify at the hearing must so indicate in their written or electronic comments.

ADDRESSES: All comments should be addressed to Ms. Mai T. Dinh, Acting Assistant General Counsel, and must be submitted in either electronic or written form. Electronic mail comments should be sent to *travel2003@fec.gov* and must include the full name, electronic mail address and postal service address of the commenter. Electronic mail comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered. If the electronic mail comments include an attachment, the attachment must be in the Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up to ensure legibility. Written comments and printed copies of faxed comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Commenters are strongly encouraged to submit comments electronically to ensure timely receipt and consideration. The Commission will make every effort to post public comments on its Web site within ten business days of the close of the comment period. The hearing will be held in the Commission's ninth floor meeting room, 999 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Acting Assistant General Counsel, or Mr. Richard T. Ewell, Attorney, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is proposing several changes to its rules to establish a simple, uniform payment scheme covering all candidate travel on either government or private aircraft and other conveyances. The current regulation at 11 CFR 114.9(e) establishes the timing for reimbursement and the amount that a candidate must reimburse a corporation or labor organization for the use of a private airplane or other means of transportation, but does not address means of travel furnished by individuals, partnerships, and other entities. The current rules in section 114.9(e) are also not fully consistent with the Commission's treatment of similar travel by presidential and vice-presidential candidates using government-provided transportation under 11 CFR 9004.7 and 9034.7.

I. Proposed 11 CFR 100.93 Payment for Travel by Airplane and Other Means of Transportation

A. Proposed Replacement of 11 CFR 114.9(e) With Proposed 11 CFR 100.93

The Commission proposes several changes to the candidate travel rules currently set forth at 11 CFR 114.9(e). While 11 CFR part 114 focuses on corporate and labor organization activity, and current 11 CFR 114.9(e)(2) focuses on means of travel owned or leased by corporations or labor organizations, the Commission seeks to broaden the rules to include airplanes and other means of travel owned by persons other than corporations and labor organizations. The Commission recognizes that in most cases the means of travel used for campaign trips is likely to be owned or leased by a corporation or labor organization, but notes that the current section heading for 11 CFR 114.9, ''Use of corporate and labor organization facilities and means of transportation,'' would not accurately convey the scope of the proposed travel rules encompassing airplanes and other means of transportation owned by individuals, partnerships, or other entities. Therefore, the Commission proposes deleting the reference to ''means of transportation'' from the title of 11 CFR 114.9, removing and reserving paragraph (e) of 114.9, and relocating the substance of the travel reimbursement rules to a new section.

To accommodate the broadened scope of the travel reimbursement rules, the Commission proposes adding new section 100.93 to the enumerated exceptions to the definition of ''contribution'' in 11 CFR part 100, subpart C. This new section would describe circumstances in which the use of a private means of transportation not owned or leased by candidates or their authorized committees would not be contributions, much like current § 100.52 (also in subpart C), which describes when the use of commercial transportation is or is not a contribution. Proposed § 100.93 would be based on the current 11 CFR 114.9(e), with the organizational and substantive changes described below.

B. Proposed 11 CFR 100.93(a) Scope and Definitions

1. Proposed Paragraph (a)(1) Scope

Proposed paragraph (a)(1) would define the scope of the rules and clarify any perceived ambiguity regarding the scope of the current 11 CFR 114.9(e)(1). The current rule focuses on the use of airplanes owned by corporations or labor organizations that ''are not licensed to offer commercial service for travel in connection with a Federal election.'' One district court found this wording to be ambiguous. In this case, a presidential candidate claimed that the regulation applied to all travel on airplanes except airplanes owned or leased by a corporation or labor organization possessing a license for travel in connection with a Federal election. *See Federal Election Commission* v. *Arlen Specter '96,* 150 F. Supp. 2d 797, 804 and 808 (E.D. Pa. 2001). The Court noted that no such license existed and ultimately deferred to the Commission's longstanding determination that 11 CFR 114.9(e) applies to airplanes owned by corporations or labor organizations not engaged in the business of providing commercial air service generally, without regard to any connection with a Federal election. *Id.* at 812.

In order to remove this perceived ambiguity, the Commission proposes further clarification of the class of airplanes affected. As noted above, proposed 11 CFR 100.93 would apply to service providers depending on whether the airplane is or is not ''normally operated for commercial passenger service,'' rather than whether the owner of the airplane is ''licensed to offer commercial service for travel in connection with a Federal election.''

The Commission notes that commercial and non-commercial air travel is subject to the authority of the Department of Transportation (DOT) and various certifications of the Federal Aviation Administration (FAA). Aircraft are permitted to operate pursuant to various FAA safety certifications based generally on passenger capacity, route frequency, and type of service offered. Private aircraft not offering commercial passenger service operations normally operate under certification provided pursuant to either 14 CFR parts 91 or 125.[1] Some airlines receive certificates of public necessity and convenience to operate commercial passenger service as common carriers within specified domestic locations pursuant to 14 CFR part 135. Other common carriers, such as commercial air taxi service and on-demand charter service, are permitted to operate under special certification in 14 CFR part 298, which exempts them from certain requirements that would be otherwise required under 14 CFR part 135. Certain other aircraft are also permitted to serve as common carriers and offer passenger service for compensation under 14 CFR parts 121 and 129. Each of the FAA certifications focuses mainly on the technical specifications and safety requirements of the aircraft and crew.

Aircraft operating under 14 CFR part 91 certification are not usually permitted to accept any form of payment or reimbursement from passengers, but a special FAA exception permits Federal candidates to reimburse the owners of such aircraft for the use of planes pursuant to the Commission's regulations. *See* 14 CFR 91.321.[2] The Commission therefore intends its regulations in proposed 11 CFR 100.93 to apply only to airplanes *not* authorized to conduct operations in air transportation as a common carrier (*e.g.*, 14 CFR parts 91 or 125), while the current regulations at 11 CFR 100.52 would apply to all airplanes operated pursuant to other certifications that do permit carriage of passengers for compensation. Proposed 11 CFR 100.93, however, would focus on the normal use of the airplane, rather than the operating certificate possessed by its owner, to avoid the need for title and certification checks. The Commission seeks comment on whether the type of certification with the FAA, or some other method, should be used to determine whether an airplane is normally operated for commercial passenger service such that a normal and usual rate for that passenger service could be readily and accurately ascertained.

As noted above, the current rule distinguishes between the use of airplanes owned or leased by a corporation or labor organization licensed to offer commercial services for travel, and airplanes that are owned by other corporations or labor organizations not normally engaged in commercial air passenger service. This distinction requires an examination of the plane's ownership or lease structure to determine the proper reimbursement timing and amount. The Commission is concerned that the ownership determination may add unnecessary confusion to the payment process and is proposing to shift the focus of the rule away from whether the airplane's owner is a corporation or labor organization

[1] Aircraft operating pursuant to certification under 14 CFR parts 91 or 125 are not permitted to operate as common carriers, meaning that they cannot hold themselves out to the public as providing passenger service for compensation. *See* 14 CFR 119.1(a) (establishing additional base requirements in excess of the 14 CFR part 91 requirements for all air carriers and commercial operators that serve as common carriers) and 14 CFR 125.1(a) (applies to aircraft with a seating capacity of 20 or more persons, but only where common carriage is not involved).

[2] Aircraft operating under 14 CFR part 125 certification are similarly prohibited from operating as common carriers, but there is no similar general prohibition on the acceptance of payment from passengers to warrant an identical exception.

and onto the normal use of the airplane. The proposed rules would therefore apply not only to airplanes owned by corporations or labor organizations, but also to airplanes owned by any ''person,'' as defined at 11 CFR 100.10, as well as airplanes owned by the Federal government or a State or local government.

An alternative approach, which is not incorporated into the proposed rules, would be to focus the distinction on whether the service provider is a ''commercial vendor,'' as defined in 11 CFR 116.1(c), with respect to the transportation services. This approach would continue to require an examination of the ownership structure of service provider. Relying on the term ''commercial vendor'' could also lead to a different result in certain circumstances. For example, Commercial Airline A owns a specially configured jet that is reserved for its corporate executives and offers the use of that jet to Candidate B. Under the ''commercial vendor'' alternative, Commercial Airline A would likely qualify as a ''commercial vendor'' of transportation services, meaning that 11 CFR 100.52(d), rather than 11 CFR 100.93, would govern the reimbursement requirements for Candidate B's travel on the jet. This result would require Candidate B to calculate the ''usual and normal rate'' for the use of the jet under 11 CFR 100.52(d)(2), which could be difficult to ascertain because passengers on the jet are not normally charged any fee. However, under the proposed ''not normally operated for commercial passenger service'' approach, Candidate B's use of the jet would be governed by proposed § 100.93, not § 100.52, and the proper reimbursement could be calculated by referring to first-class or charter rates to that destination.

The Commission seeks comments on broadening the coverage of these travel rules from corporations and labor organizations to any ''person'' or government, as well as the proposed shift in focus from the ownership of the airplane to the normal use of the airplane.

The scope of proposed § 100.93, however, would be limited to non-commercial means of transportation. A campaign traveler using a commercial airline or other means of commercial transportation would continue to be subject to the more general definition in 11 CFR 100.52, which categorizes ''the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services' as an ''in-kind contribution.'' 11 CFR 100.52(d). Thus, a candidate or other campaign traveler receives an in-kind contribution when he or she is provided commercial transportation without charge or at a charge that is less than the usual and normal charge for that transportation. Proposed § 100.93(a) would include a cross-reference to 11 CFR 100.52(a) and (d) to affirm the continued application of these rules to providers of commercial transportation.

2. Proposed Paragraph (a)(2) Definitions

Proposed paragraph (a)(2) would define several terms used in new § 100.93. The term ''campaign traveler'' would be defined to provide a succinct term covering the candidate, candidate's agent, or other individual traveling on behalf of a candidate or a candidate's authorized committee. ''Service provider'' would describe the person or entity providing the transportation to the campaign traveler. Given the complex ownership and leasing arrangements often associated with airplanes and other means of transportation, a ''service provider'' may be either the owner of the conveyance or a different person who is leasing the conveyance from the owner and making it available for the campaign traveler's use.

Under proposed paragraph (a)(2), the term ''unreimbursed value'' would be defined as the portion of the value provided to the campaign traveler, calculated according to the rules in this section, that is not reimbursed by the candidate's authorized committee. A late payment would not qualify as a reimbursement under this section, which means that the value of the service provided would be an in-kind contribution to the candidate. By contrast, a service provider would not make an in-kind contribution if the candidate's authorized committee provides payment within the time specified in this proposed section. The Commission seeks comments on each of these definitions.

C. 11 CFR 100.93(b) General Rule

Proposed § 100.93(b) would set forth the general rule for when travel by private means of transportation would not constitute a contribution to a candidate or authorized committee, as well as when and to what extent such travel is an in-kind contribution. Under proposed paragraph (b)(1), a candidate's authorized committee would not receive or accept a contribution if the authorized committee pays the service provider the full value of the transportation within the specified time, as determined in this proposed section. This proposed paragraph would generally require that the candidate's authorized committee, rather than the campaign traveler, pay the service provider to avoid receiving or accepting a contribution. The campaign traveler could pay the service provider directly for his or her own travel rather than having the campaign committee do so. Such payment would constitute an in-kind contribution by the campaign traveler to the candidate, unless it qualifies for the transportation expense exception set forth in 11 CFR 100.79.

In light of the fact that the current rules at 11 CFR 114.9(e) are limited to airplanes owned by corporations or labor organizations, payment is required because the unpaid use of the airplanes would constitute a contribution in violation of 2 U.S.C. 441b. In contrast, individuals, partnerships, and certain other persons are permitted to make in-kind contributions to candidates up to the amounts set forth in 2 U.S.C. 441a. Thus, a campaign traveler may use an airplane provided by someone permitted to make an in-kind contribution, and this use would be an in-kind contribution. Proposed 100.93(b)(2) would recognize this possibility by describing when a service provider would be making an in-kind contribution. For an in-kind contribution to be permissible, however, the candidate's authorized committee must comply with the payment conditions in proposed 11 CFR 100.93. If these conditions are not met, then the provision of the airplane would be prohibited if the service provider is a corporation or labor organization, or if the value of the service would, when added to other contributions to the same candidate by the service provider, exceed that service provider's contribution limit. *See* proposed 11 CFR 100.93(b)(2). The value of the in-kind contribution would be determined in the same manner as the amount of the reimbursement would normally be determined under proposed paragraphs (c), (d) or (e) of new section 100.93.

The Commission recognizes that this approach could, in some cases, require the same type of ownership analysis that otherwise would be avoided by the proposed rules. This analysis, however, would no longer be a necessary step in every circumstance because it would be employed only where the airplane's provider elects not to seek full or partial reimbursement from the candidate's authorized committee, or when the committee fails to reimburse the service provider. The Commission seeks comments on whether reimbursement should always be required, regardless of the ownership of the airplane, or whether the possibility of an in-kind

contribution from a permissible source should be addressed in some other fashion.

D. Proposed 11 CFR 100.93(c) Travel by Airplane

When a candidate or other campaign passenger uses an airplane owned by a person who is not in the business of providing commercial air travel, the current rules set the rate of reimbursement at either the first-class airfare or the normal charter rate, depending on whether a destination city is served by regularly scheduled commercial air service. 11 CFR 114.9(e)(1). The charter rate, which is normally higher than first-class airfare to an airport in the same area, represents the actual cost that a campaign would incur, but for the use of the corporate or labor airplane, to reach a particular destination by air when that destination is not served by commercial air service. Nevertheless, the Commission recognizes that candidates who campaign in major metropolitan areas that have regularly scheduled airline service will generally be able to use a private plane and reimburse only the equivalent of a first-class airfare, whereas the candidates who campaign in more rural areas that have little, if any, commercial air service would be required to reimburse the equivalent charter rate. The Commission is concerned that the current reimbursement scheme might be unnecessarily complex and negatively affects campaigning in rural areas.

To address these concerns, the Commission seeks comments on three alternative reimbursement rules in proposed 11 CFR 100.93(c), as well as any other appropriate payment schemes. The Commission also seeks comments on whether and how it should further simplify the rules and address other inequities, if any, arising from the current application of 11 CFR 114.9(e) or the changes proposed for § 100.93.

In addition, the Commission notes that many charter services charge a traveler for ''deadhead miles,'' those miles the airplane travels empty while returning to its home base after a one-way flight. In some cases, charter services also require compensation for positioning costs for airplanes based many miles from the pickup and drop-off points. The Commission therefore seeks comments on how, if at all, the three alternative payment schemes should account for these expenses associated with the positioning of the airplane or ''deadhead miles.'' For example, when a candidate travels one-way from California to Virginia on a private airplane based in Nevada and that airplane returns empty to Nevada, should that candidate's authorized committee be required to pay the expenses associated with the Nevada-to-California and Virginia-to-Nevada flights? If so, should each of these positioning or ''deadhead'' flights be determined in the same manner as described in the three alternative payment schemes below, or by using some other method?

1. Alternative A: Payment Based on First-Class Airfare

Alternative A would set the payment rate, for each individual traveling for campaign purposes, at the amount of the lowest non-discounted first-class airfare to the closest airport that has such service, regardless of whether the actual destination airport is served by regularly scheduled commercial air service. The proposed rule would focus on the closest destination airport, rather than the destination city, to avoid further confusion in light of the various geographic considerations discussed in Advisory Opinion (''AO'') 1999–13.[3] Because airfares may vary based on the date of travel, the rate used in calculating the payment amount would have to correspond to the date of actual travel. The Commission seeks comments on how precisely the base rate should correspond to the actual date of travel. For example, some airlines or charter companies may set a base rate for tickets purchased over a month in advance of the travel date that is different than the price of the same ticket when purchased on the date of travel. Should a campaign be permitted to use the normal advance ticket price when calculating the comparable base rate as required in proposed § 100.93, or should a campaign be required to calculate the comparable rate based on purchase on a fixed date or period, such as the actual date of travel or the lowest price within seven days of the travel date?

Alternative A would also allow an authorized committee to reimburse the provider of a private airplane at the coach rate to the destination airport where the same airport is served by regularly scheduled coach airline service but not regularly scheduled first-class airline service. This distinction for coach service would accommodate industry trends and is based on the current rules governing presidential candidates' payments for the use of government aircraft. *See* 11 CFR 9004.7(b)(5)(i)(B) and 9034.7(b)(5)(i)(B). Please note, however, that if the actual destination is an airport that is not served by any regularly scheduled commercial air service, and the closest airport is served by regularly scheduled coach airline service but not regularly scheduled first-class airline service, the proposed reimbursement amount would still be the lowest non-discounted first-class airfare for the closest airport that is served by regularly scheduled first-class airline service and not the coach fare for the closest airport.

In addition, Alternative A would eliminate the advance payment requirement in 11 CFR 114.9(e)(1). Currently, because payment must be made prior to travel, the campaign must provide a check in advance to the corporation to cover a certain number of passengers. If last minute passengers are not paid for prior to boarding the airplane, the campaign has failed to comply with the requirements of current 11 CFR 114.9(e)(1), regardless of how promptly the campaign subsequently makes an after-the-fact reimbursement. However, where candidates use other means of transportation addressed in 11 CFR 109.2(e)(2), last minute passengers do not cause the same complications because the reimbursement may be made ''within a commercially reasonable time,'' rather than in advance, so that the number of passengers is settled at the time the reimbursement is made.

Alternative A would address this disparate treatment by allowing a fixed period of seven calendar days for payment after travel has begun. This seven-day period would be shorter than the thirty-or-sixty day period used for other forms of transportation, *see* below, because under Alternative A the campaign would have complete control over the timing of the reimbursement as all the necessary passenger information and costs would be fixed at the time the airplane departs. Thus, it should be possible for the candidate's authorized committee to calculate the proper reimbursement rate without a billing or invoice process to cause delay.

The Commission recognizes that the removal of the advance payment rule could be perceived as a departure from the previous approach under which corporations are prohibited from extending credit outside the ordinary course of their business. *See* 11 CFR

[3] In AO 1999–13, the Commission recognized that particular destination cities might be serviced by several airports in the surrounding region. In that advisory opinion, the Commission determined that an airport need not be within the corporate limits of a city in order for that city to be considered ''served by regularly scheduled commercial air service.'' The Commission further agreed that it was reasonable for the requestor to determine whether a city is served by a particular airport through reference to published sources such as a FAA directory or a corporate directory regarded at the time as the charter industry's standard reference for airports.

part 116. While the creation of a fixed post-travel time period for reimbursement in these circumstances is technically an extension of credit, the Commission nevertheless seeks comments on the potential consequences of the proposed rule with respect to the use of an airplane owned by a corporation or labor organization where reimbursement does not occur in advance. The Commission also seeks comments on whether the advance payment requirement should be retained and what, if any, other reimbursement timetables would be appropriate.

2. Alternative B: Payment Based on a Combination of First-Class Airfare and Charter Rate

Alternative B would provide for two different payment rates, following closely the travel valuation rules set forth in the ethics rules for the House of Representatives and the United States Senate. *See* Select Committee on Ethics, U.S. Senate, Senate Ethics Manual, S. Pub. No. 108–1 (2003), ''Private Air Travel'' at p. 60; Committee on Standards of Official Conduct, U.S. House of Representatives, Rules of the U.S House of Representatives on Gifts and Travel (2001), ''Use of Private Aircraft for Travel'' available at <*http://www.house.gov/ethics/Gifts_and_Travel_Chapter.htm#_Toc476623633*>. The first rate, in proposed paragraph (c)(1) of Alternative B, would apply to previously scheduled flights, as opposed to flights specifically scheduled for a campaign traveler, between cities with regularly scheduled air service. The payment rate for these trips would be the normal cost of first-class airfare between the cities. Thus, travel between airports served by regularly scheduled air service would be treated similarly under both Alternative A and Alternative B, except that Alternative B would not permit the first-class airfare amount where the airplane is chartered specifically for the campaign traveler's use. Both Alternative A and Alternative B would permit payment at the coach rate where coach service is regularly scheduled on the same route, but would not permit campaigns to pay the lower amount for discounted fares such as ''supersavers,'' ''e-savers,'' or a government rate.

Under proposed paragraph (c)(2) of Alternative B, the Commission would require the amount of payment for other air travel, including flights specifically scheduled for a campaign traveler or flights where the origin or destination city is not served by regularly scheduled air service, to be no less than the normal charter rate for a similar airplane. The valuation of travel to airports not served by regularly scheduled commercial airline service would therefore differ from the valuation in proposed paragraph (c)(3) of Alternative A, which would value such travel at the amount of the first-class rate to the nearest airport. For the same reasons discussed above for Alternative A, the candidate's authorized committee would be required to make the proper payment within seven calendar days of the departure date.

3. Alternative C: Payment Based on Charter Rate

Alternative C would establish a uniform rule by requiring the payment amount to be the normal and usual cost of chartering a plane of sufficient size to accommodate all campaign travelers plus the news media and security personnel where applicable. This payment rate would depend on the rate for chartering the entire plane, rather than a per-passenger cost, and would not vary based on whether the destination airport is served by regularly scheduled commercial air service of any particular class. Alternative C could provide a more accurate reflection of the true value of the use of a private or governmental airplane by campaign travelers. Because the campaign would be responsible for the cost of chartering the entire plane and the addition of last minute travelers would not increase the cost, the payment amount would be known prior to the time of departure. Thus, the Commission would continue to require advance payment for the use of all airplanes not normally used for commercial passenger service. To the extent that Alternative C would increase the cost of candidate travel when private airplanes are used, should the Commission consider such a factor when it evaluates appropriate reimbursement rates?

E. Proposed 11 CFR 100.93(d) Other Means of Transportation

The Commission proposes a set period of time for payment of travel by means other than by airplane: thirty calendar days from the receipt of the invoice, but no more than sixty calendar days following the date the travel commenced. *See* proposed 11 CFR 100.93(d). This fixed deadline would add more clarity and certainty than the current rule's reference to a ''commercially reasonable'' period, but would retain the flexibility necessary to account for costs that cannot be calculated until the completion of travel or shortly thereafter. The sixty-day cutoff would help to ensure that the invoice will be rendered to the campaign promptly. Any extensions of credit resulting from payments not being made within the sixty-day period would be considered in-kind contributions to the candidate and would therefore result in a violation of the Act and Commission regulations where such contributions are prohibited or excessive. The payment rate would be set at the usual and normal fare or rental readily available to the general public at the time of travel.

F. Proposed 11 CFR 100.93(e) Government Conveyances

Paragraph (e) of proposed 11 CFR 100.93 would clarify the appropriate payment for travel using any means of transportation, including an airplane, that is owned or leased by the Federal government or any State or local government. For government airplanes, one of the three alternatives described above would be used. For other means of travel, a campaign traveler using a government conveyance would have to reimburse the government entity within thirty calendar days of the receipt of an invoice, but no later than sixty calendar days following the date on which travel commenced. The required payment rate would be the amount of the usual fare or rental charge readily available to the general public for the travel date.

G. Proposed 11 CFR 100.93(f) Reporting

Proposed paragraph (f)(1) of 11 CFR 100.93 would refer candidates and their authorized committees to the existing reporting requirements for the receipt of an in-kind contribution. Under 11 CFR 104.13, a candidate must report the amount of unreimbursed value for travel services as both the receipt of a contribution from the service provider and an expenditure by the candidate committee.

In addition, a candidate's authorized committee would be required to record the travel dates along with the report of the disbursement for repayment of the travel service. Under proposed paragraph (f)(2) of §100.93, the Commission would require the authorized committee to report the actual date of travel in the ''purpose of disbursement'' field corresponding to the disbursement.

H. Proposed 11 CFR 100.93(g) Recordkeeping

Presidential and vice-presidential candidates are currently required to maintain records documenting the rates used in calculating their travel reimbursements. 11 CFR 9004.7(b)(5)(v) and 9034.7(b)(5)(v). Under proposed 11 CFR 100.93(g), these recordkeeping

requirements would apply to other candidates.

II. Proposed Revisions to 11 CFR 106.3(e) Reportable Expenditure for a Candidate Who Uses Government Conveyance for Campaign Related Travel

Candidates who use government conveyance or accommodations for campaign-related travel are currently required to report an expenditure in the amount equivalent to the ''rate for comparable commercial conveyance or accommodation.'' 11 CFR 106.3(e). To eliminate disparities between campaign-related travel on private planes and travel on government planes, the Commission proposes revising 11 CFR 106.3 by replacing the reference to the ''rate of comparable commercial conveyance'' with a reference to the applicable rates for travel reimbursement set forth in proposed 11 CFR 100.93(c) and (d). Both the reimbursement rates and the payment due dates in proposed 11 CFR 100.93 would be applicable to travel by airplane and other means of travel, whether owned by an individual, corporation, labor organization, partnership, the Federal government, a State government, or any other person. The Commission seeks comment on this approach and the proposed revisions to 11 CFR 106.3(e).

III. Proposed Revisions to 11 CFR 9004.7(b) and 9034.7(b) Payment for Travel on Government Conveyances by Publicly Funded Presidential Candidates

The current regulations at 11 CFR 9004.7(b) and 9034.7(b) govern travel on government conveyance by primary and general election presidential and vice-presidential candidates receiving federal funding. The two rules are virtually identical and require the presidential or vice-presidential candidate to pay the appropriate government entity at one of several specified rates. These rates are established in largely the same manner as the reimbursement rates set forth in the current 11 CFR 114.9(e). The Commission proposes revising 11 CFR 9004.7(b)(5)(i) and (8) and 9034.7(b)(5)(i) and (8) to replace the parallel rate determinations in those rules with a reference to the reimbursement rates that would be set forth in proposed 11 CFR 100.93. As with the valuation of travel on government conveyances by non-presidential or vice-presidential candidates in 11 CFR 106.3(e), the reimbursement rates in proposed 11 CFR 100.93 would serve as the applicable valuation of travel by presidential and vice-presidential candidates aboard government conveyances. Minor changes would be made to the wording in paragraphs (b)(5)(i) through (iv) in sections 9004.7 and 9034.7 to clarify that the required reimbursement rate is a floor, not a ceiling on how much the candidate may reimburse, in order to permit a candidate to pay at a higher rate when required by other government agencies or branches. The Commission seeks comment on this approach and the proposed revisions to 11 CFR 9004.7 and 9034.7.

V. Other Travel Issues

While the various approaches in the proposed rules may at times overstate or understate the actual cost or value of the air transportation service provided, the Commission anticipates that over time the costs will even out so that the actual disparity, if any, will be minor. The proposed rules are premised on the belief that an across-the-board approach to determining air travel costs is advisable, both for ease of compliance and for ease of administration. Nevertheless, the Commission recognizes that situations may arise that would not be readily addressed by the proposed rules. The Commission is therefore seeking comments describing how, if at all, some of these situations should be addressed in the rules.

Certification of No Effect Pursuant to 5 U.S.C. 605(b)

[Regulatory Flexibility Act]

The attached proposed rules, if promulgated, would not have a significant economic impact on a substantial number of small entities. The basis for this certification is that few, if any, small entities would be affected by these proposals, which apply only to Federal candidates and their campaign committees. Federal candidates and their campaign committees are not small entities. To the extent that operators of air-taxi services or on-demand air charter services are affected, the effect would result from candidate travel choices rather than Commission requirements. These rules propose no sweeping changes, and are largely intended to simplify the process of determining payment and allocation ratios and reimbursement rates. The proposed rules would not increase the cost of compliance by small entities so as to cause a significant economic impact.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 106

Campaign funds, political committees and parties, political candidates.

11 CFR Part 114

Business and industry, elections, labor.

11 CFR Part 9004

Campaign funds.

11 CFR Part 9034

Campaign funds, reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Federal Election Commission proposes to amend subchapters A, E, and F of chapter 1 of title 11 of the *Code of Federal Regulations* as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for part 100 would continue to read as follows:

Authority: 2 U.S.C. 431, 434, and 438(a)(8).

2. Section 100.93 would be added to subpart C of part 100 to read as follows:

§ 100.93 Travel by airplane or other means of travel.

(a) *Scope and definitions.*

(1) This section applies to all campaign travelers who use an airplane, or other means of transportation that is not normally operated for commercial passenger service. *See* 11 CFR 100.52(a) and (d) for treatment of transportation services that are normally operated for commercial passenger service.

(2) For the purposes of this section, the following terms are defined as follows:

Campaign traveler means a candidate, candidate's agent, or other individual traveling on behalf of a candidate or candidate's authorized committee.

Service provider means the owner of an airplane or other conveyance, or a person who leases an airplane or other conveyance from the owner, and uses the airplane or other conveyance to provide transportation to a campaign traveler.

Unreimbursed value means the difference between the actual value of the service provided, as set forth in this section, and the amount of payment for that service by the campaign traveler to the service provider within the time limits set forth in this section. A payment that is not made within the time limits set forth in this section is not a reimbursement for the purposes of this section.

(b) *General rule.*

(1) No contribution results from travel by airplane, or other means of

transportation, by a campaign traveler, if the candidate's authorized committee reimburses the service provider, within the required time, for the full value of the transportation as provided in this section.

(2) Except as provided in 11 CFR 100.79, the unreimbursed value of the transportation provided to a campaign traveler, as determined in paragraphs (c) or (d) of this section, is an in-kind contribution from the service provider to the candidate.

[Alternative A]

(c) *Travel by airplane.* If a campaign traveler uses an airplane that is not normally operated for commercial passenger service, the candidate's authorized committee must pay the service provider, no later than seven (7) calendar days after the date the flight began, the following amount:

(1) In the case of travel to an airport served by regularly scheduled first-class commercial airline service, the lowest unrestricted and non-discounted first-class air fare available for time traveled; or

(2) In the case of an airport served by regularly scheduled coach airline service, but not regularly scheduled first-class commercial airline service, the lowest unrestricted and non-discounted coach commercial air fare for the time traveled; or

(3) In the case of travel to an airport not served by regularly scheduled commercial airline service, the lowest unrestricted first-class airfare, for the time traveled, to the airport:

(i) With regularly scheduled first-class commercial service; and

(ii) That is closest to the airport actually used.

[Alternative B]

(c) *Travel by airplane.* If a campaign traveler uses an airplane that is not normally operated for commercial passenger service, the candidate's authorized committee must pay the service provider, no later than seven (7) calendar days after the date the flight began, the following amount:

(1) In the case of travel via a previously or regularly scheduled flight by the owner or operator of the airplane, where the cities between which the campaign traveler is flying have regularly scheduled commercial air service (regardless of whether such service is direct), the cost of a first-class ticket from the point of departure to the destination. If only coach service is available between those points, the amount is the coach rate. If more than one first-class or coach rate is available, the amount is the lowest fare. However, no discount fares, such as ''supersaver'' fares, will be used for valuation purposes.

(2) In the case of a flight scheduled specifically for the use of a campaign traveler, or when the route does not have regularly scheduled commercial air service, the cost of chartering the same or a similar airplane for that flight. If campaign travelers for more than one candidate are traveling together between cities with no regularly scheduled service, then each candidate's authorized committee must pay its proportionate share of the cost of the charter.

[Alternative C]

(c) *Travel by airplane.* If a campaign traveler uses an airplane that is not normally operated for commercial passenger service, the candidate's authorized committee must pay the service provider, in advance, the usual commercial charter rate for an airplane sufficient in size to accommodate the campaign-related travelers, including the candidate, news media, and security personnel.

(d) *Other means of transportation.* If a campaign traveler who uses any other means of transportation, including an automobile, train, or helicopter, the candidate's authorized committee must reimburse the service provider within thirty (30) calendar days after the date of receipt of the invoice for such travel, but not later than sixty (60) calendar days after the date the travel began, at the normal and usual fare or rental charge readily available to the general public for time traveled.

(e) *Government conveyances.*

(1) If a campaign traveler uses an airplane that is provided by the Federal government, or by a State or local government, the candidate's authorized committee must pay the governmental entity in accordance with paragraph (c) of this section.

(2) If a campaign traveler uses a conveyance, other than an airplane, that is provided by the Federal government, or by a State or local government, the candidate's authorized committee must reimburse the government entity in accordance with paragraph (d) of this section.

(f) *Reporting.*

(1) In accordance with 11 CFR 104.13, a candidate's authorized committee must report the receipt of an in-kind contribution and the making of an expenditure under paragraph (b)(2) of this section.

(2) When reporting a disbursement for travel services in accordance with this section, a candidate's authorized committee must report the actual dates of travel for which the disbursement is made in the ''purpose of disbursement'' field.

(g) *Recordkeeping.*

(1) For travel by airplane, the candidate's authorized committee shall maintain documentation of the lowest unrestricted nondiscounted air fare for the time traveled, including the airline, flight number and travel service providing that fare or the charter rate, as appropriate.

(2) For travel by other conveyances, the candidate's authorized committee shall maintain documentation of the commercial fare or rental charge for a conveyance of sufficient size, including the service provider and the size, model and make of the conveyance.

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

3. The authority citation for part 106 would continue to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g).

4. Section 106.3 would be amended by revising paragraph (e) to read as follows:

§ 106.3 Allocation of expenses between campaign and non-campaign related travel.

* * * * *

(e) Notwithstanding paragraphs (b) and (c) of this section, the reportable expenditure for a candidate who uses government conveyance for travel that is campaign-related is the applicable rate set forth in 11 CFR 100.93(c) or (d). The reportable expenditure for a candidate who uses government accommodations for travel that is campaign-related is the rate for comparable commercial accommodation. In the case of a candidate authorized by law or required by national security to be accompanied by staff and equipment, the allocable expenditures are the costs of facilities sufficient to accommodate the party, less authorized or required personnel and equipment. If such a trip includes both campaign and noncampaign stops, equivalent costs are calculated in accordance with paragraphs (b) and (c) of this section.

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

5. The authority citation for part 114 would continue to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 434, 437d(a)(8), 438(a)(8), and 441b.

6. Section 114.9 would be amended by revising the section title and removing and reserving paragraph (e) to read as follows:

§ 114.9 Use of corporate or labor organization facilities.

* * * * *

(e) [Removed and reserved]

PART 9004—ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS; USE OF PAYMENTS

7. The authority citation for Part 9004 would continue to read as follows:

Authority: 26 U.S.C. 9004 and 9009(b).

8. Section 9004.7 would be amended by revising paragraphs (b)(5) and (b)(8) to read as follows:

§ 9004.7 Allocation of travel expenditures.

* * * * *

(b) * * *

(5) Payment for use of government conveyances and accommodations.

(i) If any individual, including a candidate, uses a government airplane for campaign-related travel, the candidate's authorized committee shall pay the appropriate government entity an amount not less than the applicable rate set forth in 11 CFR 100.93(c).

(ii) If a government airplane is flown to a campaign-related stop where it will pick up passengers, or from a campaign-related stop where it left off passengers, the candidate's authorized committee shall pay the appropriate government entity an amount not less than the greater of the amount billed or the amount required under 11 CFR 100.93(c) for one passenger.

(iii) If any individual, including a candidate, uses a government conveyance, other than an airplane, for campaign-related travel, the candidate's authorized committee shall pay the appropriate government entity an amount not less than the commercial rental rate for a conveyance sufficient in size to accommodate the campaign-related travelers, including the candidate, plus the news media and the Secret Service.

(iv) If any individual, including a candidate, uses accommodations, including lodging and meeting rooms, during campaign-related travel, and the accommodations are paid for by a government entity, the candidate's authorized committee shall pay the appropriate government entity an amount not less than the usual and normal charge for the accommodations, and shall maintain documentation supporting the amount paid.

(v) For travel by airplane, the committee shall maintain documentation of the lowest unrestricted nondiscounted air fare available for the time traveled, including the airline, flight number and travel service providing that fare or the charter rate, as appropriate. For travel by other conveyances, the committee shall maintain documentation of the commercial rental rate for a conveyance of sufficient size, including the provider of the conveyance and the size, model and make of the conveyance.

* * * * *

(8) Travel on private airplanes and other conveyances not normally operated for commercial passenger service is governed by 11 CFR 100.93.

* * * * *

PART 9034—ENTITLEMENTS

9. The authority citation for part 9034 would continue to read as follows:

Authority: 26 U.S.C. 9034 and 9039(b).

10. Section 9034.7 would be amended by revising paragraphs (b)(5) and (b)(8) to read as follows:

§ 9034.7 Allocation of travel expenditures.

* * * * *

(b) * * *

(5) Payment for use of government conveyances and accommodations.

(i) If any individual, including a candidate, uses a government airplane for campaign-related travel, the candidate's authorized committee shall pay the appropriate government entity an amount not less than the applicable rate set forth in 11 CFR 100.93(c).

(ii) If a government airplane is flown to a campaign-related stop where it will pick up passengers, or from a campaign-related stop where it left off passengers, the candidate's authorized committee shall pay the appropriate government entity an amount not less than the greater of the amount billed or the amount required under 11 CFR 100.93(c) for one passenger.

(iii) If any individual, including a candidate, uses a government conveyance, other than an airplane, for campaign-related travel, the candidate's authorized committee shall pay the appropriate government entity an amount not less than the commercial rental rate for a conveyance sufficient in size to accommodate the campaign-related travelers, including the candidate, plus the news media and the Secret Service.

(iv) If any individual, including a candidate, uses accommodations, including lodging and meeting rooms, during campaign-related travel, and the accommodations are paid for by a government entity, the candidate's authorized committee shall pay the appropriate government entity an amount not less than the usual and normal charge for the accommodations, and shall maintain documentation supporting the amount paid.

(v) For travel by airplane, the committee shall maintain documentation of the lowest unrestricted nondiscounted air fare available for the time traveled, including the airline, flight number and travel service providing that fare or the charter rate, as appropriate. For travel by other conveyances, the committee shall maintain documentation of the commercial rental rate for a conveyance of sufficient size, including the provider of the conveyance and the size, model and make of the conveyance.

* * * * *

(8) Travel on private airplanes and other conveyances not normally operated for commercial passenger service is governed by 11 CFR 100.93.

Dated: August 18, 2003.

Michael E. Toner,

Commissioner, Federal Election Commission.

[FR Doc. 03–21463 Filed 8–20–03; 8:45 am]

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FEDERAL ELECTION COMMISSION

11 CFR Parts 102 and 110

[Notice 2003–13]

Multicandidate Committees and Biennial Contribution Limits

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission requests comments on proposed changes to its rules covering three areas: (1) Multicandidate political committee status, (2) annual contributions by persons other than multicandidate committees to national party committees, and (3) biennial contribution limits for individuals. The proposed changes would clarify the qualifications for multicandidate political committee status and require a political committee to notify the Commission when it has qualified as a multicandidate committee. The proposed changes would also update the limit on contributions from persons other than multicandidate committees to national party committees. In addition, the proposed changes would adjust the attribution of contributions to candidates from individuals under the biennial limits. No final decisions have been made by the Commission on any of the proposed revisions in this Notice. Further information is provided in the **SUPPLEMENTARY INFORMATION** that follows.

DATES: Comments must be received on or before September 19, 2003. If the Commission receives sufficient requests

to testify, it will hold a hearing on these proposed rules on October 1, 2003, at 9:30 a.m. Commenters wishing to testify at the hearing must so indicate in their written or electronic comments.

ADDRESSES: All comments should be addressed to Ms. Mai T. Dinh, Acting Assistant General Counsel, and must be submitted in either electronic or written form. Electronic mail comments should be sent to *multicand03@fec.gov* and must include the full name, electronic mail address and postal service address of the commenter. Electronic mail comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered. If the electronic mail comments include an attachment, the attachment must be in the Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up to ensure legibility. Written comments and printed copies of faxed comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Commenters are strongly encouraged to submit comments electronically to ensure timely receipt and consideration. The Commission will make every effort to post public comments on its Web site within ten business days of the close of the comment period. The hearing will be held in the Commission's ninth floor meeting room, 999 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Acting Assistant General Counsel, or Mr. Richard T. Ewell, Attorney, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is considering changes to several separate rules to address three different issues. First, the Commission proposes changes to its rules regarding the certification requirements and contribution limits of a political committee that qualifies as a multicandidate committee. Second, the Commission proposes updating the annual limit on contributions from person other than multicandidate committees to national party committees in order to conform to the change made by Congress in the Bipartisan Campaign Reform Act of 2002 (''BCRA''). Finally, the Commission proposes corrections to its rules on the annual limit on aggregate individual contributions in light of BCRA. These proposed rules would implement the provisions of the Federal Election Campaign Act of 1971, as amended (''FECA'' or the ''Act''), 2 U.S.C. 431 *et seq.*

I. Proposed Changes to 11 CFR 102.2, 110.2 Multicandidate Committee Status

A. Proposed 11 CFR 110.2—Contributions by Multicandidate Political Committees

Section 110.2 sets forth contribution limits for multicandidate political committees in accordance with the limits established by 2 U.S.C. 441a(a)(2). Section 441a(a)(4) of the FECA provides that, ''the term 'multicandidate committee' means a political committee which has been registered with [the Commission or Secretary of the Senate] for a period of not less than six months, which has received contributions from more than 50 persons, and except for any State political party organization, has made contributions to 5 or more candidates for Federal office.'' 2 U.S.C. 441a(a)(4). On the basis of this statutory provision, the Commission's rules at 11 CFR 1005.(e)(3) define a ''multicandidate committee'' as a political committee meeting these three requirements.

FECA, prior to BCRA, provided significantly higher limits on contributions to candidates for political committees with multicandidate status than for those without that status ($5,000 per election versus $1,000). BCRA raised and indexed for inflation the contribution limit for non-multicandidate committees (to $2,000 per election), and due to the inflation adjustment such limit may eventually become higher than the limit imposed on multicandidate committees. *See* 2 U.S.C. 441a(c). Thus, this contribution limit itself one day may create a substantial disincentive for attaining multicandidate political committee status.

In addition, the limit on contributions to national party committees from multicandidate committees is $15,000 per year (as it was prior to BCRA), yet BCRA increased the limit on contributions to the same national party committees from non-multicandidate committees to $25,000 per year. 2 U.S.C. 441a(a)(2)(B) and (1)(B). Furthermore, the contribution limit for multicandidate committees is not indexed for inflation, which means that over time the current $10,000 difference in the contribution limit to national party committees will increase. 2 U.S.C. 441a(c).

These statutory changes have raised the issue of whether political committees may opt out of multicandidate committee status. The Commission preliminarily concludes that the definition of ''multicandidate committee'' in 2 U.S.C. 441a(a)(4) means that a political committee becomes a multicandidate committee by operation of law, not committee choice. Consequently the Commission proposes the addition of a sentence to 11 CFR 110.2(a) to state that a political committee automatically becomes a multicandidate committee at the time it satisfies the six-month waiting period, receives contributions from fifty or more contributors, and makes contributions to five or more candidates.

In the alternative, the Commission seeks comments on whether multicandidate political committee status may be considered optional. Commenters addressing this alternative are requested to provide the legal basis that would support this interpretation of 2 U.S.C. 441a(a)(4). Please note that the wording of the proposed rule in 11 CFR 110.2(a) does not implement this alternative.

B. Proposed 11 CFR 102.2(a)(3)—Certification of Multicandidate Status

To monitor compliance with the contribution limits, the Commission has required multicandidate political committees to file FEC Form 1M with the Commission to certify that they satisfied the criteria described above for becoming multicandidate political committees. Specifically, current 11 CFR 102.2(a)(3) requires that this certification be filed before a political committee may avail itself of the multicandidate committee contribution limits.

The Commission proposes to amend 11 CFR 102.2(a)(3) to eliminate the requirements that a political committee file Form 1M with the Commission before making any contributions under the increased contribution limits with respect to candidates in 11 CFR 110.2(b). Instead, § 102.2(a)(3) would specify that a political committee must certify its status as a multicandidate committee within ten days of satisfying the requirements of 11 CFR 1005.(e)(3). This certification provides clear notice of the political committee's status to the Commission and to recipients of contributions from the committee. The ten-day period corresponds to the usual time allotted for a political committee to report any changes to its Statement of Organization. *See* 11 CFR 102.2(a)(2). Thus, failure to file the form within the requisite time period would be a violation of the reporting requirements of 2 U.S.C. The Commission seeks comments on how it should address a failure to file the certification of multicandidate status. Specifically, how

should the Commission address a situation where a political committee qualifies for multicandidate status, does not certify its status within ten days, but makes a contribution over $2,000 to a candidate for Federal office? The Commission also seeks comments on what certification process, if any, should be used if the Commission adopts an alternative approach and allows multicandidate status to be optional at the choice of the committee.

II. 11 CFR 110.1 Conforming Change to Contributions by Persons Other Than Multicandidate Political Committees

In section 307(a)(2) of BCRA, Congress raised the annual aggregate limit on contributions by persons other than multicandidate committees to national political party committees from $20,000 to $25,000. 2 U.S.C. 441a(a)(1)(B). The Commission proposes to revise the corresponding regulation in 11 CFR 110.1 to reflect this statutory change.

III. 11 CFR 110.5 Aggregate Biennial Contribution Limitation for Individuals

BCRA amended the provisions in the Act that limit the total amount of contributions that may be made by individuals. Section 441a(a)(3) of the FECA previously permitted individuals to make no more than $25,000 in aggregate contributions per calendar year. This provision was revised by BCRA to establish new biennial aggregate limits that permit individuals to make up to $95,000 in contributions, including up to $37,500 in contributions to candidates and their authorized committees, and up to $57,500 in contributions to any other political committees. 2 U.S.C. 441a(a)(3)(A) and (B). The $57,500 aggregate contribution limit contains a further restriction in that no more than $37,500 of this amount may be given to committees that are not the political committees of national political parties. 2 U.S.C. 441a(a)(3)(B). Regulations implementing these changes were issued as part of the rulemaking entitled ''Contribution Limitations and Prohibitions.'' *See* Contribution Limitations and Prohibitions; Final Rules, 67 FR 69928 (November 19, 2002). Previously, 2 U.S.C. 441a(a)(3) also provided that, for the purposes of the annual limitation, any contribution made to a candidate ''in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.'' BCRA deleted this language from the Act. However, the Commission retained 11 CFR 110.5(c), which specifically addressed contributions made in a non-election year. The proposed rules would amend § 110.5(c) to delete the current language and to replace it with language affirmatively stating that for the purposes of the biennial contribution limits in 11 CFR 110.5 (which are set forth in paragraph (b)), a contribution to a candidate will be attributed to the two-year period in which the contribution is actually made, regardless of when the election will be held. For example, for the purposes of the biennial limit, a contribution made in 2004 to a candidate in a 2006 Senate race would be attributed to the individual's limit for the 2003–2004 period. Similarly, a contribution made in 2005 to a candidate in the 2008 presidential race would be attributed to the individual's limit for the 2005–2006 period. In addition, a contribution made during 2007 to retire debt from a 2006 House election would be attributed to the individual's two-year limit for the 2007–2008 period, not for the 2005–2006 period.

The Commission seeks comments on whether the proposed revisions are consistent with BCRA. If the Commission revises its regulations in this manner, the Commission seeks comment on when such revisions should become effective.

Certification of No Effect Pursuant to 5 U.S.C. 605(b)

[Regulatory Flexibility Act]

The attached proposed rules, if promulgated, would not have a significant economic impact on a substantial number of small entities. The basis for this certification is that few, if any, small entities would be affected by these proposals. These rules propose no sweeping changes, and are largely intended to simplify the process of determining the status of political committees and the aggregate biennial amounts that individuals may contribute to candidates for Federal office. Several of the proposed changes are purely technical, and those few proposals that might increase the cost of compliance by small entities would not do so in such an amount as to cause a significant economic impact.

List of Subjects

11 CFR Part 102

Political committees and parties, reporting and recordkeeping requirements.

11 CFR Part 110

Campaign funds, political committees and parties.

For the reasons set out in the preamble, the Federal Election Commission proposes to amend subchapter A of chapter 1 of title 11 of the Code of Federal Regulations as follows:

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

1. The authority citation for part 102 would continue to read as follows:

Authority: 2 U.S.C. 432, 433, 434(a)(11), 438(a)(8), 441d.

2. Section 102.2 would be amended by revising paragraph (a)(3) to read as follows:

§ 102.2 Statement of organization: Forms and committee identification number (2 U.S.C. 433(b), (c)).

(a) * * *

(3) A committee shall certify to the Commission that it has satisfied the criteria for becoming a multicandidate committee set forth at 11 CFR 100.5(e)(3) by filing FEC Form 1M no later than ten (10) calendar days after qualifying for multicandidate committee status.

* * * * *

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

3. The authority citation for part 110 would continue to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d, 438(a)(8), 441a, 441b, 441d, 441, 441f, 441g, 441h, and 441k.

4. Section 110.1 would be amended by revising paragraph (c)(3) to read as follows:

§ 110.1 Contributions by persons other than multicandidate political committees (2 U.S.C. 441a(a)(1)).

* * * * *

(c) * * *

(3) Each recipient committee referred to in 11 CFR 110.1(c)(2) may receive up to the $25,000 limitation from a contributor, but the limits of 11 CFR 110.5 shall also apply to contributions made by an individual.

* * * * *

5. Section 110.2 would be amended by revising paragraph (a)(1) to read as follows:

§ 110.2 Contributions by multicandidate political committees (2 U.S.C. 441a(a)(2)).

(a)(1) *Scope.* This section applies to all contributions made by any multicandidate political committee as defined in 11 CFR 100.5(e)(3). See 11 CFR 102.2(a)(3) for multicandidate

political committee certification requirements. A political committee becomes a multicandidate committee whether or not the political committee has certified its status as a multicandidate committee with the Commission in accordance with 11 CFR 102.2(a)(3)

* * * * *

6. Section 110.5 would be amended by revising paragraph (c) to read as follows:

§ 110.5 Aggregate bi-annual contribution limitation for individuals (2 U.S.C. 441a(a)(3)).

* * * * *

(c) *Contributions made in a nonelection year.* For purposes of the biennial limitation on contributions, any contribution to a candidate or his or her authorized committee with respect to a particular election shall be considered to be made during the two-year period described in paragraph (b)(1) of this section in which the contribution is actually made, regardless of the year in which the particular election is held. *See* 11 CFR 110.1(b)(6). This paragraph (c) also applies to earmarked contributions and contributions to a single candidate committee that has supported or anticipates supporting the candidate.

* * * * *

Dated: August 18, 2003.

Michael E. Toner,

Commissioner, Federal Election Commission.

[FR Doc. 03–21462 Filed 8–20–03; 8:45 am]

BILLING CODE 6715–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–169–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise an existing airworthiness directive (AD), applicable to all McDonnell Douglas Model MD–90–30 airplanes, that currently requires replacing the lanyards on the pressure relief door for the thrust reverser with new, improved lanyards, and doing associated modifications. The actions specified by that AD are intended to ensure that the lanyards on the pressure relief door have adequate strength. Lanyards of inadequate strength could allow the pressure relief door to detach from the thrust reverser in the event that an engine bleed air duct bursts, which could result in the detached door striking and damaging the horizontal stabilizer, and consequent reduced controllability of the airplane. This proposed AD is prompted by the fact that a certain paragraph of the existing AD prohibits installation of certain part numbers of lanyards; the numbers listed in that paragraph correspond to new, improved lanyards that are acceptable for installation. This action would correct these part numbers to prohibit installation of suspect lanyards while allowing installation of the new, improved lanyards. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 6, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–169–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. 2003–NM–169–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 Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024); and Rohr, Inc., 850 Lagoon Drive, Chula Vista, California 91910–2098. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Stephen Kolb, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5244; fax (562) 627–5210.

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 2003–NM–169–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. 2003–NM–169–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On May 27, 2003, the FAA issued AD 2003–11–15, amendment 39–13174 (68 FR 33355, June 4, 2003), applicable to all McDonnell Douglas Model MD–90–30 airplanes. That AD requires replacing

the lanyards on the pressure relief door for the thrust reverser with new, improved lanyards, and doing associated modifications. That action was prompted by a report indicating that the lanyards on the pressure relief door for the thrust reversers on the subject airplanes do not meet the certification requirements for strength. The requirements of that AD are intended to ensure that the lanyards on the pressure relief door for the thrust reverser have adequate strength so that the door will not detach from the thrust reverser in the event that an engine bleed air duct bursts, which could result in the door striking and damaging the horizontal stabilizer. This condition could result in reduced controllability of the airplane.

Actions Since Issuance of Previous Rule

Paragraph (b) of AD 2003–11–15 prohibits installation of pressure relief door lanyards having certain part numbers. Since the issuance of that AD, the FAA has determined that the part numbers listed in that paragraph are incorrect. The numbers in that paragraph are Illustrated Parts Catalog numbers that correspond to new, improved lanyard assemblies that are acceptable for installation per the requirements of the existing AD. Paragraph (b) should have referred to the part numbers of the pressure relief door lanyards that paragraph (a) of AD 2003–11–15 requires to be replaced.

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 revise AD 2003–11–15 to continue to require replacing the lanyards on the pressure relief door for the thrust reverser with new, improved lanyards, and doing associated modifications. The proposed AD would also prohibit installation of certain pressure relief door lanyards.

Explanation of Additional Change to Existing Requirements

We have revised the heading that precedes paragraph (b) of this AD from ''Spares'' to ''Parts Installation.'' We find the heading ''Parts Installation'' more accurately describes the contents of that paragraph.

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 (AMOCs). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD. However, for clarity and consistency in this proposed AD, we have retained the language of the existing AD regarding that material.

Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Cost Impact

There are approximately 110 airplanes of the affected design in the worldwide fleet. The FAA estimates that 21 airplanes of U.S. registry would be affected by this proposed AD. The proposed changes in this action add no additional economic burden. The current costs for this proposed AD are repeated for the convenience of affected operators, as follows:

It takes approximately 8 work hours per airplane to accomplish the actions currently required by AD 2003–11–15, at an average labor rate of $65 per work hour. Required parts are provided at no cost to the operator. Based on these figures, the cost impact of the actions currently required by AD 2003–11–15 is estimated to be $10,920, or $520 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 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 39–13174 (68 FR 33355, June 4, 2003), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 2003–NM–169–AD. Revises AD 2003–11–15, Amendment 39–13174.

Applicability: All Model MD–90–30 airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that the lanyards on the pressure relief door for the thrust reverser have adequate strength so that the door will not detach from the thrust reverser in the event that an engine bleed air duct bursts, which could result in the door striking and damaging the horizontal stabilizer, accomplish the following:

Replacement of Lanyards on the Thrust Reverser Pressure Relief Door

(a) Within 18 months after the effective date of the AD, replace the lanyards on the pressure relief door for the thrust reverser with new, improved lanyards, and accomplish associated modifications, per the Accomplishment Instructions of Boeing Service Bulletin MD90–78–048, dated February 15, 2001. The associated modifications include removing the pressure relief door, modifying the pressure relief door (including replacing existing brackets with new brackets and re-identifying the door with a new part number), modifying the lower track beam (including removing terminals, replacing the aft quick-release pin with a new pin, and re-identifying the beam with a new part number), modifying the heat shield on the lanyard assembly attach lugs, and re-installing the pressure relief door.

Note 2: Boeing Service Bulletin MD90–78–048, dated February 15, 2001, refers to International Aero Engines Service Bulletin V2500–NAC–78–0184, dated February 16, 2001, for instructions on replacing the lanyards on the pressure relief door for the thrust reverser.

Parts Installation

(b) After the effective date of this AD, no person may install a lanyard having part number (S700M1392A170) or (S700M1392A161) on the pressure relief door for the thrust reverser on any airplane.

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, Los Angeles 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, Los Angeles ACO.

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

Special Flight Permits

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

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

Kyle L. Olsen,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–21414 Filed 8–20–03; 8:45 am]

BILLING CODE 4910–13–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 263

[Docket No. 2002–1 CARP DTRA3]

Digital Performance Right in Sound Recordings and Ephemeral Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office of the Library of Congress is requesting comment on proposed regulations that set rates and terms for the use of sound recordings in eligible nonsubscription transmissions made by noncommercial licensees, and for the making of related ephemeral recordings. The rates and terms are for the 2003 and 2004 statutory licensing period.

DATES: Comments are due no later than September 22, 2003.

ADDRESSES: An original and five copies of any comment shall be delivered by hand to: Office of the General Counsel, James Madison Memorial Building, Room LM–403, First and Independence Avenue, SE., Washington, DC 20559–6000; or mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024–0977.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380; Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: Since 1995, copyright owners of sound recordings have had the exclusive right to perform their works publicly by means of a digital audio transmission, subject to certain limitations. 17 U.S.C. 106(6). Among the limitations on the performance right was the creation of a new compulsory license for nonexempt, noninteractive digital subscription transmissions. 17 U.S.C. 114. Section 114 was later amended with the passage of the Digital Millennium Copyright Act of 1998 (''DMCA''), Public Law 105–304, to cover additional digital audio transmissions, including services making eligible nonsubscription transmissions. The DMCA also created a new statutory license to provide for the making of certain ephemeral phonerecords that facilitate the making of digital audio transmissions pursuant to the section 114 license. *See* 17 U.S.C. 112(e).

Rates and terms for use of sound recordings pursuant to these licenses by eligible nonsubscription services and by business-to-business establishment services were published in the **Federal Register** on July 8, 2002, after a full hearing before a Copyright Arbitration Royalty Panel (''CARP''), but these rates only applied to those transmissions made through December 31, 2002. *See* 67 FR 45239 (July 8, 2002).

In accordance with section 114(f)(2)(C)(i)(II), the Copyright Office initiated a new rate proceeding in January 2002 to set rates and terms for the current license period, January 1, 2003 through December 31, 2004. The first step in the rate adjustment process is the announcement of a voluntary six-month negotiation period *See* 67 FR 4472 (January 30, 2002). Although no agreements were reached during the early stages of this proceeding, copyright owners and performers did ultimately reach an agreement with certain licensees and the proposed settlement was published in the **Federal Register** on May 20, 2003. 68 FR 27506 (May 20, 2003). This agreement, however, did not make any special provisions for noncommercial entities who operate under the same statutory licenses, because noncommercial webcasters were involved in separate rate negotiations to establish an alternative rate structure to the one that would be set in accordance with the procedures set forth in 17 U.S.C. 112(e) and 114(f). These negotiations were conducted in accordance with the Small Webcaster Settlement Act of 2002 (''SWSA''), Public Law 107–321, 116 Stat. 2780.

The SWSA was passed in 2002 to address certain concerns of small webcasters with respect to the rates announced on July 8, 2002, and the CARP process which established those rates. Basically, it gave small commercial webcasters and noncommercial webcasters another opportunity to negotiate a different and separate rate schedule applicable to their use of sound recordings in digital transmissions for the period through 2004. The negotiations for these alternative agreements were conducted sequentially. SoundExchange, an unincorporated division of the

Recording Industry Association of America, Inc. that is authorized to negotiate on behalf of copyright owners and performers, reached an agreement with small commercial webcasters in December 2002. *See* 67 FR 78510 (December 24, 2002). Negotiations between SoundExchange and the noncommercial webcasters followed and were completed in May 2003. The SWSA agreement applicable to the noncommercial entities was published in the **Federal Register** on June 11, 2003. 68 FR 35008 (June 11, 2003). Noncommercial webcasters who wished to take advantage of the rates and terms set forth in this agreement and had already made digital audio transmissions were required to submit a completed and signed election form to SoundExchange no later than 30 days after publication of the rates and terms in the **Federal Register**. Noncommercial webcasters who have not yet made a digital audio transmission may still elect to operate under the SWSA provided that they file the election form no later than the first date on which it would be obligated to make a royalty payment. *See* 68 FR at 35009.

Shortly thereafter, SoundExchange, the American Council on Education, and the Intercollegiate Broadcasting System, Inc., jointly with Harvard Radio Broadcasting Co., Inc. filed a petition with the Copyright Office for adjustment of the section 112 and 114 statutory rates and terms applicable to noncommercial licensees, requesting that the Office publish the proposed rates and terms for public comment pursuant to 37 CFR 251.63(b). The proposed rates and terms are identical to the applicable rates and terms for the period ending December 31, 2002, as established in the Order of the Librarian of Congress published July 8, 2002. *See* 67 FR 45239 (July 8, 2002).

The purpose for proposing these rates and terms is to ensure that a statutory rate is set for noncommercial licensees, so that there is no gap in the statutory rate scheme. Thus, a noncommercial licensee who does not opt to operate under the rates and terms negotiated in the SWSA agreement would operate according to the rates and terms announced today, should they be adopted as final rules. However, noncommercial webcasters who have elected to operate under the rates and terms negotiated pursuant to the SWSA and published on June 11, 2003, will not be affected by the proposed rates and terms announced today.

Section 251.63(b) of title 37 of the Code of Federal Regulations allows the Librarian to adopt proposed rates and terms without convening a CARP, provided that the proposed rates and terms are published in the **Federal Register** and no interested party with an intent to participate in the proceeding files a comment objecting to the proposed terms. In other words, unless there is an objection from a person with a significant interest in setting rates and terms applicable to noncommercial licensees and who is prepared and eligible to participate in a CARP proceeding, the Librarian can adopt the rates and terms in the proposed settlement in final regulations without convening a CARP. This procedure to adopt negotiated rates and terms in the case where an agreement has been reached has been specifically endorsed by Congress.

> If an agreement as to rates and terms is reached and there is no controversy as to these matters, it would make no sense to subject the interested parties to the needless expense of an arbitration proceeding conducted under [section 114(f)(2) (1995)]. Thus, it is the Committee's intention that in such a case, as under the Copyright Office's current regulations concerning rate adjustment proceedings, the Librarian of Congress should notify the public of the proposed agreement in a notice-and-comment proceeding and, if no opposing comment is received from a party with a substantial interest and an intent to participate in an arbitration proceeding, the Librarian of Congress should adopt the rates embodied in the agreement without convening an arbitration panel.

S. Rep. No. 104–128, at 29 (1995) (citations omitted).

Accordingly, the Copyright Office is granting the joint petition filed on July 3, 2003, and is publishing for public comment the proposed rates and terms embodied in the agreement. Any party who objects to the proposed rates and terms set forth herein must file a written objection with the Copyright Office and an accompanying Notice of Intent to Participate, if the party has not already done so, in accordance with the requirements set forth in the Copyright Office's November 20, 2001, Notice. *See* 66 FR 58180, 58181 (November 20, 2001). The content of the written challenge should describe the party's interest in the proceeding, the proposed rule the party finds objectionable, and the reasons for the challenge.

Only a party with a significant interest in these rates and terms and who is prepared to participate in a CARP proceeding has standing to object. A noncommercial webcaster that has elected to operate under the rates and terms negotiated under the SWSA and published on June 11 would have no standing to object to the rates and terms announced today.

If no comments are received, the regulations shall become final upon publication of a final rule and shall cover the period from January 1, 2003, to December 31, 2004.

Schedule for Filing a Written Direct Case

On August 18, 2004, the Copyright Office issued an order in this proceeding in which it: (1) Announced the consolidation of this proceeding with the proceeding to establish rates and terms for new subscription services, Docket No. 2001–2–DTNSRA; (2) set forth a new precontroversy discovery schedule and set a date for a meeting to discuss administrative issues; (3) directed parties in this proceeding to file a Notice of Intention to Submit a Written Direct Case; and (4) set a new briefing schedule for filing oppositions and replies to the pending motion to adopt the interim protective order.

Any new participants who may enter this proceeding by filing an objection to the proposed rates and terms as they apply to noncommercial entities must comply with the dates and requirements set forth in the August 18 order. *See http://www.copyright.gov/carp/order81803.pdf.* Accordingly, all parties to this proceeding, including any new participants, must be prepared to file a written direct case with the Copyright Office and serve a copy of the written direct case on all parties to this proceeding on October 6, 2003.

List of Subjects in 37 CFR Part 263

Copyright, Digital audio transmissions, Performance right, Sound recordings.

Proposed Regulation

In consideration of the foregoing, the Copyright Office proposes adding part 263 to 37 CFR to read as follows:

PART 263—RATES AND TERMS FOR CERTAIN TRANSMISSIONS AND THE MAKING OF EPHEMERAL REPRODUCTIONS BY NONCOMMERCIAL LICENSEES

Sec.
263.1 General.
263.2 Definitions.
263.3 Royalty Rates and Terms.

Authority: 17 U.S.C. 112(e), 114, 801(b)(1).

§ 263.1 General.

This part 263 establishes rates and terms of royalty payments for the public performance of sound recordings in certain digital transmissions by certain Noncommercial Licensees in accordance with the provisions of 17 U.S.C. 114, and the making of ephemeral recordings by certain

Noncommercial Licensees in accordance with the provisions of 17 U.S.C. 112(e), during the period 2003–2004.

§ 263.2 Definitions.

For purposes of this part, the following definition shall apply:

A *Noncommercial Licensee* is a person or entity that has obtained a compulsory license under 17 U.S.C. 114 and the implementing regulations therefor, or that has obtained a compulsory license under 17 U.S.C. 112(e) and the implementing regulations therefor to make ephemeral recordings for use in facilitating such transmissions, and—

(a) Is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501);

(b) Has applied in good faith to the Internal Revenue Service for exemption from taxation under section 501 of the Internal Revenue Code and has a commercially reasonable expectation that such exemption shall be granted, or

(c) Is a State of possession or any governmental entity or subordinate thereof, or the United States or District of Columbia, making transmissions for exclusively public purposes.

§ 263.3 Royalty Rates and Terms.

A Noncommercial Licensee shall in every respect be treated as a ''Licensee'' under part 262 of this chapter, and all terms applicable to Licensees and their payments under part 262 of this chapter shall apply to Noncommercial Licensees and their payment, except that a Noncommercial Licensee shall pay royalties at the rates applicable to such a ''Licensee,'' as currently provided in § 261.3(a), (c), (d) and (e) of this chapter, rather than at the rates set forth in § 262.3(a) through (d) of this chapter.

Dated: August 18, 2003.

David O. Carson,

General Counsel.

[FR Doc. 03–21467 Filed 8–20–03; 8:45 am]

BILLING CODE 1410–33–P

DEPARTMENT OF DEFENSE

48 CFR Part 242

[DFARS Case 2002–D015]

Defense Federal Acquisition Regulation Supplement; Production Surveillance and Reporting

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to eliminate requirements for contract administration offices to perform production surveillance on contractors that have only Criticality Designator C (low-urgency) contracts. This change will permit contract administration offices to devote more resources to critical and high-risk contracts.

DATES: DoD will consider all comments received by October 20, 2003.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2002–D015 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Mr. Steven Cohen, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2002–D015.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Mr. Steven Cohen, (703) 602–0293.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS 242.1104 presently requires the cognizant contract administration office to conduct a periodic risk assessment of each contractor to determine the degree of production surveillance needed for contracts awarded to that contractor, and to develop a production surveillance plan based on the risk level determined during the risk assessment. This proposed rule revises DFARS 242.1104 to eliminate requirements for production surveillance on contractors that have only Criticality Designator C (low-urgency) contracts, and for monitoring of progress on any Criticality Designator C contract, unless production surveillance or contract monitoring is specifically requested by the contracting officer. This change will enable contract administration offices to use production surveillance resources in a more effective manner.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the DFARS changes in this rule primarily affect the allocation of Government resources to production surveillance functions. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2002–D015.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 242

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 242 as follows:

1. The authority citation for 48 CFR part 242 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

2. Section 242.1104 is revised to read as follows:

242.1104 Surveillance requirements.

(a) The cognizant contract administration office (CAO)—

(i) Shall perform production surveillance on all contractors that have Criticality Designator A or B contracts;

(ii) Shall not perform production surveillance on contractors that have only Criticality Designator C contracts, unless specifically requested by the contracting officer; and

(iii) When production surveillance is required, shall—

(A) Conduct a periodic risk assessment of the contractor to determine the degree of production surveillance needed for all contracts awarded to that contractor. The risk assessment shall consider information provided by the contractor and the contracting officer;

(B) Develop a production surveillance plan based on the risk level determined during a risk assessment;

(C) Modify the production surveillance plan to incorporate any special surveillance requirements for individual contracts, including any requirements identified by the contracting officer; and

(D) Monitor contract progress and identify potential contract delinquencies in accordance with the production surveillance plan. Contracts with Criticality Designator C are exempt from this requirement unless specifically requested by the contracting officer.

[FR Doc. 03–21312 Filed 8–20–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 20 and 21

RIN 1018–AI32

Migratory Bird Hunting and Permits; Regulations for Managing Resident Canada Goose Populations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: In recent years, the numbers of Canada geese that nest and/or reside predominantly within the conterminous United States (resident Canada geese) have undergone dramatic population growth and have increased to levels that are increasingly coming into conflict with people and human activities and causing personal and public property damage, as well as public health concerns, in many parts of the country. The U.S. Fish and Wildlife Service (Service or ''we'') believes that resident Canada goose populations must be reduced, more effectively managed, and controlled to reduce goose related damages. This rule would authorize State wildlife agencies to conduct (or allow) indirect and/or direct population control management activities, including the take of birds, on resident Canada goose populations. The intent of this rule is to allow State wildlife management agencies sufficient flexibility to deal with problems caused by resident Canada geese and guide and direct resident Canada goose population growth and management activities in the conterminous United States.

DATES: Comments on this proposed rule must be received by October 20, 2003.

ADDRESSES: Comments should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, 4401 North Fairfax Drive, MBSP–4107, Arlington, Virginia 22203. We will not consider anonymous comments. All comments received, including names and addresses, will become part of the public record. Alternatively, comments may be submitted electronically to the following address: *canada_goose_eis@fws.gov*. The public may inspect comments during normal business hours in Room 4107, 4501 North Fairfax Drive, Arlington, Virginia. You may obtain copies of the draft environmental impact statement from the above address or from the Division of Migratory Bird Management Web site at *http://migratorybirds.fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brian Millsap, Chief, Division of Migratory Bird Management, or Ron Kokel (703) 358–1714.

SUPPLEMENTARY INFORMATION: Migratory birds are protected under four bilateral migratory bird treaties the United States entered into with Great Britain (for Canada), Mexico, Japan, and Russia. Regulations allowing the take of migratory birds are authorized by the Migratory Bird Treaty Act (16 U.S.C. 703–711), and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712). The Migratory Bird Treaty Act (Act) provides that, subject to and to carry out the purposes of the treaties, the Secretary of the Interior is authorized and directed to determine when, to what extent, and by what means it is compatible with the conventions to allow hunting, killing, and other forms of taking of migratory birds, their nests, and eggs. The Act requires the Secretary to implement a determination by adopting regulations permitting and governing those activities.

Canada geese are Federally protected by the Act by reason of the fact that they are listed as migratory birds in all four treaties. These regulations must meet the requirements of the most restrictive of the four, which for Canada geese is the treaty with Canada. We have prepared these regulations compatible with its terms, with particular reference to Articles VII, V, and II.

Regulations governing the issuance of permits to take, capture, kill, possess, and transport migratory birds are promulgated in Title 50 Code of Federal Regulations (CFR) parts 13 and 21, and issued by the Service. Regulations governing the take, possession, and transportation of migratory birds under sport hunting seasons are annually promulgated in 50 CFR part 20 by the Service.

In recent years, numbers of Canada geese that nest and/or reside predominantly within the conterminous United States (resident Canada geese) have undergone dramatic population growth and have increased to levels that are increasingly coming into conflict with people and causing personal and public property damage. We believe that resident Canada goose populations must be reduced, more effectively managed, and controlled to reduce goose related damages. This rule would establish a new regulation authorizing State wildlife agencies to conduct (or allow) indirect and/or direct population control management activities, including the take of birds, on resident Canada goose populations. The intent of this rule is to allow State wildlife management agencies sufficient flexibility to deal with problems caused by resident Canada geese and guide and direct resident Canada goose population growth and management activities in the conterminous United States.

Population Delineation and Status

Waterfowl management activities frequently are based on the delineation of populations that are the target of management. Some goose populations are delineated according to where they winter, whereas others are delineated based on the location of their breeding grounds. For management purposes, populations can comprise one or more species of geese.

Canada geese (*Branta canadensis*) nesting within the conterminous United States are considered subspecies or hybrids of the various subspecies originating in captivity and artificially introduced into numerous areas throughout the conterminous United States. Canada geese are highly philopatric to natal areas, and no evidence presently exists documenting breeding between Canada geese nesting within the conterminous United States and those subspecies nesting in northern Canada and Alaska. Canada geese nesting within the conterminous United States in the months of March, April, May, or June, or residing within the conterminous United States in the months of April, May, June, July, and August will be collectively referred to in this proposed rule as ''resident'' Canada geese.

The recognized subspecies of Canada geese are distributed throughout the northern temperate and sub-arctic regions of North America (Delacour 1954; Bellrose 1976; Palmer 1976). Historically, breeding Canada geese are

believed to have been restricted to areas north of 35 degrees and south of about 70 degrees latitude (Bent 1925; Delacour 1954; Bellrose 1976; Palmer 1976). Today, in the conterminous United States, Canada geese can be found nesting in every State, primarily due to translocations and introductions since the 1940s.

The majority of Canada geese still nest in localized aggregations throughout Canada and Alaska and migrate annually to the conterminous United States to winter, with a few reaching as far south as northern Mexico. However, the distribution of Canada geese has expanded southward and numbers have increased appreciably throughout the southern portions of the range during the past several decades (Rusch *et al.* 1995). The following is a brief description of the status and distribution of the major management populations of Canada geese covered by this proposed rule:

In the Atlantic Flyway, the resident population of Canada geese nests from Southern Quebec and the Maritime Provinces of Canada southward throughout the States of the Atlantic Flyway (Sheaffer and Malecki 1998; Johnson and Castelli 1998; Nelson and Oetting 1998). This population is believed to be of mixed racial origin (*B. c. canadensis, B. c. interior, B. c. moffitti*, and *B. c. maxima*) and is the result of purposeful introductions by management agencies, coupled with released birds from private aviculturists and releases from captive decoy flocks after live decoys were outlawed for hunting in the 1930s. Following the Federal prohibition on the use of live decoys in 1935, Dill and Lee (1970) cited an estimate of more than 15,000 domesticated and semi-domesticated geese that were released from captive flocks. With the active restoration programs that occurred from the 1950s through the 1980s, the population has grown to over 1 million birds in the northeastern United States and has increased an average of 5 percent per year since 1993 (Sheaffer and Malecki 1998; Atlantic Flyway Council 1999; U.S. Fish and Wildlife Service, 2002).

In the Mississippi Flyway, most resident Canada geese are giant Canada geese (*B. c. maxima*). Once believed to be extinct (Delacour 1954), Hanson (1965) rediscovered them in the early 1960s, and estimated the giant Canada goose population at about 63,000 birds in both Canada and the United States. In the nearly 40 years since their rediscovery, the breeding population of giant Canada geese in the Mississippi Flyway now exceeds 1.4 million individuals and has been growing at a rate of about 6 percent per year since 1993 (Rusch *et al.* 1996; Wood *et al.* 1996; Nelson and Oetting 1998; U.S. Fish and Wildlife Service, 2002).

In the Central Flyway, Canada geese that nest and/or reside in the States of the Flyway consist mainly of two populations, the Great Plains and Hi-Line. The Great Plains Population (Nelson 1962; Vaught and Kirsch 1966; Williams 1967) consists of geese (*B. c. maxima/B. c. moffiti*) that have been restored to previously occupied areas in Saskatchewan, North and South Dakota, Nebraska, Kansas, Oklahoma, and Texas. For management purposes, this population is often combined with the Western Prairie Population (composed of geese (*B. c. maxima/B. c. moffiti/B. c. interior*) that nest throughout the prairie regions of Manitoba and Saskatchewan) and winter together from the Missouri River in South Dakota southward to Texas. The Hi-Line Population (Rutherford 1965; Grieb 1968, 1970) (*B. c. moffitti*) nests in southeastern Alberta, southwestern Saskatchewan and eastern Montana, Wyoming, and northcentral Colorado. The population winters from Wyoming to central New Mexico. Overall, these three populations of large subspecies of Canada geese have increased tremendously over the last 30 years as the result of active restoration and management by Central Flyway States and Provinces. In 1999, the index for these three populations was over 900,000 birds, 95 percent higher than 1990, and 687 percent higher than 1980 (Gabig 2000). More recently, the 2002 mid-winter survey estimate of the Great Plains Population (surveyed together with the Western Prairie Population) was 710,300 geese and has increased an average of 10 percent per year since 1993. For the Hi-Line Population, both the mid-winter survey and the spring survey estimates have increased an average of 6 percent per year since 1993 (U.S. Fish and Wildlife Service, 2002).

In the Pacific Flyway, two populations of the western Canada goose, the Rocky Mountain Population and the Pacific Population, are predominantly composed of Canada geese that nest and/or reside in the States of the Flyway. The Rocky Mountain Population (*B. c. moffitti*) nests from southwestern Alberta southward through the intermountain regions of western Montana, Utah, Idaho, Nevada, Colorado, and Wyoming. They winter southward from Montana to southern California, Nevada, and Arizona. Highly migratory, they have grown from a breeding population of about 14,000 in 1970 (Krohn and Bizeau 1980) to over 130,000 (Subcommittee on Rocky Mountain Canada Geese 2000; U.S. Fish and Wildlife Service, 2002). Mid-winter survey estimates of Rocky Mountain Population Canada geese have increased an average of 4 percent per year since 1993, while spring populations have increased 6 percent per year over the last 10 years (U.S. Fish and Wildlife Service, 2002). The Pacific Population (Krohn and Bizeau 1980; Ball *et al.* 1981) (*B. c. moffitti*) nests from southern British Columbia southward and west of the Rockies in the States of Idaho, western Montana, Washington, Oregon, northern California, and northwestern Nevada. They are essentially nonmigratory and winter primarily in these same areas.

Flyway Management Plans and Population Goals

The Atlantic, Mississippi, Central, and Pacific Flyway Councils are administrative bodies established to cooperatively deliver migratory bird management under the flyway system. The Councils, which are comprised of representatives from each member State and Province, make recommendations to the Service on matters regarding migratory game birds. The Flyway Councils work with the Service and the Canadian Wildlife Service to manage populations of Canada geese that occur in their geographic areas. Since there are large numbers of resident Canada geese in each Flyway, the Councils developed and prepared cooperative Flyway management plans to address these populations and establish overall population goals and associated objectives/strategies. A common goal among the plans is the need to balance the positive aspects of resident Canada geese with the conflicts they can cause. While the Service does not formally adopt Flyway management plans, because of the cooperative nature of migratory bird management under the Flyway Council system, and the fact that the Flyway Councils and States are the most knowledgeable sources of information regarding the establishment of goose population goals and objectives under their purview, we believe incorporation of these management plans into the formulation of our overall resident Canada goose management help define the objectives for acceptable resident Canada goose population reduction and management. Thus, we have attempted to incorporate the goals and objectives of the Flyways' resident Canada goose management plans and their associated population objectives into the formulation of this proposed rule. A more detailed discussion of the Flyway management plans, their specific goals and objectives, is

contained in the draft EIS described in the **ADDRESSES** section of this document.

The objective of this proposed rule is to allow State wildlife management agencies sufficient flexibility to deal with problems, conflicts, and damages caused by resident Canada geese and guide and direct resident Canada goose population growth and management activities in the conterminous United States. The program established by this rule should contribute to human health and safety, protect personal property and agricultural crops, protect other interests from injury, and allow resolution or prevention of injury to people, property, agricultural crops, or other interests from resident Canada geese. Further, the means must be effective, environmentally sound, cost-effective, flexible enough to meet the variety of management needs found throughout the flyways, should not threaten viable resident Canada goose populations as determined by each Flyway Council, and in accordance with the mission of the Service. Formulating such a national management strategy to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce related damages, safety, and public health concerns was a complex problem, and Flyway input was essential for incorporating regional differences and solutions.

As such, we note that the overall population objectives established by the Flyways were derived independently based on the States' respective management needs and capabilities, and in some cases, these objectives were an approximation of population levels from an earlier time when problems were less severe. In other cases, population objective levels were calculated from what was professionally judged to be a more desirable or acceptable density of geese with respect to conflicts and concerns. We further note that these population sizes are only optimal in the sense that it was each Flyway's best attempt to balance the many competing considerations of both consumptive and nonconsumptive users. As with any goal or objective, we believe that these population objectives should be periodically reviewed and/or revised in response to changes in resident Canada goose populations, damage levels, public input, or other factors. Current resident Canada goose population estimates and population objectives for each Flyway are shown in Table 1. We note that over the last three years (2001–03), the total number of temperate-nesting Canada geese, or resident Canada geese, has averaged approximately 3.2 million in the U.S. and 1.1 in Canada for a total spring population of 4.3 million (Moser and Caswell, in press).

TABLE 1.—RECENT RESIDENT CANADA GOOSE POPULATION ESTIMATES (2001–03 AVERAGE) AND POPULATION OBJECTIVES ON A FLYWAY BASIS

Current resident Canada goose population [a]	Atlantic flyway	Mississippi flyway	Central flyway	Pacific flyway
U.S	1,148,536	1,292,298	528,948	218,311
Canada	269,439	152,434	343,286	372,686
Total	1,417,975	1,444,732	872,234	590,996

Resident Canada goose population objective	Atlantic flyway [b]	Mississippi flyway [c]	Central flyway [d]	Pacific flyway
U.S.	620,000	989,000	368,833–448,833	[e] 54,840–90,900
Canada	30,000	180,000		[e] 35,750–56,250
Total	650,000	1,169,000		[e] 90,590–147,150

[a] Moser and Caswell, in press.
[b] Atlantic Flyway Council Section 1999.
[c] Population objective numbers are draft and are not final at this time (Giant Canada Goose Committee 2000).
[d] Only U.S. States provided population objectives (Gabig 2000).
[e] Lower end of the Pacific Flyway population objective for the Pacific Population of Western Canada geese derived from ''Restriction Level'' and upper end derived from ''Liberalization Level'' as shown in Management Plan for the Pacific Population of Western Canada Geese (Subcommittee on Pacific Population of Western Canada Geese 2000). While the cited report refers to numbers of pairs, nests, and individual geese, the numbers shown here have been converted to numbers of individual geese.

Potential Causes of Population Growth and Past Attempts to Slow Growth

The rapid rise of resident Canada goose populations has been attributed to a number of factors. Most resident Canada geese live in temperate climates with relatively stable breeding habitat conditions and low numbers of predators, tolerate human and other disturbances, have a relative abundance of preferred habitat (especially those located in urban/suburban areas with current landscaping techniques), and fly relatively short distances to winter compared with other Canada goose populations. This combination of factors contributes to consistently high annual production and survival. Further, the virtual absence of waterfowl hunting in urban areas provides additional protection to those urban portions of the resident Canada goose population. Given these characteristics, most resident Canada goose populations are continuing to increase in both rural and urban areas.

We have attempted to curb the growth of resident Canada goose populations by several means. Expansion of existing annual hunting season frameworks (special and regular seasons), the issuance of control permits on a case-by-case basis, and a Special Canada goose permit have all been used with varying degrees of success. While these approaches have provided relief in some areas, they have not completely addressed the problem.

Normally, complex Federal and State responsibilities are involved with Canada goose control activities. All control activities, except those intended to either scare geese out of, or preclude them from using, a specific area, such as harassment, habitat management, or repellants, require a Federal permit issued by the Service. Additionally, permits to alleviate migratory bird depredations are issued by the Service in coordination with the Wildlife Services program of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (Wildlife Services). Wildlife Services is the Federal agency with lead responsibility for dealing with wildlife

damage complaints. In most instances, State permits are required as well.

Conflicts and Impacts

Conflicts between geese and people affect or damage several types of resources, including property, human health and safety, agriculture, and natural resources. Common problem areas include public parks, airports, public beaches and swimming facilities, water-treatment reservoirs, corporate business areas, golf courses, schools, college campuses, private lawns, athletic fields, amusement parks, cemeteries, hospitals, residential subdivisions, and along or between highways.

Property damage usually involves landscaping and walkways, most commonly on golf courses, parks, and waterfront property. In parks and other open areas near water, large goose flocks create local problems with their droppings and feather litter (Conover and Chasko, 1985). Surveys have found that, while most landowners like seeing some geese on their property, eventually, increasing numbers of geese and the associated accumulation of goose droppings on lawns, which results in a reduction of both the aesthetic value and recreational use of these areas, cause many landowners to view geese as a nuisance (Conover and Chasko, 1985).

Negative impacts on human health and safety occur in several ways. At airports, large numbers of geese can create a very serious threat to aviation. Resident Canada geese have been involved in a large number of aircraft strikes resulting in dangerous landing/take-off conditions, costly repairs, and loss of human life. As a result, many airports have active goose control programs. Excessive goose droppings are a disease concern for many people. Public beaches in several States have been closed by local health departments due to excessive fecal coliform levels that in some cases have been traced back to geese and other waterfowl. Additionally, during nesting and brood-rearing, aggressive geese have bitten and chased people and injuries have occurred due to people falling or being struck by wings.

Agricultural and natural resource impacts include losses to grain crops, overgrazing of pastures, and degrading water quality. In heavy concentrations, goose droppings can overfertilize lawns and degrade water quality, resulting in eutrophication of lakes and excessive algae growth (Manny *et al.*, 1994). Overall, complaints related to personal and public property damage, agricultural damage, public safety concerns, and other public conflicts have increased as resident Canada goose populations increased.

We have further described the various impacts of resident Canada geese on natural resources, public and private property, and health and human safety in our draft EIS on resident Canada goose management. Due to the volume of technical information, we refer the reader to the draft EIS for specific details. Procedures for obtaining a copy of the draft EIS are described in the **ADDRESSES** section of this document.

Environmental Consequences of Taking No Action

We fully analyzed the No Action alternative with regard to resident Canada goose management in our draft EIS, to which we refer the reader (U.S. Fish and Wildlife Service 2002). In summary, we expect that resident Canada goose populations will continue to grow. Within 10 years, populations could approach 1.6 million in the Atlantic Flyway, 2.0 million in the Mississippi Flyway, 1.3 million in the Central Flyway, and 450,000 in the Pacific Flyway. Additionally, resident Canada goose problems and conflicts related to goose distribution are likely to continue and expand. Resident Canada geese will continue to impact public and private property, safety, and health, and impacts are likely to grow as goose populations increase. Lastly, both Federal and State workloads related to dealing with these increasing conflicts and populations will also increase.

Environmental Consequences of Proposed Action

We fully analyzed our proposed action in the draft EIS on resident Canada goose management, to which we refer the reader for specific details (U.S. Fish and Wildlife Service 2002). In summary, under our proposed action, entitled ''State Empowerment,'' we expect a reduction in resident Canada goose populations, especially in problem areas. We also expect significant reductions in conflicts caused by resident Canada geese; decreased impacts to property, safety, and health; and increased hunting opportunities. We expect some initial State and Federal workload increases associated with implementation of the management strategies; however, over the long term, we expect that workloads would decrease. Lastly, we expect our proposed action to maintain viable resident Canada goose populations.

Proposed Resident Canada Goose Regulations

Recently completed resident Canada goose modeling in Missouri (Coluccy 2000; Coluccy and Graber 2000), when extrapolated to the entire Mississippi Flyway, indicates that reduction of the Mississippi Flyway's resident population from the current 1,335,683 geese to the Flyway Council's goal of 989,000 geese would require one of several management actions: (1) The harvest of an additional 240,000 geese annually over that already occurring; (2) the take of an additional 426,000 goslings per year; (3) a Flyway-wide nest removal of 264,000 nests annually; or (4) a combination of harvesting an additional 120,000 geese annually and the take of an additional 160,000 goslings per year. Each of these management alternatives would be required annually for 10 years to reach the Flyway's population management goal. In the Atlantic Flyway, where the resident Canada goose population is even further above established Flyway goals, these numbers would be even greater. Similar numbers would be expected in the Central Flyway, while numbers would be correspondingly smaller in the Pacific Flyway.

Thus, to reduce the four Flyways' resident populations from the current level of approximately 3.5 million to the Flyway Councils' goals of approximately 2.1 million geese would require, at a minimum for the next 10 years, either the harvest of an additional 480,000 geese annually, the take of an additional 852,000 goslings per year, a Flyway-wide nest removal of 528,000 nests annually, or a combination of the harvest of an additional 240,000 geese annually and the take of an additional 320,000 goslings per year. We believe the only way possibly to attain these numbers is to give the States *the flexibility* to address the problems caused by resident Canada goose populations within their respective States. By addressing population reductions on a wide number of available fronts, we believe the combination of various damage management strategies and population control strategies would successfully reduce numbers of resident Canada geese *in those priority areas identified by the States.* Since the States are the most informed and knowledgeable local authorities on wildlife conflicts in their respective States, we believe it is logical to authorize them to take the necessary actions within specified parameters.

To give States the needed flexibility to address the problems caused by resident Canada geese, this proposed rule would

establish a regulation authorizing State wildlife agencies (or their authorized agents) to conduct (or allow) management activities, including the take of birds, on resident Canada goose populations. This proposed rule would authorize indirect and/or direct population control strategies such as aggressive harassment, nest and egg destruction, gosling and adult trapping and culling programs, expanded methods of take to increase hunter harvest, or other general population reduction strategies. The intent of this proposed rule is to allow State wildlife management agencies sufficient flexibility, within predefined guidelines, to deal with problems caused by resident Canada geese within their respective States. Other guidelines would include criteria for such activities as special take authorization during a portion of the Treaty closed period (August 1–31); control for the protection of airport safety, agriculture, and public health; and the take of nests and eggs without permits.

States could choose to implement specific strategies, such as specific depredation orders that address goose control at airports, agricultural sites, public health sites, and the non-permitted take of nests and eggs, identified under the regulation conditions and guidelines. The Orders would be for resident Canada goose populations only and, as such, in order to ensure protection of migrant Canada goose populations, could only be implemented between April 1 and August 31, except for the take of nests and eggs which could be additionally implemented in March.

Special Canada goose hunting seasons within the existing Treaty frameworks (*i.e.*, September 1 to March 10) would continue to be handled within the existing migratory bird hunting season regulation development process. This proposed rule would also provide new regulatory options to State wildlife management agencies to potentially increase the harvest of resident Canada geese above that which results from existing special Canada goose seasons that target resident Canada geese. This proposed rule would authorize the use of additional hunting methods such as electronic calls, unplugged shotguns, and expanded shooting hours (one-half hour after sunset). During existing, operational, special September Canada goose seasons (*i.e.*, September 1–15), these additional hunting methods would be available for use on an operational basis. Utilization of these additional hunting methods during any new special seasons or other existing, operational special seasons (*i.e.*, September 15–30) could be approved as experimental and would require demonstration of a minimal impact to migrant Canada goose populations. These experimental seasons would be authorized on a case-by-case basis through the normal migratory bird hunting regulatory process. All of these expanded hunting methods and opportunities under Special Canada goose hunting seasons would be in accordance with the existing Migratory Bird Treaty frameworks for sport hunting seasons (*i.e.*, 107-day limit from September 1 to March 10) and would be conducted outside of any other open waterfowl season (*i.e.*, when *all other waterfowl and crane hunting seasons were closed*).

Take of resident Canada geese outside the existing Migratory Bird Treaty frameworks for sport hunting seasons (*i.e.*, 107-day limit from September 1 to March 10) would also be available under this proposed rule by creation of a new subpart to 50 CFR part 21 specifically for the management of overabundant resident Canada goose populations. Under this new subpart, we would establish a regulation under the authority of the Migratory Bird Treaty Act with the intent to reduce and/or stabilize resident Canada goose population levels. The ''managed take'' regulation would authorize each State in eligible areas to initiate aggressive resident Canada goose take strategies, within the conditions that we provide, with the intent to reduce the populations. The regulation will enable States to use the general public acting under strict program controls to kill resident Canada geese, by way of shooting in a hunting manner, during the August 1 through September 15 period when all waterfowl and crane hunting seasons, excluding falconry, are closed, inside or outside the migratory bird hunting season frameworks. The regulation would also authorize the use of additional methods of take to kill resident Canada geese during that period. The regulation would authorize the use of electronic calls and unplugged shotguns, liberalize daily bag limits on resident Canada geese, and allow shooting hours to continue until one-half hour after sunset. The Service would annually assess the overall impact and effectiveness of the ''managed take'' regulation to ensure compatibility with long-term conservation of this resource. If at any time evidence is presented that clearly demonstrates that there no longer exists a serious threat of injury to the area or areas involved for a particular resident Canada goose population, we will initiate action to suspend the regulation, and/or regular-season regulation changes, for that population. Suspension of regulations for a particular population would be made following a public review process.

Under this proposed rule, the Service would maintain primary authority for the management of resident Canada geese, but the individual States would be authorized to implement the provisions of this regulation within the guidelines established by the Service. In addition to specific strategies, we would continue the use of special and regular hunting seasons, issued under 50 CFR 20, and the issuance of depredation permits and special Canada goose permits, issued under 50 CFR 21.41 and 21.26, respectively. Participating States would be required to annually monitor the spring breeding population to assess population status and provide for the long-term conservation of the resource. Additionally, States or other applicable parties (such as airports or public health officials) would be required to annually report all take of geese under authorized management activities.

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NEPA Considerations

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), we prepared a draft EIS in February 2002. The draft EIS is available to the public at the location indicated under the **ADDRESSES** caption.

Endangered Species Act Consideration

Section 7(a)(2) of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531–1543; 87 Stat. 884) provides that ''Each Federal agency shall, in consultation with and with the assistance of the Secretary, 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 * * *.'' We have initiated Section 7 consultation under the ESA for this proposed rule. The result of our consultation under Section 7 of the ESA will be available to the public at the location indicated under the **ADDRESSES** caption.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the preparation of flexibility analyses for actions that will have a significant economic impact on a substantial number of small entities, which includes small businesses, organizations, or governmental jurisdictions. The economic impacts of this proposed rule will fall primarily on State and local governments and Wildlife Services because of the structure of wildlife damage management. Data are not available to estimate the exact number of governments affected, but it is unlikely to be a substantial number on a national scale. We estimate that implementation of new resident Canada goose management regulations would help alleviate local public health and safety concerns, decrease economic damage caused by excessive numbers of geese, and increase the quality of life for those people experiencing goose conflicts. Implementation of new resident Canada goose regulations would also help reduce agricultural losses caused by these geese. Our proposed rule would give State fish and wildlife agencies significantly more latitude to manage resident Canada goose populations. Goose populations would be reduced to levels that local communities can support, and agricultural damages from resident Canada geese would be reduced. We have determined that a Regulatory Flexibility Act analysis is not required.

Executive Order 12866

In accordance with the criteria in Executive Order 12866, this proposed action is not a significant regulatory action subject to Office of Management and Budget (OMB) review. This rule will not have an annual economic effect of $100 million or adversely affect any economic sector, productivity, competition, jobs, the environment, or other units of government. Therefore, a cost-benefit economic analysis is not required. This proposed action will not create inconsistencies with other agencies' actions or otherwise interfere with an action taken or planned by another agency. The Federal agency most interested in this action is Wildlife Services. The action proposed is consistent with the policies and guidelines of other Department of the Interior bureaus. This proposed action will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This proposed action will not raise novel legal or policy issues because we

have previously managed resident Canada geese under the Migratory Bird Treaty Act.

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? (6)What else could the Service do to make the rule easier to understand?

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. It will not have an annual effect on the economy of $100 million or more; nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will 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.

Paperwork Reduction Act and Information Collection

We examined these regulations under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Under the Act, information collections must be approved by OMB. Agencies 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. As required by the Act, we will submit the necessary paperwork to OMB for approval to collect this information. We will not collect any information until approved by OMB and a final regulation is published.

What Will the Required Information Be Used for?

The proposed information collection, record-keeping, and reporting requirements imposed under proposed regulations in 50 CFR part 21, subpart E will be used to administer this program, and particularly in monitoring resident Canada goose population status and in the assessment of impacts that alternative regulatory strategies may have on resident Canada goose populations. The information collections will be required in order to authorize State governments responsible for migratory bird management to take (or allow the take of) resident Canada geese within the program guidelines.

What Are the Current Information Collection Burden Estimates Under the Existing Permit Process?

Current total annual burden estimates for resident Canada goose depredation permits (those permits issued under 50 CFR 21.41), including the time for completing the application and filing annual reports, is 2,304 hours. The annual ''out-of-pocket'' cost to the applicants is approximately $12,225. Under the Special Canada Goose Permit program (50 CFR 21.26), the total annual burden, including application and reporting requirements, is 114 hours. There is no annual ''out-of-pocket'' cost to the respondents under the Special Canada Goose Permit program because State agencies are exempt from the $25 application processing fee (50 CFR 13.11).

How Many Agencies, Organizations, or People Would Potentially Be Affected Under the New Requirements of This Rule?

Based on information in the DEIS, Wildlife Services annually receives approximately 2,000 requests for technical assistance for property damage caused by resident Canada geese. Further, in 2000, the Service issued about 1,600 depredation permits for resident Canada geese. We believe these numbers are fairly representative of the current needs status. However, we also recognize that some unknown number of needs for assistance go unreported due to either higher individual resident Canada goose damage tolerance levels or personal perceptions that the obtained assistance would not ''solve'' the problem. Additionally, we know that States operating under the Special Canada Goose Permit (50 CFR 21.26) have been issuing individual authorizations within their respective States. For example, in 2000, the States of Michigan, Minnesota, Missouri, and Ohio, operating under a Special Canada Goose Permit, issued 528 authorizations to individuals within their respective States. These authorizations enabled the named individual(s) to conduct control and management activities on resident Canada geese under the auspices of the State wildlife agency. Had these States not held the special permit, we believe some number of these individuals would have applied for depredation permits.

How Would This Rule Change the Estimated Burden Associated With the Current Permit Process?

We expect that this proposed rule would alleviate approximately 2,000 current or potential permit holders from the requirement of applying for a Federal depredation permit to control and manage resident Canada geese. Thus, under this proposed rule, paperwork burden would be eliminated in two main areas: Application submission and annual reporting requirements.

Under the application-associated burden, using an average of 1.5 hours to complete an application for a depredation permit, we estimate that approximately 3,500 hours (2,000 × 1.5 hours) of existing or potential burden would be eliminated with this proposed rule. Additionally, the associated annual ''out-of-pocket'' cost to the current and potential applicants that would be eliminated is approximately $50,000 (2,000 applicants multiplied by a $25 application processing fee).

Under the burden associated with annual reporting requirements, a similar elimination of existing burden would occur. Normally, holders of depredation permits are required to submit an annual report detailing the number of birds, eggs, or nests actually taken under the permit. The Service uses this information to determine whether a permit holder is in compliance with the permit and to track the number of birds actually taken from the wild and monitor the impact on the resource. While most annual reporting requirements would be eliminated under the proposed rule, a few would remain (those required for the State wildlife agency summarizing activities under § 21.61(d)(1) and (6)). Others would be replaced by the maintenance of a log recording activities. As with the normal permit application, the amount of time it takes to complete the annual report or log depends on the scope of the activities. We estimate it normally takes an average of 1 hour to complete the annual report for a depredation permit. Maintenance of a log book would be significantly less burden than completion of an annual report. We estimate that maintenance of a log book would require approximately 10 minutes per logbook, or about 1 minute per entry. Thus, we estimate that the proposed rule would result in a total annual burden of 333 hours (2,000 × 10

minutes) or less for the reporting requirements.

What About Those State Agencies Currently Operating Under the Special Canada Goose Permit? How Would They Be Affected?

States currently operating under the existing Special Canada Goose Permit would experience some changes in burden if they opt to operate under the proposed rule. Currently each permittee (*i.e.*, State wildlife agency) is required to submit not only an application for the permit, but an annual report detailing the number of birds, eggs, or nests actually taken under the permit. Burden requirements for the application would be eliminated for those States that opt to participate in the new management program. However, under the proposed rule, annual reports would continue to be required for State wildlife agencies summarizing management activities under § 21.61(d)(1) and (6), similar to that required under the Special Canada Goose Permit program. We estimate it would take an average of 2 hours to complete this annual report (the same as that estimated under the Special Canada Goose Permit program). We estimate that the proposed rule would not significantly affect the overall burden associated under both programs of approximately 90 hours (45 States × 2 hours) or less.

How Do the Conservation Order Provisions Affect the Estimated Burden? Are There Not Additional Reporting Requirements Associated With the Special Management Actions Authorized Under the Conservation Order?

Yes. Under § 21.61(d)(6)(iii)(H), States must keep detailed records of activities carried out under the Conservation Order and must submit an annual report summarizing such activities. We expect a maximum of 45 State wildlife agencies will participate under the authority of the Conservation Order, requiring an average of 24 hours to collect the information from program participants. Thus, the burden assumed by State participants would be 1,080 hours or less.

What Is the Total Estimated Burden of This New Program?

We estimate the maximum total annual burden would be about 1,503 hours (333 + 90 + 1,080).

How Can I Comment on This Estimate?

Comments are invited from the public on: (1) Whether the collection of information is necessary for the proper performance of the function of the Service, including whether the information will have practical utility; (2) the accuracy of the Service's burden of the collection of information, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information to be collected; and (4) how to minimize the burden of the collection of information on those who are to respond, including the use of electronic, mechanical, or other forms of information technology. Send your comments on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA via facsimile or e-mail using the following fax number or e-mail address: (202) 395–6566 (fax); *OIRA_DOCKET@omb.eop.gov* (e-mail); and a copy of the comments should be sent to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 222–ARLSQ, 1849 C Street, NW., Washington, DC 20204.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. The purpose of the act is to strengthen the partnership between the Federal Government and State, local, and tribal governments and to end the imposition, in the absence of full consideration by Congress, of Federal mandates on these governments without adequate Federal funding, in a manner that may displace other essential governmental priorities. We have determined, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that the proposed action would not ''significantly or uniquely'' affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this action is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

We, in promulgating this rule, have determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity, has been written to minimize litigation, provides a clear legal standard for affected conduct, and specifies in clear language the effect on existing Federal law or regulation. It is not anticipated that this rule will require any additional involvement of the justice system beyond enforcement of provisions of the Migratory Bird Treaty Act of 1918 that have already been implemented through previous rulemakings.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed action, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This action will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this proposed action will help alleviate private and public property damage and concerns related to public health and safety and allow the exercise of otherwise unavailable privileges.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given statutory responsibility over these species by the Migratory Bird Treaty Act. While legally this responsibility rests solely with the Federal Government, it is in the best interest of the migratory bird resource for us to work cooperatively with the Flyway Councils and States to develop and implement the various migratory bird management plans and strategies.

For example, in the establishment of migratory game bird hunting regulations, we annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Frameworks are developed in a cooperative process with the States and the Flyway Councils and any State or Tribe may be more restrictive than the Federal frameworks. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations.

The proposed rulemaking was developed following extensive input from the Flyway Councils, States, and Wildlife Services. Individual Flyway management plans were developed and approved by the four Flyway Councils, and States actively participated in the scoping process for the DEIS. This proposed rule does not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. The proposed rule

allows States the latitude to develop and implement their own resident Canada goose management action plan within the frameworks of the proposed alternative. Therefore, in accordance with Executive Order 13132, this proposed rule does not have significant federalism effects and does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have determined that this rule has no effects on Federally-recognized Indian tribes. Specifically, Tribes were sent copies of our August 19, 1999, Notice of Intent (64 FR 45269) that outlined the proposed action in the Draft Environmental Impact Statement on Resident Canada Goose Management. In addition, Tribes were sent our December 30, 1999, Notice of Meetings (64 FR 73570), which provided the public additional opportunity to comment on the DEIS process. No known Native American tribes depend on this resource for sustenance or religious purposes.

Energy Effects—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. This rule is not a significant regulatory action under Executive Order 12866 and is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Parts 20 and 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons stated in the preamble, we hereby propose to amend parts 20 and 21, of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 20—[AMENDED]

1. The authority citation for part 20 is revised to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–j; Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

2. Amend § 20.11 by adding paragraph (n) to read as follows:

§ 20.11 What terms do I need to understand?

* * * * *

(n) *Resident Canada geese* means Canada geese that nest within the lower 48 States in the months of March, April, May, or June, or reside within the lower 48 States in the months of April, May, June, July, or August.

3. Revise paragraphs (b) and (g) of § 20.21 to read as follows:

§ 20.21 What hunting methods are illegal?

* * * * *

(b) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells. However, this restriction does not apply during:

(1) A light-goose-only season (greater and lesser snow geese and Ross' geese) when all other waterfowl and crane hunting seasons, excluding falconry, are closed while hunting light geese in Atlantic, Central, and Mississippi Flyway portions of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

(2) A season only for resident Canada geese during the period of September 1 to September 15 when all other waterfowl and crane hunting seasons, excluding falconry, are closed.

* * * * *

(g) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. However, this restriction does not apply during:

(1) A light-goose-only season (greater and lesser snow geese and Ross' geese) when all other waterfowl and crane hunting seasons, excluding falconry, are closed while hunting light geese in Atlantic, Central, and Mississippi Flyway portions of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

(2) A season only for resident Canada geese during the period of September 1 to September 15 when all other waterfowl and crane hunting seasons, excluding falconry, are closed.

PART 21—[AMENDED]

4. The authority citation for part 21 is revised to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703); Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)); Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

5. Amend § 21.3 by revising the definition for ''Resident Canada geese'' to read as follows:

§ 21.3 Definitions.

* * * * *

Resident Canada geese means Canada geese that nest within the lower 48 States in the months of March, April, May, or June, or reside within the lower 48 States in the months of April, May, June, July, or August.

* * * * *

6. Add § 21.61 to subpart E to read as follows:

§ 21.61 Control and management of resident Canada geese.

(a) *Which Canada geese are covered by this regulation?* This regulation addresses the control and management of resident Canada geese, as described in § 21.3.

(b) *What is the resident Canada goose control and management program, and what is its purpose?* The resident Canada goose control and management program authorizes State wildlife agencies to conduct (or allow) indirect and/or direct population control management activities, including the take of birds, on resident Canada goose populations. The intent of the program is to allow State wildlife management agencies sufficient flexibility to deal with problems, conflicts, and damages caused by resident Canada geese and guide and direct resident Canada goose population growth and management activities in the conterminous United States. The program contributes to human health and safety, protects personal property and agricultural crops, protects other interests from injury, and allows resolution or

prevention of injury to people, property, agricultural crops, or other interests from resident Canada geese. The management and control activities allowed or conducted under the program are intended to relieve or prevent damage and injurious situations. No person should construe this program as opening, reopening, or extending any hunting season contrary to any regulations established under Section 3 of the Migratory Bird Treaty Act.

(c) *Who may participate in the program?* Only State wildlife agencies (State) in the lower 48 States are eligible to conduct (or allow) and implement the various resident Canada goose control and management program components.

(d) *What are the various components of the resident Canada goose control and management program?* The resident Canada goose control and management program has six components. Any State identified in paragraph (c) of this section, may implement all, part, or none of the following program components:

(1) *State control and management activities for resident Canada geese.* State wildlife agencies (or their authorized agents) may conduct (or allow) control and management activities, including the take of birds, on resident Canada goose populations when necessary to protect human health and safety; protect personal property, agricultural crops, and other interests from injury; and allow resolution or prevention of injury to people, property, agricultural crops, or other interests from resident Canada geese; and to reduce resident Canada goose populations within Flyway management objectives. Control and management activities include indirect and/or direct population control strategies such as aggressive harassment, trapping and relocation, nest and egg manipulation and destruction, gosling and adult trapping and culling programs, or other general population reduction strategies. The program is subject to the following restrictions:

(i) States should encourage and utilize nonlethal goose management tools to the extent they deem appropriate in an effort to minimize lethal take.

(ii) Methods of take for the control and management of resident Canada geese are at the State's discretion from among the following: Firearms, alpha-chloralose, traps, egg and nest manipulation and destruction, euthanization, and other damage control techniques consistent with accepted wildlife damage-management programs as may be approved by the Director.

(iii) States and their employees and agents may conduct (or allow) management and control activities, including the take of resident Canada geese, under this section between April 1 and August 31. The manipulation and destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(iv) States and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. States must dispose of birds taken under this program by donation to public museums or public institutions for scientific or educational purposes, by processing them for human consumption and distributing them free of charge to charitable organizations, or by burying or incinerating them. States, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada geese taken under this section, nor their plumage or eggs. Persons authorized to operate under the program may not possess or transport resident Canada goose nests and eggs taken under this section. Any specimens needed for scientific purposes as determined by the Director must not be destroyed, and information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1–800–327–BAND (or 2263).

(v) No person conducting resident Canada goose control and management activities under this section should construe the program as authorizing the killing of resident Canada geese or destruction of their nests and eggs contrary to any State law or regulation, nor may any control or management activities be conducted on any Federal land without specific authorization by the responsible management agency. No person may exercise the privileges granted under this section unless they possess any permits required for such activities by any State or Federal land manager.

(vi) States and their employees and agents operating under the provisions of this section may not use decoys, calls, or other devices to lure birds within gun range.

(vii) Persons using shotguns are required to use nontoxic shot.

(viii) Any State, its employees, and agents exercising the privileges of this section must keep and maintain a log recording the date and number of birds killed each month under this authorization. The log and any related records must be made available to Federal or State wildlife enforcement officers upon request during normal business hours.

(ix) Any State employee or designated agent authorized to carry out management and control activities must have a copy of the State's authorization and designation in their possession when carrying out any activities. If the State is conducting operations on private property at the request of the property owner or occupant, the State must also require the property owner or occupant on whose premises resident Canada goose control and management activities are being conducted to allow, at all reasonable times, including during actual operations, free and unrestricted access to any Service special agent or refuge officer, State wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer (wildlife officer) on the premises where they are, or were, conducting activities. Furthermore, any State employee or designated agent conducting such activities must promptly furnish whatever information is required concerning such activities to any such wildlife officer.

(x) States exercising the privileges granted by this section must submit an annual report summarizing activities, including the date, numbers, and location of birds taken by December 31 of each year. The State should submit the annual report to the Assistant Director for Migratory Birds and State Programs, U.S. Fish and Wildlife Service, (Attention: Division of Migratory Bird Management), 4401 North Fairfax Drive, MBSP–4107, Arlington, Virginia 22203.

(2) *Airport safety.* States may authorize commercial, public, and private airports (Airports) (and their employees or their agents) to establish and implement a resident Canada goose control and management program when necessary to protect public safety and allow resolution or prevention of airport safety threats from resident Canada geese. Control and management activities include indirect and/or direct population control strategies such as aggressive harassment, trapping and relocation, nest and egg manipulation and destruction, gosling and adult trapping and culling programs, or other general population reduction strategies. This program is subject to the following restrictions:

(i) Authorized airports should utilize nonlethal goose management tools to the extent they deem appropriate. To minimize lethal take, Airports should follow the following procedure:

(A) Assess the problem to determine its extent or magnitude, its impact on

current operations, and the appropriate control method to be used.

(B) Base control methods on sound biological, environmental, social, and cultural factors.

(C) Formulate appropriate methods into a control strategy that utilizes the approach or concept that encourages the use of several control techniques rather than relying on a single method.

(D) Always first consider nonlethal harassment methods in any control strategy.

(ii) Methods of take for the control of resident Canada geese are at the State's discretion from among the following: Firearms, alpha-chloralose, traps, egg and nest manipulation and destruction, euthanization, and other damage control techniques consistent with accepted wildlife damage-management programs as may be approved by the Director.

(iii) Authorized airports may conduct management and control activities, including the take of resident Canada geese, under this section between April 1 and August 31. The manipulation and destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(iv) Authorized airports and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. They must dispose of birds taken under this order by donation to public museums or public institutions for scientific or educational purposes, by processing them for human consumption and distributing them free of charge to charitable organizations, or by burying or incinerating them. Airports, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada geese taken under this section, nor their plumage or eggs. Persons authorized to operate under the program may not possess or transport resident Canada goose nests and eggs taken under this section. Any specimens needed for scientific purposes as determined by the Director must not be destroyed, and information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1–800–327–BAND (or 2263).

(v) Resident Canada geese may be taken only within a 3-mile radius of the Airport.

(vi) Persons using shotguns are required to use nontoxic shot as identified in § 20.22(j).

(vii) Authorized airports, and their employees and agents operating a program authorized under the provisions of this section may not use decoys, calls, or other devices to lure birds within gun range.

(viii) Any Airport exercising the privileges of a program authorized under this section must keep and maintain a log recording the date and number of birds killed, and the number of nests and eggs taken under this authorization. The log must be maintained for a period of 3 years (and records of 3 previous years of takings must be maintained at all times thereafter). The log and any related records must be made available to Federal or State wildlife enforcement officers upon request during normal business hours.

(ix) Nothing in this section authorizes the killing of resident Canada geese or destruction of their nests and eggs contrary to the laws or regulations of any State, and none of the privileges of this section may be exercised unless the Airport possesses the appropriate State authorization or other permits required by the State, when required; nor does it authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

(3) *Nest and eggs.* States may authorize the manipulation and destruction of resident Canada goose nests and the take of resident Canada goose eggs when necessary to allow resolution or prevention of injury to people, property, agricultural crops, or other interests from resident Canada geese, and to reduce resident Canada goose populations within Flyway management objectives. An authorized program is subject to the following restrictions:

(i) Persons authorized to operate under the program should utilize nonlethal goose management tools to the extent they deem appropriate in an effort to minimize lethal take.

(ii) Methods of take are at the State's discretion from among the following: egg and nest manipulation and destruction, and other damage control techniques consistent with accepted wildlife damage-management programs as may be approved by the Director.

(iii) Persons authorized to operate under the program may conduct resident Canada goose nest and egg manipulation and destruction activities between March 1 and June 30.

(iv) Persons authorized to operate under the program may not possess or transport resident Canada goose nest and eggs taken under this section. Persons authorized to operate under the program may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada goose nest or egg taken under this section.

(v) Any person exercising the privileges of this section under a State authorization must keep and maintain a log recording the date and number of resident Canada goose nests and eggs taken under this authorization. The log must be maintained for a period of 3 years (and records of 3 previous years of takings must be maintained at all times thereafter). The log and any related records must be made available to Federal or State wildlife enforcement officers upon request during normal business hours.

(vi) Nothing in this section authorizes the destruction of resident Canada goose nests or the take of resident Canada goose eggs contrary to the laws or regulations of any State, and none of the privileges of this section may be exercised unless the persons authorized to operate under the program possess the appropriate State permits, when required; nor does it authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

(4) *Agricultural depredation.* States may authorize landowners, operators, and tenants actively engaged in the production of commercial agriculture (agricultural producers) (or their employees or agents) to conduct indirect and/or direct population control strategies such as aggressive harassment, nest and egg manipulation and destruction, gosling and adult trapping and culling programs, or other general population reduction strategies on resident Canada goose populations when the geese are committing or about to commit depredations to agricultural crops and when necessary to allow resolution or prevention of injury to agricultural crops or other agricultural interests from resident Canada geese. The program is subject to the following restrictions:

(i) Authorized agricultural producers should utilize nonlethal goose management tools to the extent they deem appropriate. To minimize lethal take, agricultural producers should follow the following procedure:

(A) Assess the problem to determine its extent or magnitude, its impact to current operations, and the appropriate control method to be used.

(B) Base control methods on sound biological, environmental, social, and cultural factors.

(C) Formulate appropriate methods into a control strategy that utilizes the approach/concept that encourages the use of several control techniques rather than relying on a single method.

(D) Always first consider nonlethal harassment methods in any control strategy.

(ii) Methods of take for the control of resident Canada geese are at the State's discretion among the following: firearms, alpha-chloralose, traps, egg and nest manipulation and destruction, euthanization, and other damage control techniques consistent with accepted wildlife damage-management programs as may be approved by the Director.

(iii) Authorized agricultural producers and their employees and agents may conduct management and control activities, including the take of resident Canada geese, under this section between April 1 and August 31. The manipulation and destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(iv) Authorized agricultural producers and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. Agricultural producers must dispose of birds taken under this order by donation to public museums or public institutions for scientific or educational purposes, by processing them for human consumption and distributing them free of charge to charitable organizations, or by burying or incinerating them. Agricultural producers, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada geese taken under this section, nor their plumage or eggs. Persons authorized to operate under the program may not possess or transport resident Canada goose nests and eggs taken under this section. Any specimens needed for scientific purposes as determined by the Director must not be destroyed, and information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1–800–327–BAND (or 2263).

(v) Resident Canada geese may be taken on land an authorized agricultural producer personally controls and where damage is either occurring or where geese are committing or about to commit depredations to agricultural crops.

(vi) Persons using shotguns are required to use nontoxic shot as identified in § 20.22(j).

(vii) Authorized agricultural producers, and their employees and agents, operating under the provisions of this section may not use decoys, calls, or other devices to lure birds within gun range.

(viii) Any authorized agricultural producer exercising the privileges of this section must keep and maintain a log that indicates the date and number of birds killed and the date and number of nests and eggs taken under this authorization. The log must be maintained for a period of 3 years (and records for 3 previous years of takings must be maintained at all times thereafter). The log and any related records must be made available to Federal or State wildlife enforcement officers upon request during normal business hours.

(ix) Nothing in this section authorizes the killing of resident Canada geese or the destruction of their nests and eggs contrary to the laws or regulations of any State, and none of the privileges of this section may be exercised unless the agricultural producer possesses the appropriate State permits, when required; nor does its authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

(5) *Public health.* States may authorize State, county, municipal, or local public health officials (public health agencies) (or their employees or their agents) to establish and implement a resident Canada goose control and management program when necessary to protect public health and allow resolution or prevention of public health threats from resident Canada geese. Control and management activities include indirect and/or direct population control strategies such as aggressive harassment, trapping and relocation, nest and egg manipulation and destruction, gosling and adult trapping and culling programs, or other general population reduction strategies. The program is subject to the following restrictions:

(i) Authorized public health agencies should utilize nonlethal goose management tools to the extent they deem appropriate. To minimize lethal take, public health agencies should follow the following procedure:

(A) Assess the problem to determine its extent or magnitude, its impact to public health, and the appropriate control methods to be used.

(B) Base control methods on sound biological, environmental, social, and cultural factors.

(C) Formulate appropriate methods into a control strategy that utilizes the approach or concept that encourages the use of several control techniques rather than relying on a single method.

(D) Always first consider nonlethal harassment methods in any control strategy.

(ii) Methods of take for the control of resident Canada geese are at the State's discretion from among the following: Firearms, alpha-chloralose, traps, egg and nest manipulation and destruction, euthanization, and other damage control techniques consistent with accepted wildlife damage-management programs as may be approved by the Director.

(iii) Authorized public health agencies and their employees and agents may conduct management and control activities, including the take of resident Canada geese, under this section between April 1 and August 31. The manipulation and destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(iv) Authorized public health agencies and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. Public health agencies must dispose of birds taken under this order by donation to public museums or public institutions for scientific or educational purposes, by processing them for human consumption and distributing them free of charge to charitable organizations, or by burying or incinerating them. Public health agencies, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada geese taken under this section, nor their plumage or eggs. Persons authorized to operate under the program may not possess or transport resident Canada goose nests and eggs taken under this section. Any specimens needed for scientific purposes as determined by the Director must not be destroyed, and information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1–800–327–BAND (or 2263).

(v) Resident Canada geese may be taken only within the area of potential health threat.

(vi) Persons using shotguns are required to use nontoxic shot as identified in § 20.22(j).

(vii) Authorized public health agencies, and their employees and agents operating under the provisions of this section may not use decoys, calls, or other devices to lure birds within gun range.

(viii) Any authorized public health agencies exercising the privileges of this section must keep and maintain a log which indicates the date and number of birds killed and the date and number of nests and eggs taken under this authorization. The log must be maintained for a period of 3 years (and records for the 3 previous years of takings must be maintained at all times thereafter). The log and any related records must be made available to Federal or State wildlife enforcement

officers upon request during normal business hours.

(ix) Nothing in this section authorizes the killing of resident Canada geese or destruction of their nests and eggs contrary to the laws or regulations of any State, and none of the privileges of this section may be exercised unless the public health agency possesses the appropriate State permits, when required; nor does it authorize the killing of any migratory bird species or destruction of their nest and eggs other than resident Canada geese.

(6) *Managed take of resident Canada geese.* (i) What is managed take? Managed take is a special management action that is needed to control certain wildlife populations when traditional management programs are unsuccessful in preventing overabundance of the population. We are implementing a managed take program under the authority of the Migratory Bird Treaty Act to reduce and stabilize resident Canada goose populations. Managed take allows additional methods of taking resident Canada geese, allows shooting hours for resident Canada geese to extend to one-half hour after sunset, and removes daily bag limits for resident Canada geese inside or outside the migratory bird hunting season frameworks as described below.

(ii) *In what areas can a managed take program be implemented?* All States except Alaska and Hawaii.

(iii) *What is required in order for State governments to participate in a managed take program?* Any State government responsible for the management of wildlife and migratory birds may, without permit, kill or cause to be killed under its general supervision, resident Canada geese under the following conditions:

(A) Activities conducted under the managed take program may not affect endangered or threatened species as designated under the Endangered Species Act.

(B) Control activities must be conducted clearly as such and are not to be construed as opening, reopening, or extending any open hunting season contrary to any regulations promulgated under Section 3 of the Migratory Bird Treaty Act.

(C) Control activities may only be conducted under this section between August 1 and September 15.

(D) Control activities may be conducted only when all waterfowl (including resident Canada goose) and crane hunting seasons, excluding falconry, are closed.

(E) Control measures employed through this section may be implemented only between the hours of one-half hour before sunrise to one-half hour after sunset.

(F) Nothing in the program may limit or initiate management actions on Federal land without concurrence of the Federal agency with jurisdiction.

(G) States must designate participants who must operate under the conditions of the managed take program.

(H) States must inform participants of the requirements/conditions of the program that apply.

(I) States must keep annual records of activities carried out under the authority of the program. Specifically, information must be collected on:

(*1*) The number of individuals participating in the program;

(*2*) The number of days individuals participated in the program;

(*3*) The total number of resident Canada geese shot and retrieved during the program; and

(*4*) The number of resident Canada geese shot but not retrieved. The States must submit an annual report summarizing activities conducted under the program on or before June 1 of each year, to the Chief, Division of Migratory Bird Management, 4401 N. Fairfax Dr., Suite 634, Arlington, Virginia 22203.

(iv) *What is required for individuals to participate in the program?* Individual participants in State programs covered by the managed take program must comply with the following requirements:

(A) Participants must comply with all applicable State laws or regulations including possession of whatever permit(s) or other authorization(s) may be required by the State government concerned.

(B) Participants who take resident Canada geese under the program may not sell or offer for sale those birds or their plumage, but may possess, transport, and otherwise properly use them.

(C) Participants must permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted and must promptly furnish whatever information an officer requires concerning the operation.

(D) Participants may take resident Canada geese by any method except those prohibited as follows:

(*1*) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance.

(*2*) From or by means, aid, or use of a sinkbox or any other type of low-floating device, having a depression affording the person a means of concealment beneath the surface of the water.

(*3*) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance.

(*4*) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and the sails furled, and its progress has ceased. A craft under power may be used only to retrieve dead or crippled birds; however, the craft may not be used under power to shoot any crippled birds.

(*5*) By the use or aid of live birds as decoys. No person may take resident Canada geese on an area where tame or captive live geese are present unless such birds are, and have been for a period of 10 consecutive days before the taking, confined within an enclosure that substantially reduces the audibility of their calls and totally conceals the birds from the sight of resident Canada geese.

(*6*) By means or aid of any motor-driven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of resident Canada geese.

(*7*) By the aid of baiting, or on or over any baited area, where a person knows or reasonably should know that the area is or has been baited as described in § 20.11(j) and (k). Resident Canada geese may not be taken on or over lands or areas that are baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation as described in § 20.11(h) and (l) . However, nothing in this paragraph prohibits the taking of resident Canada geese on or over the following lands or areas that are not otherwise baited areas:

(*i*) Standing crops or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested croplands; or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice as described in § 20.11(g), (i), (l), and (m);

(*ii*) From a blind or other place of concealment camouflaged with natural vegetation;

(*iii*) From a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing, or scattering of grain or other feed; or

(*iv*) Standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.

(*8*) Participants may not possess shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, bismuth-tin, tungsten-iron, tungsten-polymer, tungsten-matrix, tungsten-nickel-iron, or other shots that are authorized in § 20.21(j).

(v) *Under what conditions would the managed take program be suspended?* We will annually assess the overall impact and effectiveness of the program on each resident Canada goose population to ensure compatibility with long-term conservation of this resource. If at any time evidence is presented that clearly demonstrates that a resident Canada goose population no longer presents a serious threat of injury to the area or areas involved, we will initiate action to suspend the program for the specific resident Canada goose population in question. However, resumption of growth by the resident Canada goose population in question may warrant reinstatement of such regulations to control the population. Depending on the status of resident Canada goose populations, it is possible that a managed take program may be in effect for one or more resident Canada goose populations, but not others.

(e) *What are the general program conditions and restrictions?* The program is subject to the conditions elsewhere in this section, and, unless otherwise specifically authorized, the conditions outlined below:

(1) Nothing in this section applies to any Federal land within a State's boundaries without written permission of the Federal agency with jurisdiction.

(2) States may not undertake any actions under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act.

(f) *Can the program be suspended?* We reserve the right to suspend or revoke an Agency's authority under this program if we find that the terms and conditions specified in the program have not been adhered to by that Agency. The criteria for suspension and revocation are outlined in § 13.27 and § 13.28 of this subchapter. Upon appeal, final decisions to revoke authority will be made by the Director. Additionally, at such time that we determine that a specific population of resident Canada geese no longer poses a threat to human health or safety, personal property, agricultural crops, or injury to other interests; or no longer needs to be reduced in order to allow resolution or prevention of injury to people, property, agricultural crops, or other interests, or is within Flyway management objectives, we may choose to terminate part or all of the program. In all cases, we will annually review the effectiveness of the program.

(g) *What population information is the State required to collect concerning the resident Canada goose control and management program?* Participating States must provide an annual estimate of the breeding population and distribution of resident Canada geese in their State. The States must submit this estimate on or before August 1 of each year, to the Chief, Division of Migratory Bird Management, 4401 N. Fairfax Dr., MBSP–4107, Arlington, Virginia 22203.

(h) *Has OMB approved the information collection requirements of the program?* The information collection requirements of the program will be submitted to OMB for approval. Agencies 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 proposed recordkeeping and reporting requirements imposed under § 21.61 will be used to administer this program, particularly in the assessment of impacts that alternative regulatory strategies may have on resident Canada geese and other migratory bird populations, and to monitor the program effectiveness and the population status of resident Canada geese. We will require the information from State wildlife agencies responsible for migratory bird management in order to continue participation in the program and to protect the resident Canada goose population. We estimate the public reporting burden for this collection of information to be 1503 hours, including the time for gathering and maintaining data needed, and completing and reviewing the collection of information. States may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Service Information Collection Clearance Officer, Fish and Wildlife Service, ms 224–ARLSQ, 1849 C Street, NW., Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018–0099, Washington, DC 20503.

* * * * *

Dated: July 9, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03–21268 Filed 8–20–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 081303C]

Groundfish Fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska; Public Hearings

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

ACTION: Public hearings on the revised Draft Alaska Groundfish Fisheries Programmatic Supplemental Environmental Impact Statement (PSEIS)

SUMMARY: NOAA Fisheries will hold five public meetings in Washington, D.C., Seattle, WA, and in Juneau, Kodiak and Anchorage, AK, in September and October 2003 for the purpose of answering questions and receiving public testimony on the PSEIS.

DATES: See **SUPPLEMENTARY INFORMATION** under the heading ''Meeting Dates and Addresses'' for the dates of the public meetings.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** under the heading ''Meeting Dates and Addresses'' for the addresses of the public meetings.

FOR FURTHER INFORMATION CONTACT: Steven K. Davis, Programmatic SEIS Manager, Anchorage, AK, Phone: 907–271–3523.

SUPPLEMENTARY INFORMATION: On November 27, 2001, based on a review of public comment, NOAA Fisheries announced its intent to revise the Alaska Groundfish Fisheries draft PSEIS released in January 2001 (66 FR 59228, November 27, 2001). An extensive public involvement process has resulted in the adoption of new multi-objective policy alternatives which have been analyzed in the revised PSEIS.

The public comment period on the revised PSEIS is from August 29, 2003 until October 15, 2003. The public has the opportunity to submit comments on the document in one of three ways:

(1) Mail in a written comment letter to: National Marine Fisheries Service, Alaska Regional Office, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel;

(2) Submit a comment through the NOAA Fisheries e-Comments website, accessible at *http://www.fakr.noaa.gov/sustainablefisheries/seis/default.com*;

(3) Submit oral comments at one of the revised PSEIS public hearings.

Faxed comments will not be accepted.

NMFS has scheduled five public hearings on the revised PSEIS. The purpose of these meetings is to provide an opportunity for the public to ask questions on the revised PSEIS, as well as to submit formal oral testimony on the document during the comment period. Information on these meetings can also be found on the NOAA Fisheries Alaska Region's website at *http://www.fakr.noaa.gov*.

Meeting Dates and Addresses

The dates, times, locations, and telephone numbers of the hearings are as follows:

September 8, 2003, 1 p.m. - 4 p.m. Eastern daylight time - NOAA, Science Center Room, 1301 East-West Highway, Silver Spring, MD. Local Contact: Kim Marshall 301–713–2341.

September 11, 2003, 5 p.m. - 8 p.m. Pacific daylight time - Alaska Fisheries Science Center, 7600 Sand Point Way N.E., Bldg. 9, Seattle, WA. Local Contact: Dan Ito 206–526–4232.

September 17, 2003, 1 p.m. - 5 p.m. Alaska daylight time - National Marine Fisheries Service, Federal Building, 709 W. 9th Street, Room 445, Juneau, AK. Local Contact: Jim Hale: 907–586–7491.

September 24, 2003, 3 p.m. - 7 p.m. Alaska daylight time - Alaska Fisheries Science Center Kodiak Laboratory, Kodiak Fisheries research Center Conference Room, 301 Research Ct., Kodiak, AK. Local Contact: Tom Pearson 907–481–1780.

October 7, 2003, 5:30 p.m. - 8 p.m. - Sheraton Hotel, 401 E 6th Avenue, Anchorage, AK. Local Contact: Steven K. Davis 907–271–3523.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Steven K. Davis at 907–271–3523 at least 7 working days prior to the meeting date.

Dated: August 14, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–21365 Filed 8–20–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 68, No. 162

Thursday, August 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

Animal and Plant Health Inspection Service

[Docket 03–074–1]

International Plant Protection Convention Draft Standard on the Plant Pest Risks Associated with Living Modified Organisms; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: We are giving notice of a public meeting to solicit comments on a draft international standard concerning the plant pest risks associated with living modified organisms.

DATES: The public meeting will be held on September 18, 2003, from 1 to 3 p.m.

ADDRESSES: The meeting will be held at the USDA Center at Riverside, 4700 River Road, Riverdale, MD, in Conference Rooms C and D.

FOR FURTHER INFORMATION CONTACT: Dr. Terri Dunahay, Director for International Biotechnology Policy, BRS, APHIS, 4700 River Road Unit 146, Riverdale, MD 20737–1236; phone (301) 734–4308, fax (301) 734–8669, e-mail: *terri.g.dunahay@aphis.usda.gov.*

For further information on APHIS's participation in international standard-setting activities, contact Mr. Narcy Klag, Manager, International Standards Management, PIM, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8469, e-mail: *narcy.g.klag@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The International Plant Protection Convention (IPPC) is recognized as the standard-setting body for international phytosanitary (plant health) issues by the World Trade Organization. In April 2001, the IPPC's Interim Commission on Phytosanitary Measures (ICPM) recommended that an international standard be developed to address potential plant pest risks associated with living modified organisms (LMOs). An expert working group was established to develop detailed specifications for the standard. The decision to develop an international standard was the result of requests from IPPC member countries for guidance from the IPPC on evaluating potential phytosanitary issues that may be associated with LMOs.

APHIS has held two public meetings regarding the development of an LMO standard in the IPPC. The need for a standard was discussed at a public meeting announced in the **Federal Register** on February 20, 2001 (66 FR 10874, Docket No. 01–012–1), and held on March 8, 2001. At the second public meeting, which was announced in the **Federal Register** on July 27, 2001 (66 FR 39136, Docket No. 01–061–1), and held on August 23, 2001, we solicited public comments on the development of specifications for the LMO standard. The transcripts of both meetings are available on the Internet at *http://www.aphis.usda.gov/ppq/pim/standards/draft_standard_&_discussion_for_review.htm.*

The specifications for the standard were adopted at the ICPM–4 meeting in March 2002. The United States supported the development of a stand-alone risk analysis standard for LMOs, but the decision at ICPM–4 was to draft the LMO standard as a supplement to an existing IPPC standard, International Standard for Phytosanitary Measures (ISPM) No. 11, ''Pest Risk Analysis for Quarantine Pests.'' The specifications describe the scope of the standard as guidance on how to assess the phytosanitary risks that could be presented by LMOs, and charge the working group with the following tasks:

- Consider existing pest risk analysis procedures and IPPC and other relevant standards;
- Identify relevant hazards and methods for the evaluation of the potential phytosanitary risks presented by LMOs;
- Formulate a draft supplement to ISPM No. 11 providing guidance on the conduct of pest risk analyses for LMOs consistent with relevant aspects of the Cartagena Protocol, taking account of Annex III of the Cartagena Protocol and September 2001 statements from the Open Ended Working Group, as amended by ICPM–4; and
- Maintain a clear and easily understood standard, and provide comprehensive guidance on pest risk analysis for LMOs.

The working group, consisting of seven experts, one from each FAO region plus representation from the Convention on Biological Diversity, the Global Invasive Species Program, and Canada (as host) met in September 2002 to draft the standard. The draft standard was reviewed by the Standards Committee in May 2003 and posted for country consultation in June 2003. The draft standard and guidelines for submitting comments are available on the Internet at *http://www.aphis.usda.gov/ppq/pim/standards/draft_standards_4_comment.htm.* Comments should be submitted to Mr. Narcy Klag on or before September 22, 2003 (*see* **FOR FURTHER INFORMATION CONTACT** at the beginning of this notice for Mr. Klag's postal and e-mail addresses).

We are holding this public meeting to provide a forum for the submission of comments from representatives of non-governmental organizations on the format and content of the draft standard. If you wish to speak at the meeting, please register in advance by sending an e-mail or fax to Dr. Terri Dunahay (*see* **FOR FURTHER INFORMATION CONTACT** at the beginning of this notice for Dr. Dunahay's e-mail address and fax number). Registrants should include their name, affiliation, address, and telephone number. Speakers are welcome, but not required, to submit written copies of their comments via e-mail to Dr. Dunahay. Based on the number of registered speakers, limits may be imposed on the length of each speaker's presentation. The meeting will be recorded, and information about obtaining a transcript will be provided at the meeting.

We will also provide the opportunity for interested persons to participate by teleconference. Those wishing to do so should contact Dr. Dunahay via e-mail by Friday, September 12, 2003, for phone-in information.

If you require special accommodations, such as a sign language interpreter, please contact either of the persons listed under **FOR FURTHER INFORMATION CONTACT.**

Parking and Security Procedures

Please note that a fee of $2.25 in exact change is required to enter the parking lot at the USDA Center at Riverside. The machine accepts $1 bills or quarters.

Upon entering the building, visitors should inform security personnel that they are attending the Living Modified Organisms public meeting. State-issued photo identification is required and all bags will be screened. Security personnel will direct visitors to the registration tables located outside of Conference Rooms C and D on the first floor. Registration upon arrival is required for all participants, including those who have registered in advance to speak. Visitor badges must be worn at all times in the building.

Further information regarding the meeting may be obtained from either of the persons listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 15th day of August 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–21421 Filed 8–20–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Objections to New Land Management Plans, Plan Amendments, and Plan Revisions

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension, with revision, of the information collection for objections to new land management plans, plan amendments, and plan revisions as required by Title 36 of the Code of Federal Regulations, part 219 (36 CFR part 219).

DATES: Comments must be received in writing on or before October 20, 2003 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Forest Service, USDA, Assistant Director for Planning, Ecosystem Management Coordination, Mail Stop 1104, 1400 Independence Avenue SW., Washington, DC 20250–1104. Comments also may be submitted via facsimile to (202) 205–1012 or by e-mail to: *froth@fs.fed.us.*

The public may inspect comments received at the Ecosystem Management Coordination Office, 201 14th St SW., Washington, DC during normal business hours. Visitors are encouraged to call ahead to (202) 205–0895 to facilitate entry into to the building.

FOR FURTHER INFORMATION CONTACT: Frank Roth, Ecosystem Management Coordination, at (202) 205–1547 or e-mail to: *froth@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Objection to new land management plans, plan amendments, and plan revisions.

OMB Number: 0596–0158.

Expiration Date of Approval: October 31, 2003.

Type of Request: Extension with revision of currently approved collection.

Abstract: The information that would be required by 36 CFR 219.19 is the minimum information needed for a citizen or organization to explain the nature of the objection being made to a proposed land management plan, plan amendment, or plan revision and the reason why the individual or organization objects. Specifically, an objector must provide name, mailing address, and if possible, telephone number; an identification of the specific proposed plan, amendment or revision that is the subject of the objection; and a concise statement explaining how the environmental disclosure documents, if any, and proposed plan, amendment, or revision are inconsistent with law, regulation, Executive order, or policy and any recommendations for change. The Reviewing Officer must review the objection(s) and relevant information and then respond to the objector(s) in writing.

Estimate of Annual Burden: 10 hours to prepare the objection.

Type of Respondents: Interested and affected individuals, organizations, and governmental units who participate in the planning process: such as persons who live in or near National Forest System (NFS) lands; local, State, and Tribal governments who have an interest in the plan; Federal agencies with an interest in the management of NFS lands and resources; not-for-profit organizations interested in NFS management, such as environmental groups, recreations groups, educational institutions; and commercial users of NFS land and resources.

Estimated Annual Number of Respondents: 1210 a year.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12,100 hours.

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the 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 respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. In submitting this proposal to the Office of Management and Budget for approval, the Forest Service will summarize and respond to comments received.

Dated: August 14, 2003.

Gloria Manning,

Associate Deputy Chief, National Forest System.

[FR Doc. 03–21407 Filed 8–20–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (PAC) will meet on September 17 and 18, 2003, in Ukiah, California. The purpose of the meeting is to conduct annual implementation monitoring of two projects completed in previous years, relating to standards and guidelines in the Northwest Forest Plan (NWFP).

DATES: The meeting will be held from 8:30 a.m. to 5 p.m., September 17 and 18, 2003.

ADDRESSES: The meeting will be held in the field both days, beginning at the Bureau of Land Management Office Conference Room, 2550 North State St., Ukiah, CA.

FOR FURTHER INFORMATION CONTACT: Phebe Brown, Committee Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA 95988, (530) 934–1137; EMAIL *pybrown@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The two projects to be monitored are: (1) Cow Mountain prescribed burn (September 17), Bureau of Land Management Project; and (2) Howard Mill understory burn (September 18), Upper Lake Ranger District of the Mendocino National Forest. The meeting is open to the public.

Dated: August 14, 2003.

Phebe Y. Brown,

Staff Coordinator.

[FR Doc. 03–21428 Filed 8–20–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351–832, A-122–840, A-560–815, A-201–830, A-841–805, A-274–804, A823–812, C-351–833, and C-122–841]

Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Initiation of Changed Circumstances Antidumping Duty Administrative Review and Countervailing Duty Administrative Reviews, and Intent To Revoke Orders in Part

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

ACTION: Notice of Initiation of Changed Circumstances Review of the Antidumping Duty and Countervailing Duty Orders, and Intent To Revoke Orders in Part.

SUMMARY: On July 24, 2003, in accordance with 19 CFR 351.216(b), petitioners[1] in the antidumping duty and countervailing duty proceedings on carbon and certain alloy steel wire rod (wire rod) filed a request for a changed circumstances antidumping administrative review on the antidumping duty orders on steel wire rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine and countervailing duty orders on steel wire rod from Brazil and Canada. This changed circumstances review concerns certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod. These products were excluded from the original scope of these antidumping and countervailing duty orders; however, petitioners are requesting a further clarification of the technical description of these products. *See* the ''Scope of the Changed Circumstances Review,'' below.

In response to petitioners' request, the Department of Commerce (the Department) is initiating a changed circumstances review with respect to the specific grade 1080 tire cord quality wire rod and tire bead quality wire rod products specified in this notice. Interested parties are invited to comment on this notice of initiation.

EFFECTIVE DATE: August 21, 2003.

FOR FURTHER INFORMATION CONTACT: Brian J. Sheba, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0145.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty orders on steel wire rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine on October 29, 2002. *See Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod From Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, 67 Fed. Reg. 65,945, *and Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Carbon and Alloy Steel Wire Rod From Canada,* 67 Fed. Reg. 65,944. The Department published the countervailing duty orders on steel wire rod from Brazil, and Canada on October 22, 2002. *See Notice of Countervailing Duty Orders: Carbon and Certain Alloy Steel Wire Rod From Brazil and Canada,* 67 Fed. Reg. 64,871. On July 24, 2003, petitioners requested that the Department change the technical description of certain grade 1080 tire cord quality wire rod and grade 1080 tire bead quality wire rod (hereafter, tire cord wire rod). This request arises, petitioners aver, because the original definition of the excluded tire cord wire rod was drawn too narrowly and, thus, captures within the scope certain products petitioners no longer wish to have subject to the orders. Acceding to petitioners' request would, petitioners maintain, ''exclude a larger quantity of grade 1080 tire cord and grade 1080 tire bead wire rod from the scope of the antidumping and countervailing duty orders.'' Letter from Collier, Shannon, Scott, dated July 24, 2003, at 2. According to petitioners, good cause to initiate this review, as required by 19 CFR 351.216(c), ''exists in this case because the petitioners no longer wish products subject to the proposed scope language'' to be covered by the orders.[2]

Petitioners believe that they continue to represent more than 50 percent of total production of the domestic like product in the United States, but do not allege they represent more than 85 percent of the production of the domestic like product and therefore do not represent ''substantially all'' of the production of the domestic like product. *See* 19 C.F.R. 351.222(g)(1)(i). Letter from Collier, Shannon, Scott, dated August 6, 2003 , at 2. Petitioners, however, also believe they represent substantially all domestic production of grade 1080 tire cord and tire bead quality wire rod that is the subject of this request for review. Petitioners claim Georgetown Steel and North Star Steel Texas are the only known domestic producers of such steel and have no reason to believe that any domestic producer of wire rod will have reason to object to its request. *Id.* at 2.

At present, the Department has no information on the record that the other known domestic producers of wire rod have no interest in maintaining the antidumping duty order with respect to the domestic like product or the certain specific grade of 1080 tire cord and tire bead quality described below. In particular, the Department does not have information on the record of this changed circumstances review that the petitioners do indeed account for substantially all, or at least 85 percent, of the production of the domestic like product. Accordingly, we are not combining this initiation with a preliminary determination, pursuant to 351.221(c)(3)(ii). This notice of initiation will accord all interested parties an opportunity to address this proposed exclusion.

[1] Petitioners are Georgetown Steel Company (formerly GS Industries), North Star Steel Texas, Gerdau Ameristeel (formerly Co-Steel Raritan), and Keystone Consolidated Industries.

[2] Petitioners suggest any final affirmative changed circumstances determination, excluding the additional tire cord wire rod products, be effective retroactively to the date of their request, or July 24, 2003.

Scope of the Order

The merchandise covered by these orders is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Scope of Changed Circumstances Review

The products subject to this changed circumstances antidumping duty and countervailing duty administrative review are certain grade 1080 tire cord steel wire rod and grade 1080 tire bead steel wire rod. Point (iii) of the existing definition of these products reads: ''having no inclusions greater than 20 microns.'' Petitioners suggest amending this to read ''having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns.'' Petitioners' Request at 5 (emphases in original).

Petitioners would then insert an explanatory paragraph after the existing definition of tire cord wire rod reading:

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis - that is, the direction of rolling - of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod.

Letter from Collier, Shannon, Scott, dated August 6, 2003 , at 6; original emphasis deleted.

Initiation of Changed Circumstances Antidumping Duty Administrative Review

Pursuant to sections 751(d) and 782(h)(2) of the Tariff Act, the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Tariff Act (*i.e.*, a changed circumstances review) where the Department determines that producers accounting for substantially all of the production of that domestic like product have expressed a lack of interest in continuance of an order. Section 751(b)(1) of the Tariff Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. *See, e.g., Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 68 Fed. Reg. 19,970 (April 23, 2003).

In accordance with sections 751(d)(1) and 782(h)(2) of the Tariff Act, and 19 CFR 351.216 and 351.222(g) of the Department's regulations, domestic producers of the like product, Georgetown Steel Company, North Star Steel Texas, Gerdau Ameristeel , and Keystone Consolidated Industries, claim changed circumstances exist and have made affirmative statements that no

further interest exists in continuing the order with respect to the specific grade 1080 tire cord and tire bead quality steel wire rod described above. Petitioners further allege they represent more than 50 percent of the total production of the domestic like product and greater than 85 percent of the specific type of merchandise subject to this changed circumstances review. Based upon the statements of no interest by the petitioners, we are initiating this changed circumstances administrative review.

If, as a result of this review, we revoke the order, in part, we intend to instruct the Bureau of Customs and Border Protection (Customs) to liquidate without regard to antidumping duties, as applicable, and to refund any estimated antidumping duties collected for all unliquidated entries of the tire cord wire rod products meeting the specifications indicated above, as of July 24, 2003, the date this changed circumstances review request was filed by Petitioners, in accordance with 19 CFR 351.222(g)(4). We will also instruct Customs to pay interest on such refunds in accordance with section 778 of the Tariff Act. The current requirement for a cash deposit of estimated antidumping duties on certain tire cord wire rod products meeting the specifications set forth above will continue unless and until we publish a final determination to revoke in part.

Public Comment

Interested parties are invited to comment on the initiation of this changed circumstances review. Parties who submit argument in this proceeding are requested to submit with the argument (i) a statement of the issue, and (ii) a brief summary of the argument. All written comments may be submitted by interested parties not later than 14 days after the date of publication of this notice in accordance with 19 CFR 351.303, with the exception that only three (3) copies need be served on the Department, and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303.

The Department will publish in the **Federal Register** a notice of preliminary result of changed circumstances review, in accordance with 19 CFR 351.221(c), which will set forth the factual and legal conclusions upon which our preliminary results are based, and a description of any action proposed based on those results. Interested parties may submit comments for consideration in the Department's preliminary results not later than 14 days after publication of this notice. Responses to those comments may be submitted not later than five days following submission of the comments. All written comments must be submitted in accordance with 19 CFR 351.303, with the exception that only three (3) copies need be served on the Department, and must be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303.

The Department intends to publish in the **Federal Register** the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments, no later than 270 days after the date of publication of this notice, or within 45 days if all parties to the proceeding agree to the outcome of this review. *See* 19 CFR 351.216(e).

This notice is published in accordance with section 751(b)(1) of the Tariff Act and 19 CFR 351.216 and 351.222.

Dated: August 14, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–21445 Filed 8–20–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–846]

Brake Rotors From the People's Republic of China: Final Results of the Eighth New Shipper Review

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

ACTION: Notice of final results of the eighth new shipper review.

SUMMARY: On June 3, 2003, the Department of Commerce published the preliminary results of the eighth new shipper review of the antidumping duty order on brake rotors from the People's Republic of China with respect to Xiangfen Hengtai Brake System Co., Ltd and Xianghe Xumingyuan Auto Parts Co., Ltd. (collectively referred to as the respondents). The period of review is April 1, 2002, through September 30, 2002. We gave interested parties an opportunity to comment on our preliminary results. However, no interested party submitted comments.

The final results do not differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: August 21, 2003.

FOR FURTHER INFORMATION CONTACT: Terre Keaton or Margarita Panayi, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–1280, or (202) 482–0049, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2003, the Department published in the **Federal Register** the preliminary results of this new shipper review (*see Brake Rotors from the People's Republic of China: Preliminary Results of the Eighth New Shipper Review,* 68 FR 33095 (June 3, 2003)(''*Preliminary Results*'')). We provided parties the opportunity to comment on the preliminary results of the review. However, no interested party submitted comments.

The Department has conducted this review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended, (''the Act'').

Scope of Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States (e.g., General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8

inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Final Results of Review

For the reasons discussed in our *Preliminary Results*, we determine that the following weighted-average margin percentages exist for the following companies during the period April 1, 2002, through September 30, 2002:

Manufacturer/producer/exporter	Margin Percent
Xiangfen Hengtai Brake System Co., Ltd	0.00
Xianghe Xumingyuan Auto Parts Co., Ltd	0.00

Assessment Rates

The Department shall determine, and the U.S. Bureau of Customs and Border Protection (''BCBP'') shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to the BCBP within 15 days of publication of the final results of this review. For assessment purposes, we do not have the actual entered value for either respondent for which we calculated a margin because it is not the importer of record for the subject merchandise. Therefore, we calculated individual importer- or customer-specific assessment rates by aggregating the dumping margins calculated for all of the U.S. sales examined and dividing that amount by the total quantity of the sales examined. To determine whether the duty assessment rates are *de minimis* (*i.e.*, at or above 0.50 percent), in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we have calculated importer- or customer-specific *ad valorem* ratios based on export prices. We will instruct the BCBP to assess antidumping duties on all appropriate entries covered by this review if any importer or customer-specific assessment rate calculated is above *de minimis*.

Cash Deposit Requirements

Bonding will no longer be permitted to fulfill security requirements for shipments from Xiangfen Hengtai Brake System Co., Ltd (Hengtai) or Xianghe Xumingyuan Auto Parts Co., Ltd (Xumingyuan) of brake rotors from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this new shipper review.

The following deposit rates shall be required for merchandise subject to the order entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(1) and (a)(2)(B) of the Act: (1) the cash deposit rate for Hengtai (*i.e.*, for subject merchandise manufactured and exported by Hengtai) and Xumingyuan (*i.e.*, for subject merchandise manufactured and exported by Xumingyuan) will be the rate indicated above; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity and for subject merchandise exported by either Hengtai or Xumingyuan but not manufactured by them will continue to be the PRC-wide rate (*i.e.*, 43.32 percent); and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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.

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.3059(a)(3). 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 sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214.

Dated: August 15, 2003.

Jeffrey May,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–21446 Filed 8–20–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Closed Meeting of the U.S. Automotive Parts Advisory Committee (APAC)

AGENCY: International Trade Administration, Commerce.

ACTION: Announcement of meeting.

SUMMARY: The APAC will have a closed meeting on September 4, 2003 at the U.S. Department of Commerce to discuss U.S.-made automotive parts sales in Japanese and other Asian markets.

DATES: September 4, 2003.

FOR FURTHER INFORMATION CONTACT: Henry Misisco, U.S. Department of Commerce, Room 4036, Washington, DC 20230, telephone: 202–482–0554.

SUPPLEMENTARY INFORMATION: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government Officials on matters relating to the implementation of the Fair Trade in Automotive Parts Act of 1998 (Pub. L. 105–261). The Committee: (1) Reports to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviews and considers data collected on sales of U.S.-made auto parts and accessories in Japanese and other Asian markets; (3) advises the Secretary of Commerce during consultations with other Governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; and (4) assists in establishing priorities for the initiative to increase sales of U.S.-made auto parts and accessories to Japanese markets, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and (5) assists the Secretary of Commerce in reporting to Congress by submitting an annual written report to the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to its authorizing legislation. At the meeting, committee members will discuss specific trade and sales

expansion programs related to automotive parts trade policy between the United States and Japan and other Asian markets.

The Acting Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on August 15, 2003, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the September 4th meeting of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying Room 5317, Main Commerce.

Dated: August 15, 2003.

Henry Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 03–21409 Filed 8–20–03; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081503D]

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council (Council) will convene public meetings.

DATES: The meetings will be held on Monday, September 8, 2003 through Thursday September 11, 2003.

ADDRESSES: These meetings will be held at the Baton Rouge Marriott, 5500 Hilton Avenue, Baton Rouge, LA; telephone: 225–924–5000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION:

Council

September 10

8:30 a.m.—Convene.

8:45 a.m.—Receive an address by RADM Robert Duncan.

9 a.m.–11 a.m.—Receive four presentations of Marine Fisheries Initiative (MARFIN) reports on stock structure of Gulf red snapper. These reports suggest there are separate subpopulations of red snapper east and west of the Mississippi River.

11 a.m.–11:30 a.m.—Receive the Habitat Protection Committee report.

1:30 p.m.–3:30 p.m.—Receive the Reef Fish Management Committee report.

3:30 p.m.–4 p.m.—Receive the Mackerel Management Committee report.

4 p.m.–4:30 p.m.—Receive the Shrimp Management Committee report.

4:30 p.m.–5 p.m.—(Closed Session) Receive the report of the Advisory Panel (AP) Selection Committee.

September 11

8:30 a.m.–9 a.m.—Receive the Migratory Species Committee report.

9 a.m.–9:15 a.m.—Receive a report of the Logo Selection Committee.

9:15 a.m.–9:30 a.m.—Receive a report of the Budget Committee.

9:30 a.m.–10 a.m.—Receive Enforcement Reports.

10 a.m.–10:15 a.m.—Receive the NMFS Regional Administrator's Report.

10:15 a.m.–10:45 a.m.—Receive Director's Reports.

10:45 a.m.–11 a.m.—Other Business

11 a.m.–11:15 a.m.—Election of Chairman and Vice Chairman.

Committees

September 8

9 a.m.–10 a.m.—Orientation session for New Members.

10 a.m.–11:30 a.m.—(Closed Session) - Convene the AP Selection Committee to review NMFS enforcement records.

1 p.m.–4:30 p.m.—Convene the Reef Fish Management Committee to review the Vermilion Snapper Regulatory Amendment Options Paper that includes alternatives for arresting overfishing that is believed to be occurring on that stock. The committee will review public comments on this issue from scoping hearings held in August 2003. The committee will consider implementing a new stock assessment procedure (SEDAR - Southeast Data and Review) under which groups of panels review the data, develop the assessment, and develop a peer-reviewed assessment. The committee will consider alternatives that should be included in the Reef Fish 18 options paper for management of the grouper stocks. The committee will also discuss which of the Council's advisory panels to utilize in the development of a red snapper individual fishing quota (IFQ) system. The committee will also consider submitting an emergency action request to NMFS to assure that there is no lapse between the June 16, 2004 expiration of the current regulations establishing the Madison-Swanson and Steamboat Lumps marine reserves, and implementation of the new regulations under Amendment 21.

4:30 p.m.–5:30 p.m.—Convene the Budget Committee to discuss the CY2004 budget.

September 9

8:30 a.m.–10:30 a.m.—Convene the Mackerel Management Committee to review potential alternatives and issues to be included in a scoping document for Amendment 15 to the Coastal Migratory Pelagics Fishery Management Plan (FMP).

10:30 a.m.–12:30 p.m.—Convene the Shrimp Management Committee to review Draft Shrimp Amendment 13/ Environmental Assessment (EA) Options Paper that includes alternatives for status criteria and benchmarks as well as a revised standardized bycatch reporting methodology; and a Draft Options Paper for Shrimp Amendment 14/Supplementary Invironmental Impact Statement (SEIS) that includes alternatives to improve the bycatch reporting methodology, further reduce bycatch, and achieve optimum yield.

2 p.m.–4:30 p.m.—Convene the Migratory Species Management Committee to discuss shark bycatch in the menhaden purse seine fishery, Highly Migratory Species (HMS) Advisory Panel recommendations on Amendment 1 to the HMS FMP, scoping issues for HMS Amendment 2 and Billfish Amendment2, and the International Commission for the Conservation of Atlantic Tunas Draft recommendations on Integrated Migratory and Control Measures.

4:30 p.m.–5:30 p.m.—Convene the Habitat Protection Committee to discuss the Florida Offshore Aquaculture Inc. Permit, and a dredge material disposal application in Mississippi.

Although non-emergency issues not contained in the agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Act), those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson Act, provided the public has been notified of the Council's intent to

take final action to address the emergency. A copy of the Committee schedule and agenda can be obtained by calling (813) 228–2815.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by August 29, 2003.

Dated: August 15, 2003.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–21454 Filed 8–20–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081503C]

New England 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 New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Oversight Committee in September 2003 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Tuesday, September 9, 2003, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Four Points by Sheraton, 407 Squire Road, Revere, MA 02151; telephone: (781) 284–7200.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Scallop committee will review and discuss days-at-sea (DAS) allocations resulting from the measures chosen by the Council at its August 13–14 meeting for Amendment 10 to the Scallop Fishery Management Plan. The Committee will also review draft regulations and changes to the Amendment 10 submission documents if available.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. 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

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: August 15, 2003.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–21453 Filed 8–20–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Advisory Committee on Nuclear Weapons Surety; Meeting

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Joint Advisory Committee on Nuclear Weapons Surety will conduct a closed session on September 3, 2003, at the Institute for Defense Analyses, Alexandria, VA.

The Joint Advisory Committee is charged with advising the Secretaries of Defense and Energy, and the Joint Nuclear Weapons Council on nuclear weapons surety matters. At this meeting the Joint Advisory Committee will receive classified briefings on nuclear weapons safety, security and surety inspections.

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended, Title 5, U.S.C. app. II, (1988)), this meeting concerns matters sensitive to the interests of national security, listed in 5 U.S.C. section 552b(c)(1) and accordingly this meeting will be closed to the public.

Dated: August 5, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–21395 Filed 8–20–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the forthcoming meeting of the Unmanned Aerial Vehicles and Long-Range Strike Studies. The purpose of the meeting is to brief the Chief of Staff on the results of the study. This meeting will be closed to the public.

DATES: 31 July 2003.

ADDRESSES: Room 4E987, The Pentagon.

FOR FURTHER INFORMATION CONTACT: Maj Dwight Pavek, Air Force Scientific Advisory Board Secretariat, 1180 Air Force Pentagon, Rm 5D982, Washington DC 20330–1180, (703) 697–4811.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 03–21429 Filed 8–20–03; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–347–000]

Blue Lake Gas Storage Company; Notice of Application

August 14, 2003.

Take notice that on August 8, 2003, Blue Lake Gas Storage Company (Blue Lake), 9 E Greenway Plaza, Houston, Texas 77046, filed in Docket No. CP03–347–000, an application pursuant to Section 7(c) of the Natural Gas Act (NGA), 15 U.S.C. 717f(c), as amended, and the Regulations of the Federal Energy Regulatory Commission's (Commission) 18 CFR sections 157.5 *et seq.*, Subpart A, requesting that the Commission issue an order authorizing Blue Lake to increase the MDWQ to a certificated level of 700 MMcf/d and MDIQ to 700MMcf/d in order to provide greater flexibility to serve storage customers on a day by day basis, in particular during times of peak demands on the system.

The project is more fully set forth in the request on file with the Commission and open to public inspection. This filing is available for review on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (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 (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to J. Gordon Pennington, Senior Counsel—Pipeline, 555 11th Street, NW., Washington, DC 20004, (202) 637–3544 or Dawn A. McGuire, Attorney, 9 Greenway Plaza, Houston, Texas 77046, (832) 676–5503.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the nonparty commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commissions' final order.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Comment Date: September 4, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21372 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–562–000]

Dominion Cove Point LNG, LP; Notice of Proposed Changes in FERC Gas Tariff

August 14, 2003.

Take notice that on August 11, 2003, Dominion Cove Point LNG, LP. (Cove Point) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of September 10, 2003:

First Revised Sheet No. 4.
Second Revised Sheet No. 8.
Second Revised Sheet No. 23.
First Revised Sheet No. 70.
First Revised Sheet No. 90.
First Revised Sheet No. 91.
First Revised Sheet No. 110.
Third Revised Sheet No. 205.
First Revised Sheet No. 505.
First Revised Sheet No. 506.
First Revised Sheet No. 515.

Cove Point states that the purpose of this filing is to update its system map, correct minor errors and clarify ambiguous language. No substantive changes have been made to the above referenced tariff sheets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is 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 eLibrary (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 TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: August 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21385 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–564–000]

Dominion Cove Point LNG, LP; Notice of Tariff Filing

August 14, 2003.

Take notice that on August 11, 2003, Dominion Cove Point LNG, LP (Cove Point) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of September 10, 2003:

First Revised Sheet No. 24.
First Revised Sheet No. 51.
Second Revised Sheet No. 72.
Second Revised Sheet No. 92.
First Revised Sheet No. 113.

Third Revised Sheet No. 200.
First Revised Sheet No. 283.
Sheet Nos. 284–399.

Cove Point states that the purpose of this filing is to allow Cove Point the opportunity to charge Negotiated Rates for its transportation, peaking and LNG tanker discharging services.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is 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 eLibrary (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 TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: August 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21387 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–377–002]

Dominion Transmission, Inc.; Notice of Compliance Filing

August 14, 2003.

Take notice that on August 11, 2003, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Substitute Fifth Revised Sheet No. 1173, with an effective date of July 1, 2003.

DTI states that the purpose of this filing is to comply with the Commission's Delegated letter order issued July 31, 2003 in Docket No. RP03–377–001 requiring that DTI refile a substitute tariff sheet correcting the references and incorporation of North American Energy Standards Board's Wholesale Gas Quadrant (WGQ) standards governing partial day recalls. DTI has made the changes requested by the Commission by deleting the references to WGQ Standards 4.3.4 and 5.3.55 from Section 31 of the General Terms and Conditions (GT&C) of its tariff.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is 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 eLibrary (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 TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: August 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21384 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–563–000]

Northern Border Pipeline Company; Notice of Tariff Filing

August 14, 2003.

Take notice that on August 11, 2003, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Fifth Revised Sheet Number 270, to become effective September 11, 2003.

Northern Border proposes to revise its tariff, specifically Subsection 26.2(b) of its General Terms and Conditions to (1) clarify that the criteria for an acceptable bid will continue to apply when capacity becomes available on a first-come, first-served basis and (2) allow firm shippers under defined conditions an opportunity to bid on posted available capacity and be awarded such capacity, when the bid is for a shorter path than the posted path, at the Maximum Rate, on a first-come, first-served basis, for a term not to exceed 31 days.

Northern Border states that copies of this filing have been sent to all of Northern Border's contracted shippers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is 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 eLibrary (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 TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: August 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21386 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01–6–001]

Panhandle Eastern Pipe Line Company, LLC; Notice of Filing

August 14, 2003.

On July 24, 2003, Panhandle Eastern Pipe Line Company, LLC (Panhandle), filed notice of withdrawal of its Revised Standards of Conduct filed on October 26, 2000 in Docket No. MG01–6–000.

Specifically, Panhandle states that it no longer has a marketing affiliate, does not transport on behalf of a marketing affiliate, and is not subject to the marketing affiliate rules.

Any person desiring to intervene or to protest said 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 eLibrary (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 (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: August 29, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21379 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01–7–001]

Sea Robin Pipeline Company; Notice of Filing

August 14, 2003.

On July 24, 2003, Sea Robin Pipeline Company (Sea Robin), filed notice of withdrawal of its Revised Standards of Conduct filed on October 26, 2000 in Docket No. MG01–7–000.

Specifically, Sea Robin states that it has no marketing affiliate, does not transport on behalf of a marketing affiliate, and is not subject to the marketing affiliate rules.

Any person desiring to intervene or to protest said 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 eLibrary (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 (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: August 29, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21380 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01–8–001]

Southwest Gas Storage Company; Notice of Filing

August 14, 2003.

On July 24, 2003, Southwest Gas Storage Company (Southwest), filed notice of withdrawal of its Revised Standards of Conduct filed on October 26, 2000 in Docket No. MG01–8–000.

Specifically, Southwest states that it has no marketing affiliate, does not transport on behalf of a marketing affiliate, and is not subject to the marketing affiliate rules.

Any person desiring to intervene or to protest said 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 eLibrary (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 (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: September 4, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21381 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP81–296, CP81–296–019, CP84–441I–033, CP86–251–003, CP87–75–010, CP87–85–002, CP87–131–009, CP87–132–016, CP87–358–007, CP88–171–033, CP89–629–036, CP90–639–021, CP91–433–002, CP91–1618–005, and CP91–2206–011]

Tennessee Gas Pipeline Company; Notice of Application To Amend Certificates of Public Convenience and Necessity

August 14, 2003.

Take notice that on August 11, 2003, Tennessee Gas Pipeline Company (Tennessee), a Delaware corporation, whose mailing address is Nine E. Greenway Plaza, Houston, Texas 77046, filed an application pursuant to Section 7(c) of the Natural Gas Act (''NGA''), 15 U.S.C. 717f(c), as amended, and the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR Sections 157.5 *et seq.*, Subpart A, requesting that the Commission amend certain Certificates of Public Convenience and Necessity that authorized the construction and operation of pipeline facilities located in the Northeast United States during the early 1980s through the early 1990s. Such facilities included laterals, metering facilities, pipeline looping and additional compression.

Copies of Tennessee's filing are on file with the Commission and are available for public inspection in the Public Reference Room and may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (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 TTY, contact (202) 502–8659. Any questions concerning this application may be directed to Dawn McGuire, Counsel, Tennessee Pipeline Company, 9 E Greenway Plaza, Houston, Texas 77046, call (832) 676–5503, fax (832) 676–2251.

Between 1981 and 1991, Tennessee filed certain applications to construct facilities in New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey and Pennsylvania. The environmental reports that Tennessee included in these filings incorporated a voluntary ban on the use of herbicides and pesticides as part of Tennessee's maintenance of its rights-of-way. Thereafter, the Commission integrated these voluntary restrictions as conditions to the Environmental Assessments, the Final Environmental Impact Statements, and ultimately the Certificate Orders for these projects.

Tennessee states that it has determined that a new set of challenges have resulted from its efforts to comply with self-imposed restrictions prohibiting the use of herbicides and pesticides. Tennessee states that it has determined that a new set of challenges have resulted from these efforts. Specifically, Tennessee says that invasive, poisonous plants located on Tennessee's rights-of-way now pose a potential danger to threatened and endangered plant species found adjacent to the rights-of-way. In addition, Tennessee explains that employees and contractors are exposed to threatening health situations as they attempt to control the invasive plants and harmful insects by means other than with herbicides or pesticides.

Tennessee proposes to maintain its rights-of-way, including fenced-in areas that Tennessee holds through easements, right of access agreements, or in fee, and to adhere to all state specific and local regulations, as they may change from time to time, for facilities authorized in the below-referenced filings. Therefore, Tennessee requests that the Commission amend the certificates so that they allow the use of herbicides and pesticides, as conditioned above, as tools for Tennessee's long-term maintenance of its rights-of-way.

There are two ways to become involved in the Commission's review of this proposed amendment. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All such motions or protests must be filed on or before the comment date. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the proposed amendment provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this proposed amendment should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, 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: September 5, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21376 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–477–005]

Tennessee Gas Pipeline Company; Notice of Revised Compliance Tariff Filing

August 14, 2003.

Take notice that on August 11, 2003, Tennessee Gas Pipeline Company, (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised

Volume No. 1, the tariff sheets identified at Appendix A to the filing, with an effective date of October 1, 2003.

Tennessee states that the revised tariff sheets are being filed in order to comply with the Commission's July 11, 2003 Order in the referenced proceeding, which relates to Tennessee's previous filings to comply with Order Nos. 637, 637–A, and 637–B.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is 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 eLibrary (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 TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: August 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21383 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01–9–001]

Trunkline Gas Company, LLC; Notice of Filing

August 14, 2003.

On July 24, 2003, Trunkline Gas Company, LLC (Trunkline), filed notice of withdrawal of its Revised Standards of Conduct filed on October 26, 2000 in Docket No. MG01–9–000.

Specifically, Trunkline Gas states that it has no marketing affiliate, does not transport on behalf of a marketing affiliate, and is not subject to the marketing affiliate rules.

Any person desiring to intervene or to protest said 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 eLibrary (ERRIS) 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 (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: September 4, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21382 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01–10–002]

Trunkline LNG Company, LLC; Notice of Filing

August 14, 2003.

On July 24, 2003, Trunkline LNG Company, LLC (Trunkline LNG), filed notice of withdrawal of its Revised Standards of Conduct filed on October 26, 2000 in Docket No. MG01–10–000.

Specifically, Trunkline LNG states that it has no marketing affiliate, does not transport on behalf of a marketing affiliate, and is not subject to the marketing affiliate rules.

Any person desiring to intervene or to protest said 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 eLibrary (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 (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: September 4, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21378 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–374–000, CP02–376–000, CP02–377–000 and CP02–378–000]

Cameron LNG, LLC; Notice of Availability of the Final Environmental Impact Statement for the Proposed Hackberry LNG Project

August 14, 2003.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final environmental impact statement (EIS) on the construction and operation of the liquefied natural gas (LNG) import terminal and natural gas pipeline facilities proposed by Cameron LNG, LLC (Cameron LNG) in the above-referenced docket.[1]

[1] On May 12, 2003, Sempra Energy LNG Corporation filed a letter with the Commission

Continued

The final EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The staff concludes that approval of the proposed project, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The final EIS also evaluates alternatives to the proposal, including system alternatives, alternative sites for the LNG import terminal, and pipeline alternatives.

The final EIS addresses the potential environmental effects of the construction and operation of the following facilities in Cameron, Calcasieu, and Beauregard Parishes, Louisiana:

- A ship unloading slip with two berths, each equipped with mooring and breasting dolphins, three liquid unloading arms, and one vapor return arm;
- Three LNG storage tanks, each with a usable volume of 1,006,000 barrels (3.5 billion standard cubic feet of gas equivalent);
- Nine first-stage pumps, each sized for 250 million standard cubic feet per day (MMscf/d);
- Ten second-stage pumps, each sized for 188 MMscf/d;
- Twelve submerged combustion vaporizers, each sized for 150 MMscf/d;
- A boil-off gas compressor and condensing system;
- An LNG circulation system;
- A natural gas liquids recovery unit;
- Ancillary utilities, buildings, and service facilities at the LNG terminal; and
- A 35.4-mile, 36-inch-diameter natural gas sendout pipeline.

The purpose of building these facilities is to transport approximately 1.5 billion cubic feet per day of imported natural gas to the United States market. As part of the proposed project, Cameron LNG plans to remove the existing liquefied petroleum gas facilities and associated dock at the proposed terminal site.

The final EIS has been placed in the public files of the FERC and is available for public inspection at:

Federal Regulatory Energy Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the final EIS are available from the Public References and Files Maintenance Branch identified above. In addition, the final EIS has been mailed to Federal, state, and local agencies; elected officials; public libraries; newspapers; parties to the proceeding; and public interest groups, individuals, and affected landowners who requested a copy of the EIS.

In accordance with the Council on Environmental Quality's (CEQ) regulations implementing the NEPA, no agency decision on a proposed action may be made until 30 days after the U.S. Environmental Protection Agency publishes a notice of availability of a final EIS. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal appeal process which allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time the notice of the final EIS is published, allowing both periods to run concurrently. The Commission decision for this proposed action is subject to a 30-day rehearing period.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208-FERC or on the FERC Internet Web site (*http://www.ferc.gov)*using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with eLibrary, the eLibrary helpline can be reached at 1–866–208–3676, TTY (202) 502–8659 or *FERCOnlineSupport@ferc.gov*. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notifications of these filings, document summaries, and direct links to the documents. Go to *https://ferconline.ferc.gov/*.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21374 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

stating that it had acquired Hackberry LNG Terminal, L.L.C. from Dynegy Midstream Services, Limited Partnership, and had changed the company's name to Cameron LNG, LLC.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–39–000]

Kinder Morgan Interstate Gas Transmission, LLC; Notice of Availability of the Environmental Assessment for the Proposed Cheyenne Market Center Project

August 5, 2003.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Kinder Morgan Interstate Gas Transmission, LLC (Kinder Morgan) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed Cheyenne Market Center Project facilities including:

Compressor Facilities

- Rockport (Cheyenne Hub) Compressor Station—install two additional 1,680-horsepower (hp) compressor units within the Rockport Compressor Station in Weld County, Colorado.
- The new Kimball Junction Compressor Station—install two 1,151-hp compressor units at the existing Kimball Junction Interconnect (interconnect between Kinder Morgan's 16-inch-diameter Rockport Lateral, 20-inch-diameter Pony Express Pipeline, and 12-inch-diameter Weld County to Huntsman Pipeline) in Kimball County, Nebraska.
- Huntsman Compressor Station—install two additional 3,550-hp compressor units in a new building immediately adjacent to the northern side of the existing compressors, and install central injection and withdrawal meters within the confines of the Huntsman Compressor Station. This station is located within the Huntsman Storage Field, in Cheyenne County, Nebraska.

Injection/Withdrawal Wells

- Drill ten new injection/withdrawal wells at the Huntsman Storage Field. The proposed well field design configuration is to drill these wells

directionally (diverging directionally from a vertical well bore) from two new multiple wellhead surface location sites. Six wells would be drilled at Pad #1, located west and adjacent to the Huntsman Storage Field Well #9. Four wells would be drilled at Pad #2 in the northeast corner of the Huntsman Compressor Station.

Storage Field Lines

- Install about 2,000 feet of 12-inch-diameter pipeline loop originating at the proposed multiple wellhead Pad #1 site and terminating at the Huntsman Compressor Station inlet header facilities. This new 12-inch-diameter pipeline would loop a 12-inch-diameter pipeline from Huntsman Storage Field Well #9 to the compressor station.
- Install about 1,800 feet of 8-inch-diameter pipeline loop originating at the proposed multiple wellhead Pad #2 site and terminating at the Huntsman Compressor Station inlet header facilities. This new 8-inch-diameter pipeline would start at Pad #2, tie into the existing 8-inch-diameter discharge pipeline at Huntsman Storage Field Well #23 and loop the pipeline back to the compressor station.

Auxiliary Facilities

- Station Supervisory Control Systems—install computer-based supervisory-type process control systems at the Huntsman and Rockport Compressor Stations.
- Check Meter and Flow Control—install a check meter and bi-directional flow control assembly, with appurtenances, at the existing Kimball Junction Interconnect located between Kinder Morgan's 16-inch-diameter Rockport Lateral and 20-inch-diameter Pony Express Pipeline.
- Valves—install control valves at the existing Kinder Morgan/Colorado Interstate Gas Company (CIG) Weld County Measurement Station in Weld County, Colorado.
- Pigging and Gas Cleaning Facilities—install pigging facilities on the new 12-inch-diameter storage field pipeline and, depending upon the moisture content of the gas, install either a gas scrubber, coalesce filter, or gas separator on the new 8-inch-diameter storage field pipeline.
- Office Building—construct an office building with septic system and water well at the Rockport Compressor Station.

The proposed project would be an incremental expansion of Kinder Morgan's existing Huntsman Storage Facilities. The project would create incremental storage capacity for up to 6,000,000 dekatherms (Dth), with an associated injection capability of about 38,400 Dth per day (Dthd) and an associated withdrawal deliverability of about 62,400 Dthd. Through the new facilities, Kinder Morgan proposes to offer a Cheyenne Market Center Service that would allow for the injection, storage, and withdrawal of gas supplies received and delivered at the Cheyenne Hub using facilities incremental to, and separate from, existing Kinder Morgan transportation or storage services. The proposed project would provide customers with additional flexibility to store gas and utilize receipt and delivery points on short notice.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to:

Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

- Label one copy of the comments for the attention of the Gas Branch 1, PJ11.1.
- Reference Docket No. CP03–39–000; and
- Mail your comments so that they will be received in Washington, DC on or before August 30, 2003.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Login to File'' and then ''New User Account.''

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208-FERC or on the FERC Internet Web site (*http://www.ferc.gov)* using the FERRIS link. Click on the FERRIS link, enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at 1–866–208–3676, TTY (202) 502–8659 or at *FERCOnlineSupport@ferc.gov*. The FERRIS link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you too keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to*http://www.ferc.gov/esubscribenow.htm.*

Magalie R. Salas,

Secretary.

[FR Doc. 03–21375 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed electronically via the Internet in lieu of paper. *See* the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

August 15, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12266–000.

c. *Date filed*: June 24, 2002.

d. *Applicant:* MSR 14 Hydro, LLC.

e. *Name of Project:* Mississippi Lock & Dam 14 Project.

f. *Location:* On the Mississippi River, in Scott County, Iowa, utilizing the Mississippi River Lock & Dam 14 which is administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent Smith, MSR 14 Hydro LLC., P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project*: The proposed project would utilize the U. S. Army Corps of Engineers' Mississippi River Lock & Dam 14 and would consist of: (1) A proposed 50-foot-long, 168-inch-diameter concrete penstock, (2) a proposed powerhouse containing one generating unit having an installed capacity of 5 MW, (3) a proposed 1-mile-long, 25 kV transmission line, and (4) appurtenant facilities.

The applicant estimates that the average annual generation would be 43.2 GWh and would be sold to a local utility.

l. This filing is 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 eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, 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 ''e-filing'' link. The Commission strongly encourages electronic filing.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21497 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11887–000]

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

August 15, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No*: 12457–000.

c. *Date Filed:* May 20, 2003.

d. *Applicant:* Wind River Hydro, LLC.

e. *Name of Project:* Wind River Diversion Hydroelectric Project.

f. *Location:* The proposed project would be located at the Bureau of Reclamation's (BOR) Wind River Diversion Dam, on the Wind River in Fremont County, Wyoming.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Brent L. Smith, President; Northwest Power Services, Inc., P.O. Box 535, Rigby, Idaho 83442, (208) 745–0834.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 502–8763.

j. *Deadline for filing motions to intervene, protests and comments*: 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project*: The proposed run-of-river project using the BOR's existing Wind River Diversion Dam would consist of: (1) One 8-foot-diameter, 50-foot-long steel penstock, (2) a powerhouse containing one generating unit with a total installed capacity of 1 MW, (3) a 24.9-kv transmission line approximately 1 mile long, and (4) appurtenant facilities. The project would have an annual generation of 4.5 GWh.

l. This filing is 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 eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies provided by the Commission's regulations to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, 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

s. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21498 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11887–000]

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

August 15, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No*: 12458–000.

c. *Date Filed:* May 23, 2003.

d. *Applicant:* Pilot Butte Hydro, LLC.

e. *Name of Project:* Pilot Butte Dam Hydroelectric Project.

f. *Location:* The proposed project would be located at the Bureau of Reclamation's (BOR) Pilot Butte Dam, on the Wind River in Fremont County, Wyoming.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Brent L. Smith, President; Northwest Power Services, Inc., P.O. Box 535, Rigby, Idaho 83442, (208) 745–0834.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 502–8763.

j. *Deadline for filing motions to intervene, protests and comments*: 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project*: The proposed run-of-river project using the BOR's existing Pilot Butte Dam would consist of: (1) One 5-foot-diameter, 300-foot-long steel penstock, (2) a powerhouse containing one generating unit with a total installed capacity of 1 MW, (3) a 15-kv transmission line approximately 1 mile long, and (4) appurtenant facilities. The project would have an annual generation of 6.5 GWh.

l. This filing is 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 eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, 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.

s. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21499 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL03–137–000, *et al.*]

American Electric Power Service Corp, Docket Nos. EL03–137–000, *et al.*; Notice of Second Plenary Conference

August 14, 2003.

In the matter of EL03–137–000, EL03–138–000, EL03–139–000, EL03–140–000, EL03–141–000, EL03–142–000, EL03–143–000, EL03–144–000, EL03–145–000, EL03–146–000, EL03–147–000, EL03–148–000, EL03–149–000, EL03–150–000, EL03–151–000, EL03–152–000, EL03–153–000, EL03–154–000, EL03–155–000, EL03–156–000, EL03–157–000, EL03–158–000, EL03–159–000, EL03–160–000, EL03–161–000, EL03–162–000, EL03–163–000, EL03–164–000, EL03–165–000, EL03–166–000, EL03–167–000, EL03–168–000, EL03–169–000, EL03–170–000, EL03–171–000, EL03–172–000, EL03–173–000, EL03–174–000, EL03–175–000, EL03–176–000, EL03–177–000, EL03–178–000, EL03–179–000; Aquila, American Electric Power Service Corporation Inc., Arizona Public Service Company, Automated Power Exchange, Inc., Bonneville Power Administration, California Department of Water Resources, California Power Exchange, Cargill-Alliant, LLC, City of Anaheim, California, City of Azuza, California, City of Glendale, California, City of Pasadena, California, City of Redding, California, City of Riverside, California, Coral Power, LLC, Duke Energy Trading and Marketing Company Dynegy Power Marketing, Inc., Dynegy Power Corp., El Segundo Power LLC, Long Beach Generation, LLC, Cabrillo, Power 1 LLC and Cabrillo Power II LLC, Enron Power Marketing, Inc. and Enron Energy Services, Inc., F P & L Energy, Idaho Power Company, Los Angeles Department of Water and Power Mirant Americas Energy Marketing, LP, Mirant Americas Energy Marketing, LP, and Mirant Potero, LLC, Modesto Irrigation District, Morgan Stanley Capital Group, Northern California Power Agency, Pacific Gas and Electric Company, PacifiCorp, PGE Energy Services, Portland General Electric Company, Powerex Corporation, (f/k/a British Columbia Power Exchange Corp.), Public Service Company of Colorado, Public Service Company of New Mexico, Puget Sound Energy, Inc., Reliant Resources, Inc., Reliant Energy Power Generation, and Reliant Energy Services, Inc., Salt River Project Agricultural, Improvement and Power District San Diego Gas & Electric Company, Sempra Energy Trading Corporation, Sierra Pacific Power Company, Southern California Edison Company, TransAlta Energy Marketing (U.S.) Inc. and TransAlta Energy Marketing (California), Inc., Tucson Electric Power Company, Western Area Power Administration, Williams Energy Services Corporation.

Take notice that the Trial Staff of the Federal Energy Regulatory Commission (Commission) will convene a second plenary conference in the above-referenced cases on Tuesday, August 26, 2003 at 10 a.m. in Hearing Room 1 at the offices of the Commission, 888 1st Street, Washington, DC 20426. The conference will continue to be held as a settlement conference pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602. Therefore, participation at the conference will be limited to the Identified Entities listed above, interveners in the instant dockets, and Trial Staff.

At the conference, Trial Staff plans to initially meet with the Identified Entities and all interveners to discuss the overall status of the proceeding. In that regard, Trial Staff plans to discuss with all the parties procedures that can be adopted to streamline the discovery and trial phases of the instant case for those entities that cannot be removed from the case by means of settlement or dismissal prior to September 3, 2003. It would be Trial Staff's aim to find a way to preserve fruitful settlement discussions for those cases that do not settle or are not dismissed before September 3, 2003. Similarly, Trial Staff is mindful of the numerous petitions for rehearing and requests for clarification that have been filed and would like to discuss the ramifications of those pleadings and potential Commission action on those filings.

Thereafter, Trial Staff proposes, as necessary, to meet with the Identified Entities and the Intervener Groups. As time permits, Trial Staff would also be willing to meet with individual Identified Entities about the particular status of their cases.

All parties with questions regarding this second plenary conference may contact Joel M. Cockrell at 202–502–8153, Edith A. Gilmore at 202–502–8632, or Janet K. Jones at 202–502–8165.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21377 Filed 8–20–03; 8:45 am,

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1656–000, ER03–1046–000, RT01–85–000, RM01–12–000]

California Independent System Operator Corp.: Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design; Notice of Technical Conference

August 15, 2003.

Take notice that a technical conference for California ISO will be held on November 6, 2003, from approximately 10 a.m. to 4 p.m. Pacific Standard Time in the auditorium of the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, California. Members of the Commission will attend and participate in the discussions.

This conference shall be one in a series of regional technical conferences announced in the White Paper issued in this docket on April 28, 2003. The Commission intends to use these conferences to discuss with states and market participants in each region reasonable timetables for addressing wholesale market design issues discussed in the White Paper and ways in which to tailor the final rule in this proceeding to benefit customers within each region.

The Commission is inviting selected panelists to participate in this conference; it is not entertaining requests to make presentations. Further details of the conference, including the agenda, will be specified in a subsequent notice. All interested persons may attend the conference, and registration is not required. However, in-person attendees are encouraged to register on-line at *http://www.ferc.gov*/whats-new/registration/smd_1106-form.asp

Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646) for a fee. They will be available for the public on the Commission's eLibrary system seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening of the conference via Real Audio or a Phone Bridge Connection for a fee. Persons interested in making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://*

www.capitolconnection.org and click on ''FERC.''

For more information about the conference, please contact Sarah McKinley at (202) 502–8004 or *sarah.mckinley@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. 03–21500 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM01–12–000 and RT01–95–000]

Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design, New York Independent System Operator, Inc.; Notice of Technical Conference

August 15, 2003.

Take notice that a technical conference for the New York Independent System Operator, Inc. will be held on October 20, 2003, from approximately 1 p.m. to 5 p.m. Eastern Daylight Time at the offices of Consolidated Edison Company, 4 Irving Place, 19th floor auditorium, New York City, New York. Members of the Commission will attend and participate in the discussion. An agenda will be issued at a later time.

This conference is one in a series of regional technical conferences announced in the White Paper issued in Docket No. RM01–12–000 on April 28, 2003. The Commission intends to use these conferences to discuss with states and market participants in each region reasonable timetables for addressing wholesale market design issues and ways to tailor the final rule in this proceeding to benefit customers within the region.

The Commission is inviting selected panelists to participate in this conference; it is not entertaining requests to make presentations. Further details of the conference, including the agenda, will be specified in a subsequent notice. All interested persons may attend the conference, and registration is not required. However, in-person attendees are encouraged to register on-line at *http://www.ferc.gov/whats-new/registration/smd_1020-form.asp*

Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646) for a fee. They will be available for the public on the Commission's eLibrary system seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity to remotely listen to the conference via the Internet or a Phone Bridge Connection for a fee. Persons interested in making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.gmu.edu* and clicking on ''FERC.''

For more information about the conference, please contact Sarah McKinley at (202) 502–8004 or *sarah.mckinley@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. 03–21501 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD03–13–000]

Application of the Primary Function Test for Gathering on the Outer Continental Shelf; Notice of Public Conference

August 14, 2003.

Take notice that on September 23, 2003, the Commission will convene a public conference in the above captioned proceeding. The purpose of the conference will be to explore whether the Commission should reformulate its test for defining nonjurisdictional gathering in the shallow waters of the Outer Continental Shelf (OCS) and if so what the new test should be.

The Commission has considered its offshore gathering policy a number of times in the past decade.[1] Nevertheless, a satisfactory definition of gathering under the Natural Gas Act has remained elusive. A clear, consistent approach to offshore gathering is needed to protect producers and customers from the market power of third party transporters and to avoid different jurisdictional outcomes for companies that perform essentially the same economic function.

Background

A. Evolution of the Primary Function Test

Although section 1(b) of the Natural Gas Act states that the provisions of that act do not apply ''to the production or gathering of natural gas,'' the act itself does not define those terms. The Commission has defined gathering as ''the collecting of gas from various wells and bringing it by separate and several individual lines to a central point where it is delivered into a single line.''[2] The Supreme Court has added that ''production'' and ''gathering'' are terms ''narrowly confined to the physical acts of drawing the gas from the earth and preparing it for the first stages of distribution.''[3] These definitions have been useful in describing gathering as a concept. Nevertheless, as the courts have recognized, ''the line between gathering and transportation is inherently elusive.''[4] Attempts to establish a functional test, useful in the context of specific proceedings, resemble the pursuit of a desert mirage. Historically, the tendency has been to announce a particular physical characteristic that could be used to identify nonjurisdictional gathering, only to substitute other criteria later to reflect changes in the industry or in the evolution of Commission policy.[5] In

[1] See generally Natural Gas Gathering Services Performed by Interstate Pipelines and Interstate Pipeline Affiliates —Issues Related to Rates and Terms and Conditions of Service, Docket No. RM94–4–000, Notice of Public Conference, 65 FERC ¶ 61,136 (1993); Gas Pipeline Facilities and Services on the Outer Continental Shelf—Issues Related to the Commission's Jurisdiction Under the Natural Gas Act and the Outer Continental Shelf Lands Act, Docket No. RM96–5–000, Policy Statement, 74 FERC ¶ 61,222 (1996) (1996 Policy Statement); Chevron U.S.A., Inc. v. FERC, 193 F. Supp. 2d 54 (D.DC, January 11, 2002), appeal pending sub nom. Williams Companies, *et al.* v. FERC, No. 02–5056 (DC Cir.) (appeal of district court ruling on motion that FERC did not have authority under the Outer Continental Shelf Lands Act (OCSLA) to issue regulations requiring gas service providers on the Outer Continental Shelf (OCS)to submit quarterly reports of services provided).

[2] Lomak Petroleum, Inc. v. FERC, 206 F.3d 1193, 1196 (DC Cir 2000), quoting from Barnes Transportation Company, 18 FPC at 372 (1957). *See* also *Conoco, Inc.* v. *FERC,* 90 F.3d 536, 539 n.2 (DC Cir. 1996)(''Gathering is the process of taking natural gas from the wells and moving it to a collection point for further movement through the pipeline's principal transmission system.'') (quoting *Northwest Pipeline Corp.* v. *FERC,* 905 F.2d 1403, 1404 n.1 (10th Cir. 1990)).

[3] *Northern Natural Gas Co.* v. *State Corp. Comm'n*, 372 U.S. 84, 90 (1963).

[4] *Exxon Mobil Gas Marketing Company* v. *FERC* (*Exxon*), No. 00–1355 (DC Cir. August 6, 2002) (Judge Edwards dissenting) slip op. at 18, citing *Conoco, Inc.* v. *FERC* 90 F. 3d 536 at 542 (DC Cir. 1996).

[5] For many years, the Commission employed two principal tests to differentiate (primarily onshore) transportation from gathering facilities. The ''behind-the-plant'' test presumes that all facilities located between the wellhead and a processing plant are non-jurisdictional gathering lines, while facilities downstream of the processing plant are presumptively transportation facilities. *See* Phillips Petroleum Co., 10 FPC 246 (1951), rev'd in part on other grounds sub nom. *Phillips Petroleum Co.* v. *Wisconsin,* 347 U.S. 672 (1954). For gas that

Farmland Industries, Inc.,[6] the Commission identified a number of factors for consideration in analyzing the section 1(b) gathering test, and stated that ''the ultimate test is whether the primary function can be classified as transportation or gathering.'' The primary function test factors included:

- The length and diameter of a pipeline (longer and wider pipe indicating transportation);
- The central point in a field;
- The pipeline's geographic configuration (a web-like pattern, for example, suggesting a gathering function)
- Location of compressors and processing plants (*i.e.*, the ''behind the plant'' test);
- The location of wells along all or part of the facilities (typically indicating gathering); and
- Operating pressure of a line, with higher pressure generally associated with the need to propel gas in a transportation function.

The primary function test has been relatively satisfactory for analyzing onshore facilities. Offshore, however, the test has proven more difficult to apply.[7] Thus, in EP Operating Co. v. FERC, 876 F.2d 46, 48–49 (5th Cir. 1989), the Commission initially ruled that under the primary function test the offshore platform where initial gas treatment took place constituted a ''central point in the field'' where the gathering function was complete, and therefore the 51-mile long, 16-inch diameter OCS pipeline downstream of the platform at issue in that case was a jurisdictional transportation facility. The court reversed that finding, holding that while the length and diameter of pipeline facilities might indicate a transportation function onshore, those factors had less weight in the offshore context because of the longer distances between the point of production in deep water and the nearest connection with an interstate pipeline. The court further questioned the validity of a central-point-in-the-field analysis applied to unitary OCS structures.

In response, the Commission modified its primary function test for the OCS, stating that as drilling operations pushed further offshore from existing interstate pipeline connections, it would apply a sliding scale to allow for the increasing length and diameter appropriate for gathering lines in correlation to the distance from shore and the water depth of the offshore production area.[8] Later, following a conference on offshore gathering in Docket No. RM96–5–000, the Commission issued a policy statement announcing that it would ''presume facilities located in deep water [more than 200 meters] are primarily engaged in gathering or production.''[9]

As with onshore facilities, the use of the primary function test, as modified by the policy statement for deepwater facilities, seems to be workable, and there has been relatively little controversy concerning its application in recent years. Efforts to apply the primary function test to offshore facilities in the shallow OCS, however, have been contentious.

B. The Sea Robin Pipeline

Difficulties applying the primary function test to offshore facilities were highlighted by the Commission's decision in Sea Robin Pipeline Company (Sea Robin).[10] Sea Robin's offshore pipeline facilities were certificated as jurisdictional transmission facilities by the Commission in 1969. The system consists of 438 miles of pipeline that transports unprocessed gas from shallow water on the OCS to a processing plant onshore. The system is configured in the form of a ''Y''. Along the two arms of the ''Y'', 45 lateral lines with diameters ranging from 4.5 to 30 inches are connected to 67 receipt points located on production platforms, or at subsea taps. Through those upstream arms, Sea Robin moves the gas to a manned platform with two turbine compressor units at the fork of the ''Y'' closer to shore. The bottom line of the ''Y'', from the platform to shore, consists of 66.3 miles of 36-inch pipeline. Along this segment the gas is mingled with additional gas from four platforms.

In response to a request to reclassify the Sea Robin facilities from transmission to gathering, the Commission found that the primary function of Sea Robin's entire system was and continued to be jurisdictional transportation. In reaching that conclusion, the Commission emphasized the length and size of Sea Robin's pipeline, and also certain non-physical factors, such as the reliance of shippers in the original jurisdictional determination. The U.S. Court of Appeals for the Fifth Circuit remanded that decision.[11] In doing so the court said the Commission had relied too heavily on the size of Sea Robin's system as a determinative factor and did not give enough consideration to the different nature of gathering on the OCS. The court also faulted the Commission for reliance on non-physical considerations, such as Sea Robin's ownership and shipper expectations. The court specifically found that the Commission's consideration of a ''regulatory gap'' in the absence of Natural Gas Act jurisdiction was inappropriate: ''Need for regulation cannot alone create authority to regulate.''[12]

In its decision, the court suggested that the primary function test could be adapted to the operational characteristics of the OCS, so that portions of its system could be considered to be predominantly gathering and other parts predominantly transportation. On remand, then, the Commission adopted this suggestion and reformulated the primary function test to draw the jurisdictional line at an internal point on the Sea Robin system, at the junction of the ''Y''.[13] The Commission concluded that the part of Sea Robin's pipeline facilities from the platform to shore was a jurisdictional transportation system. Upstream of that point the two legs of the ''Y'' formed a non-jurisdictional gathering system.

In reformulating its primary function test, the Commission concluded that the ''behind-the-plant'' factor is not

required no processing, the ''central-point-in-the-field'' test applied, under which lateral lines that collect gas from separate wells before converging into a larger single line—typically at the point where the gas is compressed for transportation by the pipeline—were classified as gathering facilities. E.g., Barnes, supra

[6] 23 FERC ¶ 61,063 at 61,143 (1983). The Commission later added a number of ''non-physical'' criteria, including (1) the purpose, location and operation of a facility; (2) the business of the owner; (3) whether the jurisdictional determination is consistent with the objectives of the NGA and other legislation; and (4) the changing technical and geographic nature of exploration and production. Amerada Hess Corp., 52 FERC ¶ 61,268 at 61,844–45 (1990). Under the primary function test, no one factor is determinative, nor do all factors apply in every situation. *See e.g.*, Williams Field Services, 194 F.3d at 116; Farmland, 23 FERC at 61,143.

[7] As more new facilities were constructed offshore on the OCS, where the pattern of gathering and distribution differs, the applicability of the factors was questioned. Specifically, it is often not feasible to process raw gas on open water. As a result, pipelines on the OCS typically do not gather gas at a local, centralized point within a producing field as they would onshore, to prepare it for traditional transportation. Rather, on the OCS, they construct relatively long lines to carry the raw gas from offshore platforms, where after production only rudimentary gas treatment takes place (primarily to remove water), to the shore or a point closer to shore where it can be processed into ''pipeline quality'' gas that can be transported by an interstate pipeline.

[8] *See* Amerada Hess, 52 FERC at 61,988 (1990).

[9] *See* 1996 Policy Statement, note 1 supra.

[10] 71 FERC ¶ 61,351 (1995), reh'g denied, 75 FERC ¶ 61,332 (1996).

[11] *Sea Robin Pipeline Company* v. *FERC,* 127 F.3d 365 (5th Cir. 1997).

[12] *Id.* at 371.

[13] Sea Robin Pipeline Company, Order on Remand, 87 FERC ¶ 61,384 (1999) (Comm. Bailey dissenting), rehearing denied, 92 FERC ¶ 61,072 (2000).

necessarily determinative of where gathering ends when applied to offshore facilities. In addition, the Commission announced that where a pipeline system includes a facility where gas is delivered by several relatively small diameter lines for aggregation and preparation for further delivery onshore through a single larger diameter pipeline, the location of that collection facility will be afforded considerable weight for purposes of identifying the demarcation point between gathering and transportation on OCS systems.[14]

Although not all OCS pipeline systems exhibit such a centralized aggregation point, *e.g.*, facilities with a straight-line or spine-and-lateral type configuration, the presence of such a location would be considered the offshore analogue of the onshore ''central-point-in-the-field'' criterion.

The Commission's decision on remand, based on its reformulated test that included the central point of aggregation as a factor offshore, was upheld by the U.S. Court of Appeals for the District of Columbia Circuit in Exxon (note 4 supra).[15]

C. The ''Reformulated, Modified Primary Function Test''

Despite the several modifications of the primary function test described above, its utility in identifying nonjurisdictional gathering facilities remains uneven. As mentioned, the rule seems to work fairly well onshore, possibly because where other factors are not conclusive, there is usually a processing plant located at the end of a gathering system that serves as a logical demarcation point between jurisdictional and nonjurisdictional systems. Also, after an initial round of decisions interpreting the 1996 Policy Statement applying the primary function test to facilities located in deep water beyond the OCS, there has been relatively little controversy. In the shallow areas on the OCS, on the other hand, the status of facilities remains unsettled. The Commission continues to receive requests to reclassify jurisdictional transmission facilities as gathering, over the objection of customers who have been served through the facilities. In these types of cases, the correct interpretation of the primary function test is usually the main issue.

Based on the number of contested cases presented to us, we are concerned about the high degree of uncertainty that seems built into the primary function test as applied offshore. The primary function test lists numerous factors for consideration, with no one factor having priority. Thus, for example, the size of a particular system may suggest that it is transmission, but the configuration may suggest gathering. The primary function test does not indicate how such inconsistencies should be resolved. The result, over time, has been the gradual reclassification of more and larger systems as gathering, even in cases where systems had been regulated for many years under the Natural Gas Act. Systems with generally similar physical characteristic may have a different regulatory status because of relatively minor physical differences. This result can produce different regulatory results for competitors who perform essentially the same economic function. It is also seems unfair to customers who may have made investments relying on the regulated status of a transporter, only to find themselves subject to the market power of that transporter in its new deregulated form. The ''need for regulation'' may not create authority to regulate; on the other hand, inconsistent classification and regulatory treatment cannot be what Congress intended when it established a comprehensive scheme of federal regulation that included transportation from the OCS.

Public Conference

The Commission is convening a public conference to hear suggestions from interested persons on developing a new test for gathering on the OCS that is reasonably objective and that furthers the regulatory goals of the Natural Gas Act. (The conference will not include the policy adopted for deepwater facilities in Docket No. RM96–5–000.) A new test should ensure that similar facilities are subject to similar regulatory treatment. It should also provide incentives for investment in production, gathering, and transportation infrastructure offshore, without subjecting producers to the unregulated market power of third party transporters. Persons who appear at the conference should be prepared to indicate how the Commission's definition of gathering can be changed to achieve these goals. Persons seeking to make formal statements at the public conference should be prepared to address questions set forth below. Other questions may arise during the course of the proceedings.

Questions

1. To what extent should a gathering test that be based on the length and diameter of the pipeline, the extent the facilities are operationally integrated with either production or transportation facilities, the function of compression in relation to the facilities, and the proximity to the pipeline transportation grid?

2. To what extent should the location of processing plants, the central point of aggregation, the operating pressure of a line, and geographic configuration of facilities, be considered relevant in evaluating the status of facilities on the OCS? What are the advantages and disadvantages of relying on these factors? Are there any other factors that should be considered?

3. What should be the relevance of non physical factors such as a facility's history of regulation or the major business purpose of an owner?

4. If formerly certificated facilities are determined to be gathering, may the Commission nonetheless require the company to file for abandonment under section 7(b) of the Natural Gas act before the facilities may be transferred to another company?

Procedures

The public conference convened by this notice will be held on September 23, 2003 at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All interested persons are invited to attend. Persons interested in speaking or making a presentation should indicate their interest no later than September 3, 2003 by a letter addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, and should refer to Docket No. AD03–13–000. Each request to participate must include the name of a contact person, their telephone number and e-mail address. There is no need to provide advance notice to the Commission simply to attend the conference.

Comments addressing the questions set out in this notice may also be filed by September 3, 2003. Every effort will be made to accommodate requests to make presentations, but depending on the number of requests received, a limit may have to be placed on the number of presenters and the time allowed for presentations.

Members of the Commission intend to participate in the public conference and will reserve time for questions and answers. In a subsequent notice, we will provide further details on the conference, including the agenda and a list of participants, as plans evolve. For additional information, please contact Gordon Wagner, Office of General

[14] 87 FERC at 62,248.

[15] *See* also Williams Gas Processing—*Gulf Coast Company, L.P. et al.* v. *FERC,* No. 01–1327 (DC Cir. June 20, 2003).

Counsel, phone 202–502–8947, e-mail: *gordon.wagner@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. 03–21373 Filed 8–20–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7547–2]

Protection of Stratospheric Ozone: Notice 18 for Significant New Alternatives Policy Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of acceptability.

SUMMARY: This Notice of Acceptability expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. The substitutes are for use in the following sectors: refrigeration and air conditioning, solvents cleaning, foam blowing, fire suppression and explosion protection, and aerosols.

EFFECTIVE DATE: August 21, 2003.

ADDRESSES: Information relevant to this notice is contained in Air Docket A–91–42, 1301 Constitution Avenue, NW.; U.S. Environmental Protection Agency, Mail Code 6102T; Washington, DC 20460. The docket reading room is located at the address above in room B102 in the basement. Reading room telephone: (202) 566–1744, facsimile: (202) 566–1749, Air docket staff telephone: (202) 566–1742 and facsimile: (202) 566–1741 You may inspect the docket between 8:30 a.m. and 4:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Margaret Sheppard by telephone at (202) 564–9163, by fax at (202) 565–2155, by e-mail at *sheppard.margaret@epa.gov,* or by mail at U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to 501 3rd Street, NW., Washington, DC 20001.

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the original SNAP rulemaking published in the Federal Register on March 18, 1994 (59 FR 13044). Notices and rulemakings under the SNAP program, as well as other EPA publications on protection of stratospheric ozone, are available from EPA's Ozone Depletion World Wide Web site at *http://www.epa.gov/ozone/* including the SNAP portion at *http://www.epa.gov/ozone/snap/.*

EPA has established an official public docket for this action under Docket ID No. OAR–2003–0118 (continuation Docket A–91–42). The official public docket consists of the documents specifically referenced in this action 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 Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

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. 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 the previous paragraph. Once in the system, select ''search,'' then key in the appropriate docket identification number (OAR–2003–0118).

SUPPLEMENTARY INFORMATION:

I. Listing of Acceptable Substitutes
A. Refrigeration
B. Solvents Cleaning
C. Foam Blowing
D. Fire Suppression and Explosion Protection
E. Aerosols
II. Section 612 Program
A. Statutory Requirements
B. Regulatory History
Appendix A—Summary of Acceptable Decisions

I. Listing of Acceptable Substitutes

This section presents EPA's most recent acceptable listing decisions for substitutes in the following industrial sectors: refrigeration and air conditioning, solvents, cleaning, foam blowing, fire suppression and explosion protection, and aerosols. For copies of the full lists of SNAP decisions in all industrial sectors, visit EPA's Ozone Depletion Web site at *http://www.epa.gov/ozone/snap/lists/index.html.*

The sections below discuss each substitute listing in detail. Appendix A contains a table summarizing today's listing decisions. The statements in the ''Further Information'' column in the table provide additional information, but are not legally binding under section 612 of the Clean Air Act. In addition, the ''further information'' may not be a comprehensive list of other legal obligations you may need to meet when using the substitute. Although you are not required to follow recommendations in the ''further information'' column of the table to use a substitute, EPA strongly encourages you to apply the information when using these substitutes. In many instances, the information simply refers to standard operating practices in existing industry and/or building-code standards. Thus, many of these statements, if adopted, would not require significant changes to existing operating practices.

Submissions to EPA for the use of the substitutes listed in this document may be found under category VI–D of EPA air docket A–91–42 at the address described above under **ADDRESSES.** You can find other material supporting the decisions in this action under category IX–B of EPA docket A–91–42 and in e-docket OAR–2003–0118 at *http://www.epa.gov/edocket/.*

A. Refrigeration

1. R–407C

EPA's decision. R–407C is acceptable for use in new and retrofit equipment as a substitute for R–502 in:

- retail food refrigeration
- cold storage warehouses
- commercial ice machines
- refrigerated transport
- ice skating rinks
- water coolers
- residential dehumidifiers
- vending machines
- industrial process air conditioning
- reciprocating chillers
- screw chillers
- industrial process refrigeration
- non-mechanical heat transfer systems
- household refrigerators and freezers
- household and light commercial air conditioning

R–407C is a blend of 23% by weight HFC–32 (difluoromethane, Chemical

Abstract Service [CAS] No. 75–10–5), 25% by weight HFC–125 (pentafluoroethane, CAS No. 354–33–6) and 52% by weight HFC–134a (1,1,1,2-tetrafluoroethane, CAS No. 811–997–2). The submission may be found in EPA Air Docket A–91–42, item VI–D–293.

EPA previously listed R–407C as an acceptable alternative for hydrochlorofluorocarbon (HCFC)–22 and chlorofluorocarbons (CFCs) (February 8, 1996; 61 FR 4736) and as an acceptable substitute for HCFC blends (December 20, 2002; 67 FR 77927) in various refrigeration and air conditioning end uses under SNAP.

Environmental information. The ozone depletion potential (ODP) or R–407C is zero. The Global Warming Potentials (GWPs) of HFC–32, HFC–125, and HFC–134a are 543, 3450, and 1320, respectively (relative to carbon dioxide, using a 100-year time horizon (United Nations Environment Programme (UNEP) and World Meteorological Organization (WMO) *Scientific Assessment of Ozone Depletion:* 2002).) The atmospheric lifetimes of these constituents as 4.9, 29 and 14.0 years, respectively.

All components of this blend are excluded from the definition of volatile organic compound (VOC) under Clean Air Act regulations addressing the development of State implementation plans (SIPs) to attain and maintain the national ambient air quality standards. 40 CFR 51.100(s).

Flammability information. While HFC–32 is moderately flammable, the blend as formulated and under worst case fractionated formulation scenarios is not flammable.

Toxicity and exposure data. All components of the blend have 8 hour/day, 40 hour/week workplace environmental exposure limits (WEELs) of 1000 ppm established by the American Industrial Hygiene Association (AIHA). EPA expects users to follow all recommendations specified in the Material Safety Data Sheet (MSDS) for the blend and the individual components and other safety precautions common in the refrigeration and air conditioning industry. We also expect that users of R–407C will adhere to the AIHA's WEELs.

Comparison to other refrigerants. R–407C is not an ozone depleter; thus, it poses a lower risk for ozone depletion than R–502, a blend of HCFC–22 and CFC–115, the ODS it replaces. R–407C has a comparable or lower GWP than most other substitutes for R–502. Flammability and toxicity risks are low, as discussed above. Thus, we find that R–407C is acceptable because there are no other substitutes that are currently or potentially available and that provide a substantially reduced risk to public health and the environment in the end uses listed.

2. ISCEON 89

EPA's decision. ISCEON 89 is acceptable for use in new and retrofit equipment as a substitute for R–13B1 in very low temperature refrigeration. ISCEON 89 is a blend of 86% by weight HFC–125 (pentafluoroethane, CAS No. 354–33–6), 9% by weight PFC–218 (octofluoropropane, CAS NO. 76–19–7) and 5% by weight R–290 (propane, CAS No. 74–98–6). The submission may be found in EPA Air Docket A–91–42, item VI–D–293.

Environmental information. The ozone depletion potential (ODP) of ISCEON 89 is zero. Relative to carbon dioxide, using a 100-year time horizon, from the source cited above in IA1, the Global Warming Potentials (GWPs) of HFC–125 and PFC–218 are 3450 and 8690, respectively. The source lists the atmospheric lifetimes as 29 years for HFC–125 and 2600 years for PFC–218. The source does not list a GWP for propane, but it is thought to be on the order of 10 to 20.

Because of the high GWP of HFC–125 and especially PFC–218, EPA strongly encourages prompt identification and repair of any leaks that may occur. EPA notes that most of the R–13B1 alternatives already listed as acceptable for use within the very low temperature refrigeration end use have GWPs as high or higher than this blend, and encourages the continued search for lower-GWP alternatives for this end use. The contribution of these blends to global warming will be minimized through the implementation of the venting prohibition under section 608(c)(2) of the Clean Air Act (*See* 40 CFR part 82, subpart F). This section and EPA's implementing regulations at subpart F of 40 CFR part 82 prohibit venting or release of substitutes for class I and class II ozone depleting substances used in refrigeration and air-conditioning and require proper handling and disposal of these substances, such as recycling or recovery.

Propane is defined as a volatile organic compound (VOC) under Clean Air Act regulations addressing the development of State implementation plans (SIPs) to attain and maintain the national ambient air quality standards. 40 CFR 51.100(s). HFC–125 and PFC–218 are excluded from the definition of VOC under those regulations.

Flammability information. While propane is flammable, the blend formulated as submitted is not. The submitter has provided data to indicate that under a worst case fractionation scenario, the blend will have a lower flammable limit (LFL) of 6% by volume. Due to this minor risk of flammability, EPA expects users to take extra precautions while handling this blend, including those listed under *Toxicity and exposure data,* below.

Toxicity and exposure data. All components of the blend have workplace guidance level exposure limits on the order of 1000 ppm. EPA believes this exposure limit will be protective of human health and safety. EPA expects users to adhere to all exposure limits, follow all recommendations specified in the Material Safety Data Sheet (MSDS) for the blend and the individual components, and undertake all other safety precautions common in the refrigeration and air conditioning industry.

Comparison to other refrigerants. ISCEON 89 is not an ozone depleter; thus, it reduces the associated risk compared to R–13B1, the ODS it replaces. ISCEON 89 has a comparable or lower GWP than most other substitutes for R–13B1 in very low temperature refrigeration end use. Thus, we find that ISCEON 89 is acceptable because it reduces overall risk to public health and the environment in the end use listed.

3. RS–44

EPA's decision. RS–44 is acceptable for use in new and retrofit equipment as a substitute for HCFC–22 in the following end uses:

- industrial process refrigeration
- industrial process air conditioning
- ice skating rinks
- cold storage warehouses
- refrigerated transport
- retail food refrigeration
- commercial ice machines
- household refrigerators and freezers
- residential dehumidifiers
- screw chillers
- reciprocating chillers
- centrifugal chillers
- household and light commercial air conditioning

The submitter of RS–44 claims that the composition of this blend is confidential business information. You can find a version of the submission with information claimed confidential by the submitter removed in EPA Air Docket A–91–142, item VI–D–295.

Environmental information. The ozone depletion potential (ODP) of RS–44 is zero. The Global Warming Potentials (GWPs) of the constituents are all below 5000 (relative to carbon

dioxide, using a 100-year time horizon, from the source listed in IA1).

At least one component of this blend has not been excluded from the definition of VOC under Clean Air Act regulations addressing the development of SIPs to attain and maintain the national ambient air quality standards. 40 CFR 51.100(s).

Flammability information. While at least one component of the blend is moderately flammable, the submitter has provided test results that show the blend as formulated and at worst case formulation and worst case fractionated formulation conditions is not flammable.

Toxicity and exposure data. Components of the blend have workplace guidance level exposure limits on the order of 600 to 1000 ppm. EPA believes this exposure limit will be protective of human health and safety. EPA expects users to follow all recommendations specified in the Material Safety Data Sheet (MSDS) for the blend and the individual components and other safety precautions common in the refrigeration and air conditioning industry.

Comparison to other refrigerants. RS–44 is not an ozone depleter; thus, it reduces risk from ozone depletion compared to CFC–12, the ODS it replaces. RS–44 has a comparable or lower GWP than most other substitutes for HCFC–22. Flammability and toxicity risks are low, as discussed above. Thus, we find that RS–44 is acceptable because it reduces overall risk to public health and the environment in the end uses listed.

B. Solvents Cleaning

1. HFE–7000

Hydrofluoroether (HFE)–7000 is acceptable for use as a substitute for methyl chloroform and CFC–113 in the precision cleaning and electronics cleaning end uses. 3M, the submitter, indicates that this chemical is also known as HFE–301 and propane, 1,1,1,2,2,3,3 hepta fluoro-3-methoxy or 1-(methoxy)-1,1,2,2,3,3,3-heptafluoropropane. The empirical formula is $C_4H_3F_7O$ and it is also identified as CH_3-O-CF_2-CF_2-CF_3 and R–E347mcc1. You can find a version of the submission with information claimed confidential by the submitter removed, in EPA Air Docket A–91–42, items VI–D–272 and VI–D–300. EPA previously found HFE–7000 acceptable in several refrigerant end uses (March 22, 2002; 67 FR 13272).

Environmental information. The ODP of HFE–7000 is zero. The GWP is estimated as 400 (derived from Ninomiya *et al.,* 2000) relative to carbon dioxide, using a 100-year time horizon. Experimental data indicates a lifetime of 4.7 years (Ninomiya *et al.,* 2000).

HFE–7000 is considered a VOC. This chemical is being reviewed by EPA for exclusion from the definition of VOC under Clean Air Act regulations addressing the development of State implementation plans (SIPs) to attain and maintain the national ambient air quality standards. 40 CFR 51.100(s).

Flammability information. This chemical is nonflammable.

Toxicity and exposure data. The manufacturer has recommended an acceptable exposure limit (AEL) of 75 ppm over an eight-hour time-weighted average. EPA has reviewed this exposure limit and believes it is protective of human health and safety. We expect users to follow all recommendations specified in the MSDS for this chemical.

Comparison to other aerosol solvents. HFE–7000 is not an ozone depleter; thus, in the electronics and precision cleaning end uses, it reduces risk overall compared to methyl chloroform and CFC–113, the ODSs it replaces. The GWP and atmospheric lifetime of HFE–7000 are lower than those of several other acceptable alternatives that are cleaning solvents.

C. Foam Blowing

1. Ecomate™

EPA's decision. Ecomate™ is acceptable as a substitute for CFCs and HCFCs in the following end-uses:

- Rigid polyurethane and polyisocyanurate laminated boardstock;
- Rigid polyurethane appliance;
- Rigid polyurethane slabstock and other foams;
- Rigid polyurethane commercial refrigeration and sandwich panels; and
- Polyurethane integral skin foam.

The submitter, Foam Supplies, claims that the composition of Ecomate™ is confidential business information (*see* docket A–91–42, item VI–D–296).

Environmental information. Ecomate™ has no ODP and very low or zero global warming potential (GWP). Users should be aware that Ecomate™ is not excluded from the definition of volatile organic compound (VOC) under Clean Air Act regulations addressing the development of State implemention plans (SIPs) to attain and maintain the national ambient air quality standards. 40 CFR 51.100(s). For more information refer to the manufacturer of Ecomate™, EPA regulations, and your state or local air quality agency. Also, because Ecomate™ is considered hazardous, spills and disposal should be handled in accordance with requirements of the Resource Conservation and Recovery Act (RCRA).

Flammability information: Ecomate™ is flammable and should be handled with proper precautions. Use of Ecomate™ will require safe handling and shipping as prescribed by OSHA and DOT (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173). However, when blended with fire retardant, the flammability of Ecomate™ can be reduced to make a formulation that is either combustible or non-flammable (refer to the manufacturer of Ecomate™ for more information). Due to its flammability, EPA is not finding Ecomate™ acceptable for use in spray foam at this time. For information on the safety training requirements for use of flammable blowing agents in spray foam refer to SNAP Notice of Acceptability 11 (64 FR 68039, December 6, 1999) or contact the EPA SNAP program.

Toxicity and exposure data. Ecomate™ should be handled with proper precautions. EPA anticipates that Ecomate™ will be used in such a manner so that any recommendations specified in the manufacturers' Material Safety Data Sheets (MSDSs) are followed. OSHA established a permissible exposure limit for the main component of Ecomate™ of 100 ppm for a time-weighted average over an eight-hour work shift.

Comparison to other foam blowing agents. Ecomate™ is not an ozone depleter; thus, it reduces risk overall compared to the ODS it replaces. Ecomate™ has a comparable or lower GWP than the other substitutes for CFCs and HCFCs in these end uses. Thus, we find that Ecomate™ is acceptable because it reduces overall risk to public health and the environment in the end uses listed.

2. HFC–245fa

EPA's decision. Hydrofluorocarbon (HFC)–245fa is an acceptable substitute for all HCFCs in:

- Rigid polyurethane and polyisocyanurate laminated boardstock;
- Rigid polyurethane appliance;
- Rigid polyurethane slabstock and other foams;
- Rigid polyurethane commercial refrigeration and sandwich panels;
- Phenolic insulation board and bunstock;
- Polyolefin;
- Polystyrene: extruded boardstock and billet;
- Polyurethane integral skin foam.

HCF–245fa is also known as 1,1,1,3,3-pentafluoropropane (CAS Registry No. 460–73–1). We previously found HFC–245fa acceptable for use as a substitute for CFC–11 and HCFC–141b in foam blowing (64 FR 68041, December 6, 1999), refrigeration and air conditioning (65 FR 37901, June 19, 2000) and aerosols (67 FR 13272, March 22, 2002).

In its original rulemaking on March 18, 1994 (59 FR 13084), the SNAP program addressed the use of blends in foam blowing applications. EPA determined that notification was not required for ''use of blends or mixtures of substitutes listed as acceptable under the SNAP program in open-celled or closed-cell or semi-rigid end uses'' *except* in the following end-uses: polyurethane rigid laminated boardstock; polystyrene extruded boardstock and billet foams; phenolic foams; and polyolefin foams. Therefore, use of HFC–245fa in blends with other substitutes that EPA has found acceptable [1] as HCFC replacements is currently acceptable in the following end uses:

- Rigid polyurethane appliance;
- Rigid polyurethane slabstock and other foams;
- Rigid polyurethane commercial refrigeration and sandwich panels;
- Polyurethane integral skin foam.

Approval of an HFC–245fa blend in any other end-use would require formal determination by EPA. Blends of HFC–245fa and other substitutes EPA has found acceptable as replacements for HCFCs are subject to the same conditions that apply to the individual substitutes (*e.g.,* flammable blowing agents in spray foam require EPA approval and safety training). For more information on HFC–245fa and its blends refer to the original listing (64 FR 68041, December 6, 1999) and the information below for blends of HFC–245fa and HCFC–22.

3. Blends of HFC–245fa and HCFC–22

EPA's decision. Blends of HFC–245fa and HCFC–22 are acceptable substitutes for blends of HCFC–141b and HCFC–22, where the HFC–245fa replaces the HCFC–141b in:

- Rigid polyurethane and polysocyanurate laminated boardstock;
- Rigid polyurethane appliance;
- Rigid polyurethane slabstock and other foams;
- Rigid polyurethane commercial refrigeration and sandwich panels;
- Phenolic insulation board and bunstock;
- Polyolefin;
- Polyurethane integral skin foam.

Further information on HFC–245fa is described above in section C.2. of this document.

Environmental information. HFC–245fa has an ODP of zero. It has a GWP of 1022. This value is similar to or lower than the GWP of the substances that HFC–245fa would be replacing. Both HFC–245fa and HCFC–22 have been excluded from the definition of VOC under Clean Air regulations addressing the development of State implementation plans (SIPs) to attain and maintain the national ambient air quality standards. 40 CFR 51.100(s).

Flammability. Blends of HFC–245fa and HCFC–22 are non-flammable.

Toxicity and exposure data. EPA anticipates that HFC–245fa will be used in such a manner so that any recommendations specified in the manufacturers' Material Safety Data Sheets (MSDSs) are followed. We also expect that the workplace exposure level will not exceed the American Industrial Hygiene Association's (AIHA) workplace environmental exposure limit (WEEL) of 300 ppm for HFC–245fa or the American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Value (TLV) of 1000 ppm for HCFC–22.

The blend of HFC–245fa and HCFC–22 has moderate to low toxicity. EPA expects that these blends will be used in a manner such that occupational exposure to any component of the blend does not exceed the WEEL for that chemical.

Comparison to other foam blowing agents. HFC–245fa has a lower ODP than HCFC–141b, the ODS it replaces; thus, blends of HFC–245fa and HCFC–22 reduces risk overall compared to the ODS blends they replace. Blends of HFC–245fa and HCFC–22 have comparable or lower GWP than HCFC–141b and other approved substitutes for HCFC–141b. Blends of HFC–245fa and HCFC–22 are non-flammable. Blends of HFC–245fa and HCFC–22 exhibit moderate to low toxicity and guidance is available from the AIHA and the ACGIH on their use in the workplace. Thus, we find that blends of HFC–245fa and HCFC–22 are acceptable because they reduce overall risk to public health and the environment in the end uses listed.

D. Fire Suppression and Explosion Protection

1. HFC–125 with 0.15% *d*-limonene (NAF S–125)

EPA's decision. NAF S–125 is acceptable for use as a substitute for halon 1301 in the total flooding end use in both normally occupied and unoccupied spaces. NAF S–125 is a mixture of HFC–125 containing 0.15% *d*-limonene by weight. HFC–125 is also known as 1,1,1,2,2-pentafluoroethane, CAS No. 354–33–6. Another name for *d*-limonene is 4-isopropenyl-1-methyl-1-cyclohexene, CAS No. 5989–27–5. EPA finds the blend acceptable as submitted; however, blends containing more than 0.15% *d*-limonene are not addressed by today's decision. EPA previously found HFC–125 acceptable in total flooding (January 29, 2002; 67 FR 4185). EPA previously found the entire class of terpenes, including *d*-limonene, acceptable in solvent cleaning (March 18, 1994; 59 FR 13044).

Environmental information. Both of the components of NAF S–125 have an ozone depletion potential of zero. HFC–125 has a global warming potential (GWP) of 2800 and *d*-limonene has a GWP of 10. These values are lower than the GWP of Halon 1301 (6900).

HFC–125 is excluded from the definition of volatile organic compound (VOC) under Clean Air Act regulations addressing the development of State implementation plans (SIPs) to attain and maintain the national ambient air quality standards. 40 CFR 51.100(s). *d*-limonene is used as a solvent in cleaning solutions and has a variety of uses. *d*-limonene is a VOC. Given that *d*-limonene exists at higher percentages in commonly used cleaners and polishes than it does in NAF S–125, the effects of fire extinguishers containing *d*-limonene upon the environment and the general population are expected to be minimal.

Flammability. Although *d*-limonene is flammable, the blend is non-flammable.

Toxicity and exposure data. As with other fire suppressants, EPA recommends that you minimize exposure to this agent. If personnel are exposed to the agent, they should exit the area within five minutes or less. EPA recommends that unnecessary exposure to fire suppression agents and their decomposition products be avoided and that personnel exposure be limited to no more than 5 minutes.

In order to keep exposure levels as low as possible, EPA recommends the following for establishments installing and maintaining total flooding systems:

—Put adequate ventilation in place. If ventilation is suspected to be inadequate, self-contained breathing apparatus (SCBA) should be available;
—Wear proper personal protection equipment (impervious butyl gloves, eye protection, chemical resistant aprons, long sleeves, and safety shoes);

[1] By acceptable, in this case we mean acceptable, acceptable subject to use conditions, or acceptable subject to use limits.

—Clean up all spills immediately in accordance with good industrial hygiene practices; and
—Provide training for safe handling procedures to all employees that would be likely to handle the containers of NAF S 125 or extinguishing units filled with the material.

Use of this agent should conform with relevant Occupational Safety and Health Administration (OSHA) requirements, including 29 CFR part 1910, subpart L, § 1910.160 for fixed fire extinguishing systems, § 1910.162 for gaseous agents and § 1910.165 for predischarge employee alarms. Per OSHA requirements, protective gear (self-contained breathing apparatus) should be available in the event that personnel reenter the area. In addition, also observe the guidelines in the National Fire Protection Association (NFPA) 2001 standard for use of Clean Agent Fire Extinguishing Systems for use of HFC–125.

Comparison to other fire suppressants. NAF S–125 has no ODP; thus, it reduces risk overall compared to halon 1301, the ODS it replaces. EPA has already found acceptable HFC–125, the main ingredient in NAF S–125. NAF S–125 has a GWP comparable with that of many other acceptable substitutes for halon 1301. Thus, we find that NAF S–125 is acceptable because it does not present a greater risk to public health and the environment in the end use listed than other substitutes that are available.

E. Aerosols

1. HFE–7000

HFE–7000 is acceptable for use as a substitute for methyl chloroform, CFC–113, and HCFC–141b in the aerosol solvent end use. For further information about HFE–7000, see above in section B.1 on solvent cleaning.

Comparison to other aerosol solvents. HFE–7000 is not an ozone depleter; thus, in the aerosol solvent end use, it reduces risk overall compared to methyl chloroform, CFC–113, and HCFC–141b, the ODSs it replaces. The GWP and atmospheric lifetime of HFE–7000 are lower than those of a number of other acceptable alternatives that are aerosol solvents.

II. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. We refer to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

• *Rulemaking*—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl choloroform, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

• *Listing of Unacceptable/Acceptable Substitutes*—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.

• *Petition Process*—Section 612(d) grants the right to any person to petition EPA to add a substance to or delete a substance from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, it must publish the revised lists within an additional six months.

• *90-day Notification*—Section 612(e) directs EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or *existing* chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

• *Outreach*—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

• *Clearinghouse*—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the final rulemaking (59 FR 13044) which described the process for administering the SNAP program. In the same notice, we issued the first acceptability lists for substitutes in the major industrial use sectors. These sectors include:

• Refrigeration and air conditioning;
• Foam blowing;
• Solvents cleaning;
• Fire suppression and explosion protection;
• Sterilants;
• Aerosols;
• Adhesives, coatings and inks; and
• Tobacco expansion.

These sectors compose the principal industrial sectors that historically consumed the largest volumes of ozone-depleting compounds.

As described in this original rule for the SNAP program, EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substance. Therefore, by this notice we are adding substances to the list of acceptable alternatives without first requesting comment on new listings.

However, we do believe that notice-and-comment rulemaking is required to place any substance on the list of prohibited substitutes, to list a substance as acceptable only under certain conditions, to list substances as acceptable only for certain uses, or to remove a substance from the lists of prohibited or acceptable substitutes. We publish updates to these lists as separate notices of rulemaking in the **Federal Register.**

The Agency defines a ''substitute'' as any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or class II substance. Anyone who produces a substitute must provide EPA with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators, or end-users, when they are responsible for introducing a substitute into commerce.

You can find a complete chronology of SNAP decisions and the appropriate **Federal Register** citations from the SNAP section of EPA's Ozone Depletion World Wide Web site at *www.epa.gov/ozone/snap/chron.html.* This information is also available from the Air Docket (see **ADDRESSES** section above for contact information).

Dated: August 7, 2003.

Brian J. McLean,

Director, Office of Atmospheric Programs, Office of Air and Radiation.

Appendix A: Summary of Acceptable Decisions

End-Use	Substitute	Decision	Further information
Refrigeration and Air Conditioning			
Industrial process refrigeration (retrofit and new).	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable.	
Industrial process air conditioning (retrofit and new).	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable	
Ice skating rinks (retrofit and new)	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable.	
Cold storage warehouses (retrofit and new)	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable.	
Refrigerated transport (retrofit and new)	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable.	
Retail food refrigeration (retrofit and new) ..	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable.	
Vending machines (retrofit and new)	R–407C as a substitute for R–502	Acceptable.	
Water coolers (retrofit and new)	R–407C as a substitute for R–502	Acceptable.	
Commercial ice machines (retrofit and new).	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable.	
Household refrigerators and freezers (retrofit and new).	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable.	
Centrifugal chillers (retrofit and new)	RS–44 as a substitute for HCFC–22.	Acceptable.	
Reciprocating chillers (retrofit and new)	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable.	
Screw chillers (retrofit and new)	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable.	
Very low temperature refrigeration (retrofit and new).	ISCEON 89 as a substitute for R–13B1.	Acceptable.	
Non-mechanical heat transfer systems (retrofit and new).	R–407C as a substitute for R–502	Acceptable.	
Household and light commercial air conditioning (retrofit and new).	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable.	
Residential dehumidifiers (retrofit and new)	RS–44 as a substitute for HCFC–22. R–407C as a substitute for R–502	Acceptable. Acceptable.	
Solvent Cleaning			
Precision cleaning	HFE–7000 as a substitute for CFC–113, methyl chloroform, and HCFC–141b.	Acceptable	EPA expects that the workplace environmental exposure will not exceed the workplace exposure limit of 75 ppm and that users will observe the manufacturer's recommendations in MSDSs.

End-Use	Substitute	Decision	Further information
Electronics cleaning	HFE–7000 as a substitute for CFC–113, methyl chloroform, and HCFC–141b.	Acceptable	EPA expects that the workplace environmental exposure will not exceed the workplace exposure limit of 75 ppm and that users will observe the manufacturer's recommendations in MSDSs.
Foam Blowing			
Rigid polyurethane and polyisocyanurate laminated boardstock.	Ecomate as a substitute for CFCs and HCFCs. HFC–245fa as a substitute for HCFCs. Blends of HFC–245fa and HCFC–22 as a substitute for blends of HCFC–141b and HCFC–22.	Acceptable. Acceptable. Acceptable.	
Rigid polyurethane appliance foam	Ecomate as a substitute for CFCs and HCFCs. HFC–245fa as a substitute for HCFCs. Blends of HFC–245fa and HCFC–22 as a substitute for blends of HCFC–141b and HCFC–22.	Acceptable. Acceptable. Acceptable.	
Rigid polyurethane slabstock and other foams.	Ecomate as a substitute for CFCs and HCFCs. HFC–245fa as a substitute for HCFCs. Blends of HFC–245fa and HCFC–22 as a substitute for blends of HCFC–141b and HCFC–22.	Acceptable. Acceptable. Acceptable.	
Rigid polyurethane commercial refrigeration and sandwich panels.	Ecomate as a substitute for CFCs and HCFCs. HCF–245fa as a substitute for HCFCs. Blends of HFC–245fa and HCFC–22 as a substitute blends of HCFC–141b and HCFC–22.	Acceptable. Acceptable. Acceptable.	
Polyurethane integral skin foam	Ecomate as a substitute for CFCs and HCFCs. HFC–245fa as a substitute for HCFCs. Blends of HFC–245fa and HCFC–22 as a substitute for blends of HCFC–141b and HCFC–22.	Acceptable. Acceptable. Acceptable.	
Phenolic insulation board and bunstock	HFC–245fa as a substitute for HCFCs. Blends of HFC–245fa and HCFC–22 as a substitute for blends of HCFC–141b and HCFC–22.	Acceptable. Acceptable.	
Polyolefin	HFC–245fa as a substitute for HCFCs. Blends for HFC–245fa and HCFC–22 as a substitute for blends of HCFC–141b and HCFC–22.	Acceptable. Acceptable.	
Fire Suppression and Explosion Protection			
Total flooding	NAF S–125 as a substitute for Halon 1301.	Acceptable	Use of the agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Extinguisher bottles should be clearly labeled with the potential hazards associated with the use of HFC–125 and d-limonene, as well as handling procedures to reduce risk resulting from these hazards.

End-Use	Substitute	Decision	Further information
			See additional notes 1, 2, 3, 4, 5.
Aerosols			
Aerosol solvents	HFE–7000 as a substitute for CFC–113, methyl chloroform, and HCFC–141b.	Acceptable	EPA expects that the workplace environmental exposure will not exceed the workplace exposure limit of 75 ppm and that users will observe the manufacturer's recommendations in MSDSs.

Additional notes:

1—Should conform with relevant OSHA requirements, including 29 CFR 1910, Subpart L, Sections 1910.160, 1910.161 (dry chemicals and aerosols) and 1910.162 (gaseous agents).

2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.

3—Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.

4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.

5—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (*e.g.,* respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to halon substitutes.

[FR Doc. 03–21425 Filed 8–20–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7547–1]

Public Water System Supervision Program Revision for the State of Arkansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Arkansas is revising its approved Public Water System Supervision Program. Arkansas has adopted the Lead and Copper Rule Minor Revisions to provide monitoring relief for public water systems and clarify some corrosion control treatment requirements, Variance and Exemptions Rule to maintain the authority to issue variances and exemptions especially small system variances, Public Notification Rule to provide more timely notice for violations that pose an acute risk to public health, Radionuclides Rule to standardize the monitoring of radiological contaminants and establish a maximum contaminant level (MCL) for uranium, the Arsenic Rule to provide for better public health protection by lowering the MCL for arsenic and the Filter Backwash Recycling Rule to require water systems to institute changes to return recycle flow to a plant's treatment process that may otherwise compromise microbial control. EPA has determined that these revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA intends to approve these program revisions.

DATES: All interested parties may request a public hearing. A request for a public hearing must be submitted by September 22, 2003 to the Regional Administrator at the EPA Region 6 address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by September 22, 2003, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on September 22, 2003. Any request for a public hearing shall include the following information: The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Arkansas Department of Health, Division of Engineering—Slot #37, 4815 West Markham, Little Rock, Arkansas 72205 and United States Environmental Protection Agency, Region 6, Drinking Water Section (6WQ–SD), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT: José G. Rodriguez, EPA Region 6, Drinking Water Section at the Dallas address given above or at telephone (214) 665–8087.

Authority: (Section 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations)

Dated: August 14, 2003.

Lawrence Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 03–21426 Filed 8–20–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

Previously Announced Date & Time: Tuesday, August 25, 2003, 10 a.m., Meeting Closed to the Public. This Meeting Was Rescheduled to Wednesday, August 27, 2003.

DATE AND TIME: Wednesday, August 27, 2003 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, August 28, 2003 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Draft Advisory Opinion 2003–20: U.S. Representative Silvestre Reyes by J. Fernando Barrueta, Hispanic College Fund, Inc.

Draft Advisory Opinion 2003–22: American Bankers Association and ABA BankPAC, by counsel Kenneth A. Gross and Ki P. Hong.

Notice of Proposed Rulemaking on Mailing Lists.

Notice of Proposed Rulemaking on Telephone Banks.

Routine Administrative Matters.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 03–21533 Filed 8–19–03; 11:25 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 4, 2003.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. The Mike Wilson Descendents' Trust, Jacksonville, Arkansas, to increase its control of First Arkansas Bancshares, Inc., Jacksonville, Arkansas (''Bancshares''). In addition, Larry T. Wilson, Michael K. Wilson, Kathryn W. Roberts, the Kenneth Pat Wilson Annual Gift Trust, the Larry Timothy Wilson Annual Gift Trust, the Kathryn Patricia Wilson Roberts Annual Gift Trust, the Michael K. Wilson Annual Gift Trust, and The Mike Wilson Descendents' Trust, all of Jacksonville, Arkansas, have applied to retain control of Bancshares.

B. Federal Reserve Bank of Minneapolis (Richard M. Todd, Vice President and Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Gale Mark Hoese, David Kurt Hoese, and Terry Clayton Hoese, all of Glencoe, Minnesota, and Todd Curtis Hoese, Waconia, Minnesota; to acquire control of Commercial Bancshares, Inc., Bloomington, Minnesota, and thereby indirectly acquire control of First Commercial Bank, Bloomington, Minnesota.

Board of Governors of the Federal Reserve System, August 15, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–21394 Filed 8–20–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *http://www.ffiec.gov/nic*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 15, 2003.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30303:

1. Freedom Bancshares, Inc., Commerce, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Freedom Bank of Georgia, Commerce, Georgia.

2. RB Bancorporation, Athens, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Reliance Bank, Athens, Alabama.

Board of Governors of the Federal Reserve System, August 15, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–21393 Filed 8–20–03; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003F–0370]

Unilever United States, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Unilever United States, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of vitamin D_3 as a nutrient supplement in certain foods for special dietary use, such as meal replacement products and snack replacement products.

FOR FURTHER INFORMATION CONTACT: Judith L. Kidwell, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 202–418–3354.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP No. 3A4746) has been filed by Unilever United States, Inc., 390 Park Ave., New York, NY 10022–4698. The petition proposes to amend the food additive regulations in § 172.380 *Vitamin D_3* (21 CFR 172.380) to provide for the safe use of vitamin D_3 in certain foods for special dietary use, such as meal replacement products and snack replacement products.

The agency has determined under 21 CFR 25.32(k) 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.

Dated: August 1, 2003.

Laura M. Tarantino,

Acting Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 03–21396 Filed 8–20–03; 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: Drug Pricing Program Reporting Requirements (OMB No. 0915–0176)—Revision

Section 602 of Pub. L. 102–585, the Veterans Health Care Act of 1992, enacted section 340B of the Public Health Service Act (PHS Act), ''Limitation on Prices of Drugs Purchased by Covered Entities.'' Section 340B provides that a manufacturer who sells covered outpatient drugs to eligible entities must sign a pharmaceutical pricing agreement with the Secretary of Health and Human Services in which the manufacturer agrees to charge a price for covered outpatient drugs that will not exceed an amount determined under a statutory formula.

Covered entities which choose to participate in the section 340B drug discount program must comply with the requirements of section 340B(a)(5) of the PHS Act. Section 340B(a)(5)(A) prohibits a covered entity from accepting a discount for a drug that would also generate a Medicaid rebate. Further, section 340B(a)(5)(B) prohibits a covered entity from reselling or otherwise transferring a discounted drug to a person who is not a patient of the entity.

In response to the statutory mandate of section 340B(a)(5)(C) to develop audit guidelines and because of the potential for disputes involving covered entities and participating drug manufacturers, the HRSA Pharmacy Affairs Branch (PAB) has developed a dispute resolution process for manufacturers and covered entities as well as manufacturer guidelines for audit of covered entities.

Audit guidelines: A manufacturer will be permitted to conduct an audit only when there is reasonable cause to believe a violation of section 340B(a)(5)(A) or (B) has occurred. The manufacturer must notify the covered entity in writing when it believes the covered entity has violated the provisions of section 340B. If the problem cannot be resolved, the manufacturer must then submit an audit work plan describing the audit and evidence in support of the reasonable cause standard to the HRSA PAB for review. The office will review the documentation to determine if reasonable cause exist. Once the audit is completed, the manufacturer will submit copies of the audit report to the HRSA PAB for review and resolution of the findings, as appropriate. The manufacturer will also submit an informational copy of the audit report to the HHS Office of Inspector General.

Dispute resolution guidelines: Because of the potential for disputes involving covered entities and participating drug manufacturers, the HRSA PAB has developed an informal dispute resolution process which can be used if an entity or manufacturer is believed to be in violation of section 340B. Prior to filing a request for resolution of a dispute with the HRSA PAB, the parties must attempt, in good faith, to resolve the dispute. All parties involved in the dispute must maintain written documentation as evidence of a good faith attempt to resolve the dispute. If the dispute is not resolved and dispute resolution is desired, a party must submit a written request for a review of the dispute to the HRSA PAB. A committee appointed to review the documentation will send a letter to the party alleged to have committed a violation. The party will be asked to provide a response to or a rebuttal of the allegations.

To date, there have been no requests for audits, but two disputes have reached the level where a committee review may be needed. As a result, the estimates of annualized hour burden for audits and disputes have been reduced to the level shown in the table below.

Reporting Requirement	No. of Respondents	Responses per Respondent	Total Responses	Hours/Response	Total Burden Hours
AUDITS					
Audit Notification of Entity [1]	2	1	2	4	8
Audit Workplan [1]	1	1	1	8	8
Audit Report [1]	1	1	1	1	1
Entity Response	0	0	0	0	0
DISPUTE RESOLUTION					
Mediation Request	2	4	8	10	80
Rebuttal	2	1	2	16	32
TOTAL	8	1.8	14	9.2	129

[1] Prepared by the manufacturer

Recordkeeping requirement	No. of record-keepers	Hours of rec-ordkeeping	Total burden
Dispute records	10	15	5

The total burden is 134 hours.

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: August 15, 2003.

Jon L. Nelson,

Associate Administrator for Management and Program Support.

[FR Doc. 03–21399 Filed 8–20–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Interdisciplinary, Community-Based Linkages; Notice of Meeting; Cancellation

In notice FR Doc. 03–20249, on page 47344 in the **Federal Register** of August 8, 2003, the meeting scheduled for September 7–9, 2003, is canceled.

Authority: Public Law 92–463.

Dated: August 15, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–21397 Filed 8–20–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

CDC/HRSA Advisory Committee on HIV and STD Prevention and Treatment Ryan White Comprehensive AIDS Resources Emergency (CARE) Act Reauthorization Workgroup

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of public meetings and opportunity to provide written comments.

SUMMARY: On May 15, 2003, the Centers for Disease Control and Prevention (CDC)/Health Resources and Services Administration (HRSA) Advisory Committee on HIV and STD Prevention and Treatment established the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act Reauthorization Workgroup. The workgroup is seeking public input about future HIV/AIDS care program directions including issues related to the third reauthorization of the Ryan White CARE Act. The CDC/HRSA Advisory Committee on HIV and STD Prevention and Treatment will subsequently submit a set of formal recommendations relating to future program directions and reauthorization issues to the HRSA Administrator.

DATES: Three public meetings will be held on September 12, 2003, September 25, 2003, and October 3, 2003, from 9:30 a.m. to 3:30 p.m. To be assured of consideration for this public session, written comments should be postmarked no later than 12 days prior to each meeting.

ADDRESSES: The September 12, 2003, public meeting will be held at the Marriott Wardman Park Hotel, 2660 Woodley Road, NW., Washington, DC, telephone (202) 328–2000; the September 25, 2003, public meeting will be held at the Miami Airport Marriott, 1201 NW., LeJeune Road, Miami, Florida, telephone (305) 649–5000; and the October 3, 2003, public meeting will be held at the Hyatt Regency Los Angeles, 711 South Hope Street, Los Angeles, California, telephone (213) 683–1234. Written comments should be sent to the CDC/HRSA Advisory Committee on HIV and STD Prevention and Treatment, c/o HRSA HIV/AIDS Bureau, Office of Policy and Program Development, Attention: Regina Tosca, Parklawn Building, Room 7–18, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Ms. Shelley Gordon, Office of Policy and Program Development, HIV/AIDS Bureau, Health Resources and Services Administration, (301) 443–5400, fax (301) 443–3323, or e-mail *SGordon@HRSA.gov.*

SUPPLEMENTARY INFORMATION: The meetings will be open to the public, limited only by the space available. The meeting rooms will accommodate approximately 80 people. The purpose of the meetings is to obtain public input into future program directions and issues related to the reauthorization of the Ryan White CARE Act of 1990, as amended by the Ryan White CARE Act Amendment of 1996 and 2000 (Pub. L. 104–146 and Pub. L. 106–345). Written comments should be limited to no more than 10 single-spaced pages (or 20 double-spaced, excluding addendum or supplemental materials) and should contain the name, address, telephone and fax numbers, and any organizational affiliation of the persons requesting to provide a written statement. All requests for making oral comments will be honored at the meetings on September 12, September 25, and October 3. Depending on the number of requests to present oral comments, it may be necessary to limit the length of time for each presenter. We are particularly interested in comments which address the following questions:

1. Is the CARE Act structured to best provide Federal Emergency Assistance for HIV treatment and care services?

2. What in the CARE Act works for you and what does not?

3. Does the CARE Act provide adequate resources to respond to your needs or those of your community?

4. Does the CARE Act local planning process (*e.g.,* needs assessment, priority setting, and allocation processes) ensure a fair and appropriate opportunity to determine the HIV care and support service needs of your community?

5. What are the most significant HIV service gaps in your community? How can the CARE Act help fill them?

6. What are the most significant barriers to access to services? How can the CARE Act help overcome them?

7. How can the CARE Act respond more fully to the current and changing needs of people living with HIV?

8. What is the single most important thing you would change in the CARE Act and why?

Authority: Pub. L. 92–463 (5 U.S.C., App. 2); 42 U.S.C. 217a, sec. 222 of the Public Health Service Act.

Dated: August 14, 2003.

Elizabeth M. Duke,

Administrator.

[FR Doc. 03–21398 Filed 8–20–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

[CBP Decision 03–20]

Customs Approval of BSI Inspectorate America Corporation as a Commercial Gauger

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of Approval of BSI Inspectorate America Corporation of Tallaboa-Penuelas, Puerto Rico, as a Commercial Gauger.

SUMMARY: BSI Inspectorate America Corporation of Tallaboa-Penuelas, Puerto Rico has applied to Customs and Border Protection under Part 151.13 of the Customs Regulations for approval as a commercial gauger to gauge petroleum products, animal and vegetable oils, and organic compounds. Customs has determined that this company meets all of the requirements for approval as a commercial gauger. Specifically, BSI Inspectorate America Corporation has been granted approval to gauge petroleum product under Chapter 27 and Chapter 29, animal and vegetable oils under Chapter 15 and organic compounds under Chapter 29 of the Harmonized Tariff Schedule of the United States (HTSUS). Therefore, in accordance with Part 151.13 of the Customs Regulations, BSI Inspectorate America Corporation of Tallaboa-Penuelas, Puerto Rico, is hereby approved to gauge the products named above.

Location: BSI Inspectorate America Corporation accredited site is located at: Bo. Encarnacion Road 127 Km 19.1, Tallaboa-Penuelas, Puerto Rico 00624.

EFFECTIVE DATE: July 17, 2003.

FOR FURTHER INFORMATION CONTACT: Arlene Faustermann, Science Officer, Laboratories and Scientific Services, Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500 North, Washington, DC 20229, (202) 927–1060.

Dated: July 17, 2003.

Donald A. Cousins,

Acting Executive Director, Laboratories and Scientific Services.

[FR Doc. 03–21465 Filed 8–20–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

[CBP Decision 03–19]

Customs Accreditation of BSI Inspectorate America Corporation as a Commercial Laboratory

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of Accreditation of BSI Inspectorate America Corporation of Tallaboa-Penuelas, Puerto Rico, as a Commercial Laboratory.

SUMMARY: BSI Inspectorate America Corporation of Tallaboa-Penuelas, Puerto Rico has applied to Customs and Border Protection under Part 151.12 of the Customs Regulations for accreditation as a commercial laboratory to analyze petroleum products under Chapter 27 and Chapter 29 of the Harmonized Tariff Schedule of the United States (HTSUS). Customs has determined that this company meets all of the requirements for accreditation as a commercial laboratory. Specifically, BSI Inspectorate America Corporation has been granted accreditation to perform the following test methods at their Tallaboa-Penuelas, Puerto Rico site: (1) Distillation of Petroleum Products, ASTM D86; (2) Flash-Point by Pensky Martens Closed Cup Tester, ASTM D93; (3) Water in Petroleum Products and Bituminous Materials by Distillation, ASTM D95; (4) API Gravity by Hydrometer, ASTM D287; (5) Kinematic Viscosity of Transparent and Opaque Liquids, ASTM D445; (6) Sediment in Crude Oils and Fuel Oils by Extraction, ASTM D473; (7) Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method, ASTM D1298; (8) Water in Crude Oil by Distillation, ASTM D4006; (9) Percent by Weight of Sulfur by Energy-Dispersive X-Ray Fluorescence, ASTM D4294; and (10) Vapor Pressure of Petroleum Products, ASTM D5191. Therefore, in accordance with Part 151.12 of the Customs Regulations, BSI Inspectorate America Corporation of Tallaboa-Penuelas, Puerto Rico is hereby accredited to analyze the products named above.

Location: BSI Inspectorate America Corporation accredited site is located at: Bo. Encarnacion Road 127 Km 19.1, Tallaboa-Penuelas, Puerto Rico 00624.

EFFECTIVE DATE: July 15, 2003.

FOR FURTHER INFORMATION CONTACT: Arlene Faustermann, Science Officer, Laboratories and Scientific Services, Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500 North, Washington, DC 20229, (202) 927–1060.

Dated: July 15, 2003.

Donald A. Cousins,

Acting Executive Director, Laboratories and Scientific Services.

[FR Doc. 03–21466 Filed 8–20–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4834–C–02]

Notice of Funding Availability (NOFA) for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages, Fiscal Year 2003; Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages, Fiscal Year 2003; Correction.

SUMMARY: On July 16, 2003, HUD published the Notice of Funding Availability (NOFA) for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages Fiscal Year 2003. This document makes several technical corrections to the NOFA.

FOR FURTHER INFORMATION CONTACT: Jacqueline Kruszek, Office of Public and Indian Housing, Denver Regional Office, Department of Housing and Urban Development, 633 17th Street, Denver, CO, 80202–3607, telephone (303) 675–1600 (this is not a toll-free number). Persons with hearing and/or speech challenges may access the above telephone number via TTY (text telephone) by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On July 16, 2003, HUD published the Notice of Funding Availability (NOFA) for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages, Fiscal Year 2003 (68 FR 42190). Subsequent to publication, it was discovered that additional funds were available but not stated in the NOFA. This document makes clear the amount of funds available. In addition, it was determined that paragraph numbers were inadvertently omitted from both Section VI. ''Threshold Requirements'' and under Rating Factor

3 under the element labeled, ''Public Facilities and Improvement Projects.'' The labels are corrected in this document. Further, it was determined, and is corrected in this document, that under Rating Factor 1, zero points will be awarded if an applicant has not submitted either of the reports required by Rating Factor 1 in a timely manner. Also, it was ascertained that incorrect dollar values were listed under Rating Factor 2 in the NOFA, ''Need/Extent of the Problem,'' and the dollar values are corrected in this document.

Additionally, it was determined that language in Rating Factor 2, in the section entitled, ''Public Facilities and Improvements and Economic Development Projects,'' needed explanation. Therefore, a clarification is made by this document. In addition, a correction is made in this document to make clear that the title of form HUD–424 is ''Application for Federal Assistance.'' This document also clarifies that the Logic Model form may be used to address program evaluation requirements under Rating Factor 1(1)(b) of this NOFA. Finally, it was determined that the text under Rating Factor 3 ''Soundness of Approach'', subsection entitled, ''Public Facilities and Improvement Projects'' was confusing. The text of that subsection is clarified in this document.

Accordingly, the Notice of Funding Availability (NOFA) for the Community Development Block Grant Program for Indian Tribes and Alaska Villages, Fiscal Year 2003, published in the **Federal Register** on July 16, 2003, (68 FR 41290) is corrected as follows:

1. On page 42190, in the first column, the paragraph entitled, ''Available Funds'' is corrected to read as follows: ''The FY 2003 appropriation for the ICDBG Program is $70,538,500. In addition, FY 2002 ICDBG carry-over of $7,899,850 is available for distribution, for a total of $78,438,350.''

2. On page 42195, in the middle column under Section II. entitled, ''Amount Allocated,'' paragraph (A) ''Available Funds'' is corrected to read as follows: ''The FY 2003 appropriation for the ICDBG Program is $70,538,500. In addition, FY 2002 ICDBG carry-over of $7,899,850 is available for distribution, for a total of $78,438,350.''

3. On page 42195, in the middle column, under Section II. entitled, ''Amount Allocated,'' paragraph (C) ''Allocations to Area ONAPs'' is corrected to read as follows: ''The requirements for allocating funds to Area ONAPs responsible for program administration are found at 24 CFR 1003.101. Following these requirements, based on an appropriation of $70,538,500 and FY 2002 ICDBG carry-over of $7,899,850, less $4,000,000 retained to fund Imminent Threat Grants, the allocations for FY 2003 are as follows:

Eastern/Woodland	$ 8,028,368
Southern Plains	14,911,565
Northern Plains	11,210,433
Southwest	29,066,801
Northwest	4,004,517
Alaska	7,216,666
Total	$74,438,350

4. On page 42201, in the middle column, the subsection heading, ''Project Specific Threshold Requirements'' is corrected to read as follows, ''(B) Project Specific Threshold Requirements.''

5. On page 42204, paragraph (b), beginning in the middle column and continuing to the third column, is corrected by adding the following sentence prior to paragraph (c): ''(0 points) The applicant has not submitted either of the required reports in a timely manner.''

6. On page 42205, in the first column, paragraph (a) ''Public Facilities and Improvements and Economic Development Projects'' is corrected to read as follows: ''The proposed activities benefit the neediest segment of the population, as identified below. For economic development projects, you may consider beneficiaries of the project as persons served by the project and/or persons employed by the project, and jobs created or retained by the project.''

7. On page 42205, in the middle column, the sixth paragraph is corrected to read as follows: ''This ratio is computed for each tribe and contained in Appendix B of this NOFA.

(15 points) $400–$699 or the tribe's total FY 2003 IHBG amount was $100,000 or less and Appendix B of this NOFA does not indicate that the Indian tribe has no AIAN households experiencing income or housing problems.

(10 points) $700–1,199

(5 points) $1,200–$1,999

(0 points) The dollar amount for the Indian tribe is $2,000 or higher, or Appendix B of this NOFA indicates that the Indian tribe has no AIAN households experiencing income or housing problems.''

8. On page 42206, in the first column, the subsection heading, ''Public Facilities and Improvement Projects'' is corrected to read as follows: ''(a) Public Facilities and Improvement Projects.

(15 points) If a tribe assumes operation and maintenance responsibilities for the public facilities and improvements, a tribal resolution is included in the application that adopts the operation and maintenance plan and commits the necessary funds to provide for these responsibilities. In addition, the operation and maintenance plan is included in the application and addresses maintenance, repairs, insurance, and replacement reserves and includes a cost breakdown for annual expenses. If an entity other than the tribe commits to pay for operation and maintenance for the public facilities and improvements, a letter of commitment from the entity is included in the application that identifies the maintenance responsibilities and, if applicable, responsibilities for operations the entity will assume as well as the necessary funds to provide for these responsibilities. Submission of the operation and maintenance plan is not required when an entity other than the tribe assumes operation and maintenance responsibilities. For community buildings only, a tribal resolution or letter of commitment is included in the application that identifies the source of and commits the necessary operating funds for any recreation, social or other services to be provided. In addition, letters of commitment from service providers are included which address both operating expenses and space needs.

(10 points) If a tribe assumes operation and maintenance responsibilities for public facilities and improvements, a tribal resolution is included in the application that adopts the operation and maintenance plan and commits the necessary funds to provide for these responsibilities. In addition, the operation and maintenance plan is included in the application and addresses most of the above items (maintenance, repairs, insurance, replacement reserves) but does not include a satisfactory cost breakdown for annual expenses. If an entity other than the tribe commits to pay for operation and maintenance for the public facilities and improvements, a letter of commitment identifying maintenance responsibilities and, if applicable, responsibilities for operations the entity will assume, but no information committing the necessary funds in included. Submission of the operation and maintenance plan is not required when an entity other than the tribe assumes operation and maintenance responsibilities. For community buildings only, a tribal resolution or letter of commitment is included in the application that identifies the source of and commits the necessary operating funds for any recreation, social or other

services to be provided. In addition, letters of commitment from service providers are included which address both operating expenses and space needs. Information provided is sufficient to determine that the project will proceed effectively.

(5 points) If a tribe assumes operation and maintenance responsibilities for public facilities and improvements, a tribal resolution is included in the application that adopts the operation and maintenance plan and commits the necessary funds to provide for these responsibilities or the operation and maintenance plan is included in the application and addresses most of the above items (maintenance, repairs, insurance, replacement reserves). If an entity other than the tribe commits to pay for operation and maintenance for the public facilities and improvements, the maintenance provider is identified and, if applicable, responsibilities for operations the entity will assume are included in the application, but no letter of commitment is provided. For community buildings only, no tribal resolution or letter of commitment is included in the application that identifies the source of and commits the necessary funds for any recreation, social or other services to be provided. However, letters of commitment to provide services are included but they do not address operating expenses and space needs. Information provided is sufficient to determine that the project will proceed effectively.

(0 points) None of the above criteria is met.''

9. On page 42207, in the third column under the subsection entitled, ''Rating Factor 5 Comprehensiveness and Coordination (5 points)'' that continues to the first column on page 42208, the last sentence of the paragraph is corrected to read as follows: ''However, applicants may use this form to address program evaluation requirements under Rating Factor 1(1)(b) of this NOFA.''

10. In the middle column on page 42208, under paragraph (C), entitled, ''Application Submission,'' number one on the list of forms is corrected to read as follows: ''1. Application for Federal Assistance (HUD–424).''

Dated: August 15, 2003.

Michael M. Liu,

Assistant Secretary for Public and Indian Housing

[FR Doc. 03–21420 Filed 8–18–03; 12:19 pm]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability; Draft Environmental Impact Statement on Resident Canada Goose Management; Reopening of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability for public comment; reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is reopening the comment period on a Draft Environmental Impact Statement (DEIS) which is available for public review. The DEIS analyzes the potential environmental impacts of alternative strategies to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce goose-related damages. The analysis provided in the DEIS is intended to accomplish the following: inform the public of the proposed action and alternatives; address public comment received during the scoping period; and disclose the direct, indirect, and cumulative environmental effects of the proposed actions and each of the alternatives. The Service invites the public to comment on the DEIS.

DATES: Written comments on the DEIS must be received on or before October 20, 2003.

ADDRESSES: Requests for copies of the DEIS should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, 4401 North Fairfax Drive, MBSP–4107, Arlington, Virginia 22203. Copies of the DEIS can be downloaded from the Division of Migratory Bird Management Web site at *http://migratorybirds.fws.gov.* Comments on the DEIS should be sent to the above address. Alternatively, comments may be submitted electronically to the following address: *canada_goose_eis@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brian Millsap, Chief, Division of Migratory Bird Management, or Ron Kokel (703) 358–1714.

SUPPLEMENTARY INFORMATION: On March 1, 2002 (67 FR 9448), and March 7, 2002 (67 FR 10431), notices were published in the **Federal Register** announcing the availability of our DEIS on resident Canada goose management. On March 26, 2002 (67 FR 13792), we published a notice in the **Federal Register** to announce the schedule of public hearings to invite further public participation in the DEIS review process.

The DEIS evaluates alternative strategies to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce goose-related damages. The objective of the DEIS is to provide a regulatory mechanism that would allow State and local agencies, other Federal agencies, and groups and individuals to respond to damage complaints or damages by resident Canada geese. The DEIS is a comprehensive programmatic plan intended to guide and intended to guide and direct resident Canada goose population growth and management activities in the conterminous United States. The DEIS analyzes seven management alternatives: (1) No Action (Alternative A); (2) Increase Use of Nonlethal Control and Management (excludes all permitted activities) (Alternative B); (3) Increase Use of Nonlethal Control and Management (continue permitting of those activities generally considered nonlethal) (Alternative C); (4) New Regulatory Options to Expand Hunting Methods and Opportunities (Alternative D); (5) Integrated Depredation Order Management (consisting of an Airport Depredation Order, a Nest and Egg Depredation Order, an Agricultural Depredation Order, and a Public Health Depredation Order) (Alternative E); (6) State Empowerment (Proposed Action) (Alternative F); and (7) General Depredation Order (Alternative G). Alternatives were analyzed with regard to their potential impacts on resident Canada geese, other wildlife species, natural resources, special status species, socioeconomics, historical resources, and cultural resources.

Our proposed action (Alternative F) would establish a regulation authorizing State wildlife agencies (or their authorized agents) to conduct (or allow) management activities, including the take of birds, on resident Canada goose populations when necessary to protect human health and safety; protect personal property, agricultural crops, and other interests from injury; and allow resolution or prevention of injury to people, property, agricultural crops, or other interests from resident Canada geese; and to reduce resident Canada goose populations within management objectives. Control and management activities include indirect and/or direct population control strategies such as aggressive harassment, trapping and relocation, nest and egg destruction, gosling and adult trapping and culling programs, or other general population reduction strategies. The intent of

Alternative F is to allow State wildlife management agencies sufficient flexibility, within predefined guidelines, to deal with problems caused by resident Canada geese within their respective States. Other guidelines under Alternative F would include criteria for such activities as control options for taking geese during the portion of the Migratory Bird Treaty closed period (August 1–31), airport, agricultural, and public health control, and the non-permitted take of nests and eggs.

We are publishing simultaneously a proposed rule in the **Federal Register** that would implement our preferred alternative. Because of the publishing of the proposed rule, we have reopened the comment period on the DEIS. The Service invites careful consideration by all parties, and welcomes serious scrutiny from those committed to the long-term conservation of migratory birds.

In order to be considered, electronic submission of comments must include your name and postal mailing address; we will not consider anonymous comments. All comments received including names and addresses, will become part of the public record. The public may inspect comments during normal business hours at the Service's office in Room 4701, 4501 North Fairfax Drive, Arlington, Virginia. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's National Environmental Policy Act regulations [40 CFR 1506.6(f)]. Our practice is to make all comments available for public inspection during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

Dated: July 1, 2003.

Steve Williams,

Director.

[FR Doc. 03–21269 Filed 8–20–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF INTERIOR

Geological Survey

Request for Public Comments on Information Collection To Be Submitted to OMB for Review Under the Paperwork Reduction Act

A request to reinstate the information collection described below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made within 60 days directly to the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192, telephone (703) 648–7313.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions on the bureaus, including whether the information will have practical utility;

2. The accuracy of the Bureau estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. How 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 forms of information technology.

Title: North American Bird Banding Program—Banding Database.

Previous OMB Approval Number: 1018–0006.

Summary: In accordance with the Migratory Bird Treaty Act, the USGS Bird Banding Laboratory issues permits for the trapping and marking of migratory birds. These permits require that data on marked birds be submitted to the Bird Banding Laboratory in a timely fashion. Currently this data is submitted electronically using a program (Band Manager) supplied by the Bird Banding Laboratory and the Canadian Bird Banding Office to all active permit holders. Data may also be submitted using a paper form. These data are used to provide researchers with information needed for projects and also to respond to the 85,000 reports of banded birds received annually by the Bird Banding Laboratory and the Canadian Bird Banding Office. These data are vital to the study of avian biology. Data are received for approximately 1.2 million birds per year. For further information on the North American Bird Banding Program, *see* our Web site *(http://www.pwrc,usgs.gov/bbl).*

Estimated Annual Number of Respondents: 2400.

Estimated Annual Burden Hours: 27, 563.

Affected Public: Primarily U.S. and Canadian citizens who hold either a U.S. or Canadian permit to mark and tag birds (bird banding).

For Further Information Contact: To obtain copies of the survey, contact the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192, telephone (703) 648–7313 or see the Web site at *http://www.pwrc,usgs.gov/bbl.*

Dated: August 11, 2003.

Ken Williams,

Acting Associate Director for Biology.

[FR Doc. 03–21430 Filed 8–20–03; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection To Be Submitted to OMB for Review Under the Paperwork Reduction Act

A request to reinstate the information collection described below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information may be obtained by contacting the Bureau clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made within 60 days directly to the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192, telephone (703) 648–7313.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the bureaus, including whether the information will have practical utility;

2. The accuracy of the Bureau estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. How 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 forms of information technology.

Title: North American Bird Banding Program—Encounter Database.

Previous OMB Approval Number: 1018–0005.

Summary: The North American Bird Banding Program receives reports of banded birds (encounters) from the public via a 1–800 telephone number, web site forms, and letters. These reports are submitted voluntarily at the volition of the reporter. The information that is collected (band number, type of bird, where and when it was found, how found) is computerized and utilized by state, provincial, federal and private agencies as well as by both U.S. and Canadian researchers. The data on waterfowl and other game birds are one part of the data set used to help managers set hunting regulations. All data are utilized by both private and public agencies and individuals for management and conservation studies. Also, avian researchers throughout North America utilize these data in many of their studies as well as in many publications on avian topics. All persons reporting a band encounter receive a Certificate of Appreciation giving them information on type of bird, when and where was banded and who banded. For further information on the North American Banding Program and the Encounter Database see our Web site (*http://www.pwrc.usgs.gov/bbl*).

Estimated Annual Number of Respondents: 85,000.

Estimated Annual Burden Hours: 7,083.

Affected Public: Primarily U.S. and Canadian citizens. Some citizens of Mexico, the Caribbean, Central America, Middle America, South America, Europe, Asia.

For Further Information Contact: To obtain copies of the survey, contact the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192, telephone (703) 648–7313 or *see* the Web site at *http://www.pwrc.usgs.gov/bbl.*

Dated: August 11, 2003.

Ken Williams,

Acting Associate Director for Biology.

[FR Doc. 03–21431 Filed 8–20–03; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection To Be Submitted to OMB for Review Under the Paperwork Reduction Act

A request to reinstate the information collection described below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information may be obtained by contacting the Bureau clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made within 60 days directly to the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192, telephone (703) 648–7313.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions on the bureaus, including whether the information will have practical utility;

2. The accuracy of the Bureau estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate, electronic, mechanical, or other forms of information technology.

Title: North American Bird Banding Program—Application for Federal Bird Banding Permit.

Previous OMB Approval Number: 1018–0017.

Summary: In accordance with the Migratory Bird Treaty Act and subsequent treaties with other countries, the trapping and marking of wild migratory birds must be monitored. To accomplish this mandate, federal permits are required to trap and mark. The permit is required for persons who trap and mark for research or management purposes. Responsibility to evaluate applications and issue permits is the responsibility of the USGS Bird Banding Laboratory. The application provides information about the applicant that is necessary to assess and evaluate qualifications of the applicant. For further information on the North American Bird Banding Program, *see* our Web site (*http://www.pwrc.usgs.gov/bbl*).

Estimated Annual Number of Respondents: 550.

Estimated Annual Burden Hours: 550.

Affected Public: Mostly U.S. citizens from the public and private sectors with a few from Canada, the Caribbean, Central America and South America. Permits to band in Canada are handled by the Canadian Wildlife Service, Bird Banding Office.

For Further Information Contact: To obtain copies of the survey, contact the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192, telephone (703) 648–7313 or *see* the Web site at *http://www.pwrc.usgs.gov/bbl.*

Dated: August 11, 2003.

Ken Williams,

Acting Associate Director for Biology.

[FR Doc. 03–21432 Filed 8–20–03; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Tribal-State Gaming Compact Between the State of Arizona and the Yavapai-Prescott Indian Tribe.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Tribal-State Compact for Class III gaming between the State of Arizona and the Yavapai-Prescott Indian Tribe. The Compact expands the scope of gaming activities authorized under the Compact, increase wager limits, increase the number of permitted gaming devices, and allows the tribe to enter into gaming device transfer agreements with one or more gaming tribes.

EFFECTIVE DATE: August 21, 2003.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: August 11, 2003.

Aurene M. Martin,

Assistant Secretary—Indian Affairs.

[FR Doc. 03–21464 Filed 8–20–03; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Beaufort Sea Alaska, Oil and Gas Lease Sale 186

AGENCY: Minerals Management Service, Interior.

ACTION: Final Notice of Sale (NOS) 186, Beaufort Sea.

SUMMARY: The MMS will open and publicly announce bids received for blocks offered in Oil and Gas Lease Sale 186 on September 24, 2003, in accordance with provisions of the OCS Lands Act (43 U.S.C. 1331–1356, as amended) and the implementing regulations (30 CFR part 256).

DATES: Public bid reading will begin at 9 a.m. on Wednesday, September 24, 2003, at the Wilda Marston Theatre, Z. J. Loussac Public Library, 3600 Denali Street, Anchorage, Alaska. All times referred to in this document are local Anchorage, Alaska times, unless otherwise specified.

ADDRESSES: A FNOS 186 package containing this Notice of Sale and several supporting and essential documents referenced herein are available from: Alaska OCS Region, Information Resource Center, Minerals Management Service, 949 East 36th Avenue, Room 330, Anchorage, Alaska 99508–4302, Telephone: (907) 271–6438 or 1–800–764–2627.

These documents are also available on the MMS Alaska OCS Region Internet site at *http://www.mms.gov/alaska.*

Filing of Bids: Bidders must submit bids to the Alaska OCS Region, 949 East 36th Avenue, Third Floor, Anchorage, Alaska 99508, between the hours of 8 a.m. and 4 p.m. on normal business days, prior to the Bid Submission deadline of 10 a.m., Tuesday, September 23, 2003. If bids are mailed, the envelope containing all of the sealed bids must be marked as follows:

Attention: Mr. Tom Warren, Contains Sealed Bids for Sale 186.

If bids are received later than the time and date specified above, they will be returned unopened to the bidders. Bidders may not modify or withdraw their bids unless the Regional Director, Alaska OCS Region receives a written modification or written withdrawal request prior to 10 a.m., Tuesday, September 23, 2003. Should an unexpected event such as an earthquake or travel restrictions be significantly disruptive to bid submission, the Alaska OCS Region may extend the Bid Submission Deadline. Bidders may call (907) 271–6010 for information about the possible extension of the Bid Submission Deadline due to such an event.

Note: Four blocks in the easternmost Beaufort Sea area are subject to jurisdictional claims by both the United States and Canada. This Notice refers to this area as the Disputed Portion of the Beaufort Sea. The section on Method of Bidding identifies the four blocks and describes the procedures for submitting bids for them.

Area Offered for Leasing: MMS is offering for leasing all whole and partial blocks listed in the document ''Blocks Available for Leasing in OCS Oil and Gas Lease Sale 186'' included in the FNOS 186 package. All of these blocks are shown on the following Official Protraction Diagrams (which may be purchased from the Alaska OCS Region):

- NR 05–01, Dease Inlet, revised September 30, 1997
- NR 05–02, Harrison Bay North, revised September 30, 1997
- NR05–03, Teshekpuk, revised September 30, 1997
- NR 05–04, Harrison Bay, revised September 30, 1997
- NR 06–01, Beechey Point North, approved February 1, 1996
- NR 06–03, Beechey Point, revised September 30, 1997
- NR 06–04, Flaxman Island, revised September 30, 1997
- NR 07–03, Barter Island, revised September 30, 1997
- NR 07–05, Demarcation Point, revised September 30, 1997
- NR 07–06, Mackenzie Canyon, revised September 30, 1997

Official block descriptions are derived from these diagrams; however, not all blocks included on a diagram are being offered. To ascertain which blocks are being offered and the royalty suspension provisions that apply you must refer to the document ''Blocks Available for Leasing in OCS Oil and Gas Lease Sale 186.'' The Beaufort Sea OCS Oil and Gas Lease Sale 186 Locator Map is also available to assist in locating the blocks relative to the adjacent areas. The Locator Map is for use in identifying locations of blocks but is not part of the official description of blocks available for lease. Some of the blocks may be partially encumbered by an existing lease, or transected by administrative lines such as the Federal/State jurisdictional line. Partial block descriptions are derived from Supplemental Official OCS Block Diagrams and OCS Composite Block Diagrams, which are available upon request at the address, phone number, or internet site given above.

Lease Terms and Conditions: On February 20, 2003, MMS published a Notice of Availability (68 FR 8306) of the proposed Notice of Sale for Sale 186, which included proposed lease terms and conditions providing for a minimum bid amount of $62 per hectare and a rental rate of $13 per hectare, consistent with past OCS sales in the Alaska OCS Region. After further consideration, MMS has determined that the minimum bid levels for Sale 186 should be reduced and rentals set on a sliding scale. MMS announced the intent to make these changes in a **Federal Register** notice published July 17, 2003, (68 FR 42420) to give potential bidders and other interested parties ample time to consider these changes in preparing for the lease sale. These changes, now adopted do not affect minimum royalty requirements, or royalty suspension volumes.

Initial Period: Ten years.

Minimum Bonus Bid Amount: Offer all blocks in Zone A with a minimum bid of $37.50 per hectare and all blocks in Zone B with a minimum bid of $25 per hectare. Refer to the Beaufort Sea OCS Oil and Gas Lease Sale 186 Locator Map mentioned above.

Rental Rates: The Lessee shall pay the Lessor, on or before the first day of each lease year which commences prior to a discovery in paying quantities of oil or gas on the leased area, a rental as shown in the table below.

Minimum Royalty Rates: The Lessee shall pay the Lessor, at the expiration of each lease year which commences after a discovery of oil and gas in paying quantities, a minimum royalty of $13 per hectare, or fraction thereof, until the start of royalty-bearing production.

Royalty Rates: A 12½ percent royalty rate will apply for all blocks.

SUMMARY TABLE OF MINIMUM BIDS, MINIMUM ROYALTY RATES AND RENTAL RATES

Terms (values per hectare)	Zone A	Zone B
Royalty Rate	12½% fixed	12½% fixed
Minimum Bid	$37.50	$25.00
Minimum Royalty	$13.00	$13.00
Rental Rates:		
Year 1	$7.50	$2.50
Year 2	$7.50	$3.75
Year 3	$7.50	$5.00
Year 4	$7.50	$6.25
Year 5	$7.50	$7.50
Year 6	$12.00	$10.00
Year 7	$17.00	$12.00
Year 8	$22.00	$15.00
Year 9	$30.00	$17.00
Year 10	$30.00	$20.00

Royalty Suspension Areas: Royalty suspension provisions apply to first oil production. Royalty suspensions on the production of oil and condensate, prorated by lease acreage and subject to price thresholds, will apply to all blocks. Royalty suspension volumes (RSV) are based on 2 zones, Zone A and Zone B, as depicted on the Locator Map and listed in the document ''Blocks Available for Leasing in the Beaufort Sea OCS Oil and Gas Lease Sale 186.'' More specific details regarding royalty suspension eligibility, applicable price thresholds and implementations are included in the document ''Royalty Suspension Provisions, Sale 186'' in the final NOS 186 package. Minimum royalty requirements apply during RSV periods. Depending on surface area and zone, leases will receive a RSV as follows:

Hectares	Zone A million barrels RSV	Zone B million barrels RSV
770 or less	10	15
771–1540	20	30
1541 or above	30	45

The RSV only applies to liquid hydrocarbon production, *i.e.,* oil and condensates. Natural gas volumes that leave the lease are subject to original lease-specified royalties. The market value of natural gas will be determined by MMS's Minerals Revenue Management (MRM) office. MRM will value the natural gas from Sale 186 based on its potential uses and applicable market characteristics at the time the gas is produced.

The lessee must pay royalty on production that would otherwise receive royalty suspension from automatic relief (in 30 CFR 260), and such production will count towards the RSV, in any calendar year during which the arithmetic average of the daily closing prices for the nearby delivery month on the New York Mercantile Exchange (NYMEX) for oil exceeds the adjusted product price threshold.

(a) The adjusted ceiling price threshold for light sweet crude oil in any year, say t, is determined by inflating an oil price of $28 per barrel beginning in base year 1994. This base year price is modified by the percentage change in the implicit price deflator for the interval between 1994 and year t, resulting in the adjusted oil price threshold for year t. For example, if the deflator from 1994 through 2003 indicates that inflation totaled 15 percent, then the adjusted price threshold in calendar year 2003 would become $32.20 per barrel for oil. Royalty on all oil production in calendar year 2003 would be due if the 2003 average NYMEX oil price exceeded $32.20 per barrel.

(b) MMS will provide notice when adjusted price thresholds are exceeded.

(c) In cases where the actual average price for the product exceeds the adjusted price threshold in any calendar year, royalties must be paid in the following calendar year. (*See* 30 CFR 260.122(c) for more detail.)

A fixed oil price floor applies, below which oil and condensate would be produced both royalty-free except for the required minimum royalty of $13 per hectare, and would not count against the RSV. Until the total RSV allocation is exhausted, if the arithmetic average of the daily closing oil prices for the specified time period is below the price floor, then any oil produced during that time period would be royalty-free and would not be subtracted from the lease's remaining RSV. If the arithmetic average of the daily closing oil prices falls below the floor price after the original RSV is exhausted, the lessee receives no additional royalty-free production.

(a) The price floor for light sweet crude oil is set at a fixed $18 per barrel with no adjustment for inflation. The comparison with the price floor is based on the arithmetic average of the daily closing prices for the ''nearby delivery month'' on the NYMEX for light sweet crude oil with no adjustments for inflation. ''The period of assessment'' for which the average daily prices are calculated is a quarter of a calendar year with the calendar year quarters being January–March, April–June, July–September, and October–December.

(b) MMS will provide notice in the **Federal Register** or directly to lessees when the average NYMEX quarterly oil price is below $18 per barrel.

The price ceiling and floor provisions expire when aggregate production excluding floor production volumes of oil (and condensate) has used up the lease's original RSV amount.

For purposes of the RSV, a lease operating under an approved unit agreement must have its own qualifying well, as defined in 30 CFR 250.115. Otherwise, production allocated to it from a well in another lease in the unit is not eligible for royalty relief.

Stipulations and Information to Lessees: The documents entitled ''Lease Stipulations for Oil and Gas Lease Sale 186'' and ''Information to Lessees for Oil and Gas Lease Sale 186'' contain the text of the Stipulations and the Information to Lessees that apply to this sale. This document is included in the FNOS 186 package.

Method of Bidding: Procedures for the submission of bids in Sale 186 are described in paragraph (a) below. Procedures for the submission bids for the four blocks in the Disputed Portion of the Beaufort Sea will differ as described in paragraph (b) below.

(a) *Submission of Bids.* For each block bid upon, a bidder must submit a separate signed bid in a sealed envelope labeled ''Sealed bid for Oil and Gas Lease Sale 186, not to be opened until 9 a.m., Wednesday, September 24, 2003.'' The total amount of the bid must be in whole dollars; any cent amount above the whole dollar will be ignored by MMS. Details of the information required on the bid(s) and the bid envelope(s) are specified in the document ''Bid Form and Envelope'' contained in the final NOS 186 package.

(b) *Submission of Bids in the Disputed Portion of the Beaufort Sea.* Procedures for the submission of bids on blocks 6201, 6251, 6301, and 6361 in Official Protraction Diagram NR 07–06 will differ from procedures in paragraph (a) above as follows:

Separate, signed bids on these blocks must be submitted in sealed envelopes labeled only with ''Disputed Portion of the Beaufort Sea,'' Company Number, and a sequential bid number for the company submitting the bid(s). The envelope thus would be in the following format: Disputed Portion of the Beaufort Sea Bid. Company No: 00000. Bid No: 1.

On or before September 24, 2008, the MMS will determine whether it is in the best interest of the United States either to open bids for these blocks or to return the bids unopened. The MMS will notify bidders at least 30 days before bid opening. Bidders on these blocks may withdraw their bids at any time after such notice and prior to 10 a.m. of the day before bid opening. If the MMS does not give notice by September 24, 2008, the bids will be returned unopened. The MMS reserves the right to return these bids at any time. The MMS will not disclose which blocks received bids or the names of bidders in this area unless the bids are opened.

The MMS published a list of restricted joint bidders, which applies to this sale, in the **Federal Register** at 68 FR 22415 on April 28, 2003. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, *e.g.* 33.33333 percent. MMS may require bidders to submit other documents in accordance with 30 CFR 256.46. MMS warns bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders. Bidders must execute all documents in conformance with signatory authorizations on file in the Alaska OCS Region. Partnerships also must submit or have on file a list of signatories authorized to bind the partnership. Bidders are advised that MMS considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including paying the one-fifth bonus bid amount on all high bids. A statement to this effect must be included on each bid (see the document ''Bid Form and Envelope'' contained in the FNOS 186 package).

Bonus Bid Deposit: Each bidder submitting an apparent high bid must submit a bonus bid deposit to MMS equal to one-fifth of the bonus bid amount for each such bid submitted for Sale 186. Under the authority granted by 30 CFR 256.46(b), MMS requires bidders to use electronic funds transfer (EFT) procedures for payment of the one-fifth bonus bid deposits, following the detailed instructions contained in the document ''Instructions for Making EFT Bonus Payments'' included in the FNOS 186 package. All payments must be electronically deposited into an interest-bearing account in the U.S. Treasury (account specified in the EFT instruction) by 1 p.m. Eastern Time the day following bid reading. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States. If a lease is awarded, MMS requests that only one transaction be used for payment of the four-fifths bonus bid amount and the first year's rental.

Please Note: Certain bid submitters [*i.e.*, those that do NOT currently own or operate an OCS mineral lease OR those that have ever defaulted on a one-fifth bonus payment (EFT or otherwise)] will be required to guarantee (secure) their one-fifth bonus payment prior to the submission of bids. For those who must secure the EFT one-fifth bonus payment, one of the following options may be provided: (1) A third-party guarantee; (2) an Amended Development Bond Coverage; (3) a Letter of Credit; or (4) a lump sum payment in advance via EFT. The EFT instructions specify the requirements for each option.

Withdrawal of Blocks: The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

Acceptance, Rejection, or Return of Bids: The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block will be awarded to any bidder, unless the bidder has complied with all requirements of this Notice, including the documents contained in the associated final NOS Sale 186 package and applicable regulations; the bid is the highest valid bid; and the amount of the bid has been determined to be adequate by the authorized officer. The Attorney General of the United States may also review the results of the lease sale prior to the acceptance of bids and issuance of leases. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and other applicable regulations may be returned to the person submitting that bid by the Regional Director and not considered for acceptance. To ensure that the Government receives a fair return for the conveyance of lease rights for this sale, high bids will be evaluated in accordance with MMS bid adequacy procedures.

Successful Bidders: As required by MMS, each company that has been awarded a lease must execute all copies of the lease (Form MMS–2005 (March 1986) as amended), pay by EFT the balance of the bonus bid amount and the first year's rental for each lease issued in accordance with the requirements of 30 CFR 218.155, and satisfy the bonding requirements of 30 CFR 256, subpart I. Each bidder who is a successful high bidder must have on file in the Alaska OCS Region a currently valid certification (Debarment Certification Form) certifying that the bidder is not excluded from participation in primary covered transactions under Federal non-procurement programs and activities. A certification previously provided to that office remains currently valid until new or revised information applicable to that certification become available. In the event of new or revised applicable information, MMS will require a subsequent certification before lease issuance can occur. Persons submitting such certification should review the requirements of 43 CFR, part 12, subpart D. A copy of the Debarment Certification Form is contained in the FNOS 186 package.

Affirmative Action: MMS requests that, prior to bidding, Equal Opportunity Affirmative Action Representation Form MMS 2032 (June 1985) and Equal Opportunity Compliance Report Certification Form MMS 2033 (June 1985) be on file in the Alaska OCS Region. This certification is required by 41 CFR 60 and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967. In any event, prior to the execution of any lease contract, both forms are required to be on file in the Alaska OCS Region.

Jurisdiction: The United States claims exclusive maritime resource jurisdiction over the area offered. Canada claims such jurisdiction over the four easternmost blocks included in the sale area. These blocks are located in Official Protraction Diagram NR 07–06 as block

numbers 6201, 6251, 6301, and 6361. Nothing in this Notice shall affect or prejudice in any manner the position of the United States with respect to the nature or extent of the internal waters, the territorial sea, the high seas, or sovereign rights or jurisdiction for any purpose whatsoever. Bid submission procedures pertaining to blocks in this Disputed Portion of the Beaufort Sea are described in paragraph (b) under Method of Bidding.

Notice of Bidding Systems: Section 8(a)(8) (43 U.S.C. 1337(a)(8)) of the OCS Lands Act requires that, at least 30 days before any lease sale, a Notice be submitted to Congress and published in the **Federal Register**. This Notice of Bidding Systems is for Sale 186, Beaufort Sea, scheduled to be held on September 24, 2003.

In Sale 186, all blocks are being offered under a bidding system that uses a cash bonus and a fixed royalty of 12 1/2 percent with a royalty suspension of up to 30 million barrels of oil equivalent per lease in Zone A of the sale area or with a royalty suspension of up to 45 million barrels of oil equivalent per lease in Zone B of the sale area. The amount of royalty suspension available on each lease is dependent on the area of the lease and specified in the Sale Notice. This bidding system is authorized under 30 CFR 260.110(a)(7), which allows use of a cash bonus bid with a royalty rate of not less than 12 1/2 percent and with suspension of royalties for a period, volume, or value of production, and an annual rental. Analysis performed by MMS indicates that use of this system provides an incentive for development of this area while ensuring that a fair sharing of revenues will result if major discoveries are made and produced.

Specific royalty suspension provisions for Sale 186 are contained in the document ''Royalty Suspension Provisions, Sale 186'' included in the FNOS 186 package.

Dated: August 15, 2003.

Thomas A. Readinger,

Acting Director, Minerals Management Service.

[FR Doc. 03–21472 Filed 8–20–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA, and U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA, and in the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC. The human remains and associated funerary objects were removed from the tribal lands of the Navajo Nation, Arizona, Utah, & New Mexico, Apache County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

An assessment of the human remains, and catalog records and associated documents relevant to the human remains, was made by Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of the Navajo Nation, Arizona, Utah, and New Mexico.

In 1924, human remains representing at least two individuals were removed from the ''West bank of Pueblo Colorado Wash,'' in the Cornfields District, Apache County, AZ, by Albert B. Reagan, who donated the human remains to the Phoebe Hearst Museum of Anthropology in the same year. No known individuals were identified. The one associated funerary object is a cotton cloth fragment.

Based on museum records that identify the human remains as a ''partial Navajo skeleton'' and the geographical location of the burials, the human remains are determined to be Native American. The presence of an associated funerary object of European origin dates the burials to a post-European contact time period. Consultation evidence indicates that the region was inhabited by Navajo culture groups at the time of European contact. The current descendants are the Navajo Nation, Arizona, Utah, and New Mexico. The west bank of Pueblo Colorado Wash, Cornfields District, Apache County, AZ, is within the exterior boundaries of the tribal lands of the Navajo Nation, Arizona, Utah, and New Mexico.

Officials of the U.S. Department of the Interior, Bureau of Indian Affairs and the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of at least two individuals of Native American ancestry. Officials of the U.S. Department of the Interior, Bureau of Indian Affairs and the Phoebe A. Hearst Museum of Anthropology also havae determined that, pursuant to 25 U.S.C. 3001(3)(A), the one object described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the U.S. Department of the Interior, Bureau of Indian Affairs and the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary object and the Navajo Nation, Arizona, Utah, and New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary object should contact C. Richard Hitchcock, NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA 94720, telephone (510) 642–6096, before September 22, 2003. Repatriation of the human remains and associated funerary object to the Navajo Nation, Arizona, Utah, and New Mexico may proceed after that date if no additional claimants come forward.

The Phoebe A. Hearst Museum of Anthropology is responsible for notifying the Navajo Nation, Arizona, Utah, and New Mexico that this notice has been published.

Dated: July 8, 2003.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 03–21390 Filed 8–20–03; 8:45 am]

BILLING CODE 4312–50–M

INTERNATIONAL TRADE COMMISSION

[Investigation 332–325]

The Economic Effects of Significant U.S. Import Restraints: Fourth Update

AGENCY: United States International Trade Commission.

ACTION: Notice of fourth update report and scheduling of public hearing.

EFFECTIVE DATE: August 14, 2003.

SUMMARY: The Commission has announced the schedule for its fourth update report in investigation No. 332–325, The Economic Effects of Significant U.S. Import Restraints, and has established deadlines for the submission of requests to appear at the hearing and for the filing of written submissions as set forth below. The investigation was requested by the Office of the U.S. Trade Representative (USTR) in May 1992. That request called for an initial investigation and subsequent updates, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION CONTACT: Soamiely Andriamananjara, Project Leader (202) 205–3252 or Marinos Tsigas, Deputy Project Leader (202) 708–3654, Office of Economics, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202) 205–3091. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the 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 these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

Background

The Commission instituted this investigation following receipt on May 15, 1992 of a request from the USTR. The request asked that the Commission conduct an investigation assessing the quantitative economic effects of significant U.S. import restraints on the U.S. economy, and prepare periodic update reports following the submission of the first report. The first report was delivered to the USTR in November 1993, the first update in December 1995, the second update in May 1999, and the third update in June 2002.

In this fourth update report, the Commission will assess the economic effects of significant tariff and non-tariff U.S. import restraints on U.S. consumers, on the activities of U.S. firms, on the income and employment of U.S. workers, and on the net economic welfare of the United States. The assessment will not include import restraints resulting from final antidumping or countervailing duty investigations, section 337 and 406 investigations, or section 301 actions.

The initial notice of institution of this investigation was published in the **Federal Register** of June 17, 1992 (57 FR 27063).

Public Hearing

A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on December 9, 2003. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, no later than 5:15 p.m., November 14, 2003. Any prehearing briefs (original and 14 copies) should be filed not later than close of business, November 17, 2003; the deadline for filing post-hearing briefs or statements is the close of business, January 10, 2004. In the event that, as of the close of business on November 14, 2003, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202) 205–2000 after November 20, 2003, to determine whether the hearing will be held.

Written Submissions

In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements (original and 14 copies) concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on January 10, 2004. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E St. SW., Washington, DC 20436. The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's Rules (19 CFR 201.8) (*see* Handbook for Electronic Filing Procedures, *ftp://ftp.usitc.gov/pub/reports/electronic_filing_handbook.pdf*).

Hearing-impaired persons are advised that information on this matter can be obtained 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 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*.

List of Subjects: U.S. Import Restraints, Nontariff measures (NTM), Tariffs, Imports.

By order of the Commission.

Issued: August 15, 2003.

Marilyn R. Abbott,

Secretary.

[FR Doc. 03–21455 Filed 8–20–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Pursuant to 28 CFR 50.7 notice is hereby given that on July 31, 2003, a proposed Consent Decree in *United States* v. *E.F.I. DuPont De Nemours and Company (''DuPont''),* Civil Action No. 5.03CV–175–R, was lodged with the United States District Court for the Western District of Kentucky.

The Consent Decree resolves the government's claims for violations of the General Duty of Care provisions of the Clean Air Act, 42 U.S.C. 7412(r),

with respect to DuPont's fluoroproducts plant in Louisville, Kentucky.

The settlement provides for payment of $550,000 in civil penalties and performance of eight Supplemental Environmental Projects (''SEPs'') valued at $552,000. Under the proposed SEPs, DuPont will provide emergency response equipment and training for Local Emergency Planning Committees (''LEPCs''), provide a green buffer zone between its facility and the surrounding area, and contract with a community group in an environmental justice area to set up a website on environmental issues and ensure that the group can continue to run its information center which disseminates information on environmental issues.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *E.I.DuPont De Nemours and Company,* D.J. Ref. 90–5–2–1–2099/2.

The Consent Decree may be examined at U.S. EPA Region 4, 61 Forsyth Street, Atlanta, Georgia 30303. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood *(tonia.fleetwood@usdoj.gov),* fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $14.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section.

[FR Doc. 03–21388 Filed 8–20–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Department policy, 28 U.S.C. 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Earthgrains Baking Companies, Inc., et al.,* Civil Action No. *4–03CV01043SNL,* was lodged on July 31, 2003, with the United States District Court for the Eastern District of Missouri.

In this action the United States sought civil penalties and injunctive relief for Defendants' violations of the industrial refrigerant, repair, testing, record-keeping, and reporting regulations at 40 CFR, part 82, subpart F, §§ 82.156–82.166 (''Recycling and Emissions Reduction''), promulgated pursuant to subchapter VI of the Act (''Stratospheric Ozone Protection''), 42 U.S.C. 7671–7671q.

The Consent Decree settles an action brought under section 113 of the Clean Air Act, 42 U.S.C. 7413. The Consent Decree provides that *Earthgrains Baking Companies, Inc., et al.,* will pay the United States $5.25 million in civil penalties, and perform extensive injunctive relief by retrofitting, replacing, or retiring a total of 264 Industrial Refrigeration Appliances and Commercial Refrigeration Appliances that presently contain ozone depleting substances with non-ozone depleting substances (*e.g.* glycol, water, ammonia, *etc*).

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Earthgrains Baking Companies, Inc., et al.,* D.J. Ref. #90–5–2–1–07388.

The proposed Consent Decree may be examined at the office of the United States Attorney, Eastern District of Missouri, Thomas F. Eagleton U.S. Courthouse, 111 South 10th Street, Room 20.333, St. Louis, Missouri 63102; the Headquarters Office of the Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $*10.00* (25 cents per page reproduction costs), payable to the U.S. Treasury.

Robert Maher,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–21392 Filed 8–20–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on August 11, 2003, a proposed Consent Decree (''Decree'') in *United States* v. *Glencore AG,* Civil Action No. 3:03CV1381 (JBA) was lodged with the United States District Court for the District of Connecticut.

In this action the United States seeks civil penalties and injunctive relief to address Glencore's alleged violations of the Clean Air Act and its implementing regulations in 40 CFR part 80 with respect to Glencore's importation, refining, distribution and sale of reformulated and conventional motor gasoline within the United States. The alleged violations include exceedances of the regulatory limits for Reid vapor pressure and exhaust benzene levels for certain batches of gasoline, three reporting or record keeping violations, and a tank sampling violation. To resolve these alleged violations, the Decree requires Glencore to pay a civil penalty of $450,000 to the United States and complete a three-year ''Compliance Assurance Program'' as specified in the Decree to ensure Glencore's future compliance with the Clean Air Act's programs and regulations concerning reformulated and conventional motor gasoline. The Compliance Assurance Program requires Glencore to retain an auditor or consultant to perform certain detailed periodic reviews and verification procedures with respect to Glencore's records, reports and laboratory data concerning its compliance with applicable fuel regulations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611, and should refer to *United States* v. *Glencore AG,* Civil Action No. 3:03CV1381 (JBA) (D. Conn.), D.J. Ref. 90–5–2–1–2169.

The Decree may be examined at the Office of the United States Attorney,

Connecticut Financial Center, 157 Church Street, 23rd Floor, New Haven, CT 06508, and at U.S. EPA Region I, One Congress Street, Suite 1100, Boston MA 02114–2023. During the public comment period, the Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–21391 Filed 8–20–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'')

Pursuant to section 122(d)(2) of CERCLA, 42 U.S.C. 9622(d)(2), notice is hereby given that on July 28, 2003, a Consent Decree with Robert Dwight Weed, Jr. was lodged with the United States District Court for the Eastern District of Michigan in the matter of *United States* v. *Robert Dwight Weed, Jr.,* No. 2:03–CV–72897 (E.D. Mich.).

In that action the United States seeks to recover from the Defendant pursuant to sections 107 and 113(g)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (''CERCLA''), 42 U.S.C. 9607 and 9613(g)(2), the costs incurred and to be incurred by the United States in responding to the release and/or threatened release of hazardous substances at and from the Durako Paint Site (or ''Site'') in Detroit, Wayne County, Michigan.

Under the proposed Partial Consent Decree, Defendant Robert Dwight Weed, Jr. Will pay $30,000 to the Hazardous Substances Superfund in reimbursement of the costs incurred by the United States at the Site.

The Department of Justice will receive for a period of thirty (30 days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Robert Dwight Weed, Jr.,* (No. 2:03–CV–72897 (E.D. Mich.) (DOJ Ref. No. 90–11–3–07511).

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Michigan, 211 W. Fort Street, Detroit, Michigan 48226–3211; and at EPA Region 5, 77 W. Jackson Blvd., Chicago, Illinois 60604 (contact Sherry L. Estes, Esq., (312) 886–7164). During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Partial Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please refer to *United States* v. *Robert Dwight Weed, Jr.*, (No. 2:03–CV–72897 (E.D. Mich.) (DOJ Ref. No. 90–11–3–07511), and enclose a check in the amount of $5.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

William Brighton,

Assistant Section Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 03–21389 Filed 8–20–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Report of mail order transactions.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) 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 proposal information collection was previously published in the **Federal Register** Volume 68, Number 110, on page 34420 on June 9, 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 September 22, 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.

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:

—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.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Report of Mail Order Transactions.

(3) *Agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: None. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* business or other for-profit. Other: None. Abstract: The Comprehensive Methamphetamine

Control Act of 1996 (Pub. L. 104–237) (MCA) amended the Controlled Substances Act to require that each regulated person who engages in a transaction with a non-regulated person which involves ephedrine, pseudoephedrine, or phenylpropanolamine (including drug products containing these chemicals) and uses or attempts to use the Postal Service or any private or commercial carrier shall, on a monthly basis, submit a report of each such transaction conducted during the previous month to the Attorney General.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are forty estimated respondents for this information collection. Thirty-seven respondents respond on paper, taking 1 hour for each response to do so. Three respondents submit responses electronically, taking 15 minutes to do so. Respondents are required by law to respond monthly.

(6) *An estimate of the total public burden (in hours) associated with this collection:* This collection requires an estimated total of 453 annual burden hours.

If additional information is required contact: 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: August 15, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–21410 Filed 8–20–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection Under Review: Annual Reporting Requirement for manufacturers of Listed Chemicals

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) 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 110, and page 34420 on June 9, 2003, allowing for a 60-day comment period.

The purpose of this notices is to allow for an additional 30 days for public comment until September 22, 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, of facsimile (202) 395–5806.

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:

—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.

Overview of this information collection:

(1) *Type of Information Collection:* Existing of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Annual Reporting Requirement for Manufacturers of Listed Chemicals.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: None. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. This information collection permits the Drug Enforcement Administration to monitor the volume and availability of domestically manufactured listed chemicals. These listed chemicals may be subject to diversion for the illicit production of controlled substances. This information collection is required by law.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 respondents respond annually to this information collection, with each response estimated to take four hours.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There is an estimated 400 annual burden hours associated with this collection.

If additional information is required contact: 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: August 15, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–21411 Filed 8–20–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJP)–1381]

Meeting of the Global Justice Information-Sharing Initiative Federal Advisory Committee

AGENCY: Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA), Justice.

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting of the Global Justice Information-Sharing Initiative (Global) Federal Advisory Committee (GAC) to discuss the Global Initiative, as described at *http://www.it.ojp.gov/global.*

DATES: The meeting will take place on Wednesday, October 8, 2003, from 1 p.m. to 5:15 p.m. ET, and Thursday, October 9, 2003, from 8:30 a.m. to 12 Noon ET.

ADDRESSES: The meeting will take place at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA 22202; Phone: (703) 486–1111.

FOR FURTHER INFORMATION CONTACT: J. Patrick McCreary, Global Designated Federal Employee (DFE), Bureau of

Justice Assistance, Office of Justice Programs, 810 7th Street, Washington, DC 20531; Phone: (202) 616–0532 [**Note:** this is not a toll-free number]; e-mail: *mccrearj@ojp.usdoj.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Due to security measures, however, members of the public who wish to attend this meeting must register with Mr. J. Patrick McCreary at the above address at least (7) days in advance of the meeting. Registrations will be accepted on a space available basis. Access to the meeting will not be allowed without registration. All attendees will be required to sign in at the meeting registration desk. Please bring photo identification and allow extra time prior to the meeting.

Anyone requiring special accommodations should notify Mr. McCreary at least seven (7) days in advance of the meeting.

Purpose

The GAC will act as the focal point for justice information systems integration activities in order to facilitate the coordination of technical, funding, and legislative strategies in support of the Administration's justice priorities.

The GAC will guide and monitor the development of the Global information sharing concept. It will advise the Assistant Attorney General, OJP; the Attorney General; the President (through the Attorney General); and local, state, tribal, and federal policymakers in the executive, legislative, and judicial branches. The GAC will also advocate for strategies for accomplishing a Global information-sharing capability.

Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the DFE.

J. Patrick McCreary,

Global DFE, Bureau of Justice Assistance, Office of Justice Programs.

[FR Doc. 03–21468 Filed 8–20–03; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of Disability Employment Policy

Solicitation for Grant Applications (SGA) 03–15; Ending Chronic Homelessness Through Employment and Housing

AGENCY: Office of Disability Employment Policy, U.S. Department of Labor; and Office of Special Needs, U.S. Department of Housing and Urban Development.

ACTION: Notice of Correction.

SUMMARY: In the FR Vol. 68, No. 138, Friday, July 18, 2003 the competition was announced and the SGA printed in its entirety. Based on the emergency caused by the power outages in the Northeast quadrant of the United States, the preparation and submission of proposals have been adversely affected. Due to this interruption, the deadline for submission of applications is extended. All applications must now be submitted to the U.S. Department of Labor, Procurement Services Center, Room N–5416, 200 Constitution Avenue, NW., Washington, DC 20210, not later than 4:45 p.m. EST, August 25, 2003.

FOR FURTHER INFORMATION CONTACT: Cassandra Willis, Department of Labor, Telephone (202) 693–4570.

Signed at Washington, DC this 19 day of August, 2003.

Daniel P. Murphy,

Director, Procurement Services Center.

[FR Doc. 03–21614 Filed 8–19–03; 3:28 pm]

BILLING CODE 4510–CX–M

DEPARTMENT OF LABOR

Employment and Training Administration

Public Meeting of the Advisory Committee on Apprenticeship (ACA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. APP. 1), notice is hereby given of a meeting of the Advisory Committee on Apprenticeship (ACA).

Time and Date: The meeting will begin at 8:30 a.m. on Tuesday, September 16, and continue until approximately 5 p.m. The meeting will reconvene at 8:30 a.m. on Wednesday, September 17, and continue until 4 p.m.

Place: Donald E. Stephens Convention Center, 5555 N. River Road, Rosemont, Illinois; Telephone: (847) 692–2220.

The agenda is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the ACA meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Swoope, Administrator, Office of Apprenticeship Training, Employer and Labor Services, Employment and Training Administration, U.S. Department of Labor, Room N–4671, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–2796, (this is not a toll-free number).

Matters To Be Considered: The agenda will focus on reports from the Committee's subcommittees on the following topics:

- Career Lattice/Credentialing
- Education and Outreach
- Training/Staff Development
- New and Emerging Industries
- Legislative

Status: Members of the public are invited to attend the proceedings. Individuals with special needs should contact Ms. Marion Winters at (202) 693–3786 no later than September 12, 2003, if special accommodations are needed.

Any member of the public who wishes to file written data or comments pertaining to the agenda may do so by sending them to Mr. Anthony Swoope, Administrator, Office of Apprenticeship Training, Employer and Labor Services, Employment and Training Administration, U.S. Department of Labor, Room N–4671, 200 Constitution Avenue NW., Washington, DC 20210. Such submissions should be sent by September 12, 2003, to be included in the record for the meeting.

Any member of the public who wishes to speak at the meeting should indicate the nature of the intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal Official, Mr. Anthony Swoope, by September 12, 2003. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Signed at Washington, DC, this 15 day of August, 2003.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training Administration.

[FR Doc. 03–21404 Filed 8–20–03; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is

invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before September 22, 2003 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Mr. Jonathan Womer, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on June 10, 2003 (68 FR 34653 and 34654). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA'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 information technology. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Financial Disclosure Form.

OMB number: 3095–NEW.

Agency form number: Standard Form NEW.

Type of review: Regular.

Affected public: Business or other for-profit, Federal government.

Estimated number of respondents: 25,897.

Estimated time per response: 2 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 51,794 hours.

Abstract: Executive Order 12958 as amended, ''Classified National Security Information'' authorizes the Information Security Oversight Office to develop standard forms that promote the implementation of the Government's security classification program. These forms promote consistency and uniformity in the protection of classified information.

The Financial Disclosure Form will contain information that will be used to make personnel security determinations, including whether to grant a security clearance; to allow access to classified information, sensitive areas, and equipment; or to permit assignment to sensitive national security positions. The data may later be used as a part of a review process to evaluate continued eligibility for access to classified information or as evidence in legal proceedings.

The Financial Disclosure Form will help law enforcement obtain pertinent information in the preliminary stages of potential espionage and counter terrorism cases. The Policy Coordinating Committee on Records Access and Information Security forwarded the current form to the Information Security Oversight Office for issuance. The Office of Management and Budget is aware of the form.

Dated: August 14, 2003.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 03–21419 Filed 8–20–03; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–7580]

Notice of Consideration of a License Amendment Request by Fansteel, Inc., for Approval of Transfer of its Muskogee, OK Facility License, and Opportunity to Request a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of an amendment request to authorize transfer of a license, and opportunity to provide written comments or to request a hearing.

FOR FURTHER INFORMATION CONTACT: J.C. Shepherd, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–6712; Fax: (301) 415–5398; and/or by email: *jcs2@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Fansteel, Inc.'s (Fansteel) materials license SMB–911 to authorize transfer of its license to MRI, Inc. License SMB–911 was issued to Fansteel under 10 CFR part 40 and authorizes Fansteel to possess up to 400 tons of natural uranium and thorium in any form. The material at the Muskogee site is in the form of uranium, thorium, radium, and decay-chain products in process equipment and buildings, soil, sludge, and groundwater.

On July 24, 2003, Fansteel submitted a request for authorization to transfer the current license with an amended Decommissioning Plan (currently under review and the subject of **Federal Register** notice 68 FR 47621, which provides an opportunity to provide comments and/or to request a hearing on that action) to MRI, Inc., a corporation to be formed under Delaware law as part of Fansteel's exit from bankruptcy. In conjunction with this request, Fansteel submitted with its request, a ''Joint Reorganization Plan of Fansteel, Inc. and Subsidiaries'' and a ''Disclosure Statement with Respect to Joint Reorganization Plan of Fansteel, Inc. Et Al.'' to the United States Bankruptcy Court for the District of Delaware.

Pursuant to 10 CFR 40.46, no license issued or granted under the regulations in Part 40, shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the Commission, after securing full information that the transfer is in accordance with the provisions of the Atomic Energy Act of 1954, as amended (AEA), gives its consent in writing. Therefore, before the issuance of an amendment, the NRC will have made the findings required by the AEA, and NRC's regulations. These findings will be documented in a Safety Evaluation Report. An Environmental Assessment (EA) will not be performed because, pursuant to 10 CFR 51.22(c)(21), this action is categorically excluded from the requirement to perform an EA.

II. Opportunity to Provide Written Comments

In accordance with 10 CFR 2.1305, the NRC is providing notice that, as an alternative to requests for hearings and petitions to intervene, persons may submit written comments regarding license transfer applications; however, such comments will not constitute part

of the decisional record. Comments should be submitted within 30 days after notice of receipt is published in the **Federal Register**, by mail, telegram, or facsimile, addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemaking and Adjudications Staff. Because of continuing disruptions in the delivery of mail to United States Government offices, it is requested that written comments also be transmitted to the Secretary of the Commission either by means of facsimile transmission to (301) 415–1101, or by e-mail to *secy@nrc.gov.*

III. Opportunity to Request a Hearing

NRC hereby also provides notice that this is a proceeding on an application for an amendment of a license falling within the scope of Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearing on License Transfer Applications,'' of NRC's rules of practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1306(a), any person whose interest may be affected by this action may file a request for a hearing or petition for leave to intervene in accordance with § 2.1306(b). Pursuant to § 2.1306(c), to be timely, hearing requests and intervention petitions must be filed not later than 20 days after notice of receipt is published in the **Federal Register**.

In accordance with 10 CFR 2.1306(b)(4) and 2. 1313(b), the request for a hearing or intervention petition must be filed with:

1. The applicant, Fansteel, Inc., Number One Tantalum Place, North Chicago, IL 60064 Attention: Mr. Gary Tessitore, and;

2. The Office of the Secretary either:

(a) By delivery to Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 a.m. and 4:15 p.m. Federal workdays; or

(b) By mail, telegram, or facsimile, addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001. Attention: Rulemaking and Adjudications Staff. Because of continuing disruptions in the delivery of mail to United States Government offices, it is requested that requests for hearing also be transmitted to the Secretary of the Commission either by means of facsimile transmission to (301) 415–1101, or by e-mail to *secy@nrc.gov.* , and;

In accordance with 10 CFR 2.1313(b), each hearing request or intervention petition must also be served, by delivering it personally or by mail, to:

1. The NRC staff, by delivery to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 am and 4:15 pm Federal workdays, or by mail, addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Because of continuing disruptions in the delivery of mail to United States Government offices, it is requested that requests for hearing also be transmitted to the Office of the General Counsel either by means of facsimile transmission to (301) 415–3725, or by e-mail to *ogcmailcenter@nrc.gov.*

In addition to meeting other applicable requirements of 10 CFR part 2 of NRC's regulations, hearing requests and intervention petitions must:

1. State the name, address, and telephone number of the requestor or petitioner;

2. Set forth the issues sought to be raised, and

(a) demonstrate that such issues are within the scope of the proceeding on the license transfer application,

(b) demonstrate that such issues are relevant to the findings the NRC must make to grant the application for license transfer,

(c) provide a concise statement of the alleged facts or expert opinions which support the petitioner's position on the issues and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely to support its position on the issues, and

(d) provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact;

3. Specify both the facts pertaining to the petitioner's interest and how that interest may be affected with particular reference to the factors in 2.1308(a).

Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting any such hearing will be published in the **Federal Register** and served on the parties to the hearing.

IV. Further Information

In accordance with 10 CFR 2.790 of the NRC's ''Rules of Practice,'' details with respect to this action, including the application for amendment and supporting documentation, are available electronically for public inspection and copying from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm.html.* These documents may also be examined, and/or copied for a fee, at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Dated at Rockville, Maryland, this 15th day of August, 2003.

For the Nuclear Regulatory Commission.

Daniel M. Gillen,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03–21418 Filed 8–20–03; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Sunshine Act Meetings

NAME OF AGENCY: Postal Rate Commission.

TIME AND DATE: Thursday, August 21, 2003 at 10:30 a.m.

PLACE: Commission conference room, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001.

STATUS: Open.

MATTERS TO BE CONSIDERED: Further consideration of fiscal year 2004 budget.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

Dated: August 19, 2003.

Garry J. Sikora,

Acting Secretary.

[FR Doc. 03–21544 Filed 8–19–03; 11:37 am]

BILLING CODE 7710–FW–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement

Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of information collection: Evidence for Application of Overall Minimum: OMB 3220–0083.

Under section 3(f)(3) of the Railroad Retirement Act (RRA), the total monthly benefits payable to a railroad employee and his/her family are guaranteed to be no less than the amount which would be payable if the employee's railroad service had been covered by the Social Security Act. The Social Security Overall Minimum Guarantee is prescribed in 20 CFR part 229. To administer this provision, the Railroad Retirement Board (RRB) requires information about a retired employee's spouse and child(ren) who would not be eligible for benefits under the RRA but would be eligible for benefits under the Social Security Act if the employee's railroad service had been covered by that Act. The RRB obtains the required information by the use of forms G–319 (Statement Regarding Family and Earnings for Special Guaranty Computation) and G–320 (Statement by Employee Annuitant Regarding Student Age 18–19). One form is completed by each respondent. The RRB proposes no changes to Form G–319 or Form G–320.

Estimate of annual respondent burden: The estimated annual respondent burden is as follows:

Form #(s)	Annual responses	Time (Min)	Burden (Hrs)
G–319 *Employee Completed:*			
With assistance	95	26	41
Without assistance	5	55	5
G–319 *Spouse Completed:*			
With assistance	95	30	48
Without assistance	5	60	5
G–320:			
With assistance	86	10	14
Without assistance	4	26	2
Total	290	.....	115

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Office at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 03–21405 Filed 8–20–03; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will public periodic summaries of proposed data collections.

Comment are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Student Beneficiary Monitoring; OMB 3220–0123.

Under provisions of the Railroad Retirement Act (RRA), there are two types of benefits whose payment is based upon the status of a child being a full-time student, a survivor benefit under section 2 and an increased retirement benefit under section 3(f)(3).

A survivor benefit is paid directly to the student unless there is a representative payee. The benefit for a student in a life case is paid by increasing the retired parent's annuity rate under the overall minimum guaranty. The requirements for obtaining benefits based on full-time student status are prescribed in 20 CFR 219.54 and 219.55.

The RRB requires evidence of full-time school attendance in order to determine that a child is entitled to student benefits. The RRB utilizes the following forms to conduct its student monitoring program. Form G–315, *Student Questionnaire*, obtains certification of a student's full-time school attendance. It also obtains information on a student's marital status, Social Security benefits, and employment which are needed to determine entitlement or continued entitlement to benefits under the RRA. Form G–315a, *Statement by School Official of Student's Full-time Attendance,* is used to obtain verification from a school that a student attends school full-time and provides their expected graduation date. Form G–315a.1, *Notice of Cessation of Full-Time Attendance,* is used by a school to notify the RRB that a student has ceased full-time school attendance. Completion is required to obtain or retain a benefit. One response is requested of each respondent.

The RRB proposes no changes to Forms G–315, G–315a, or G–315a.1. The completion time for the G–315 is estimated at seven minutes per response. The completion time for the G–315a and G–315a.1 is estimated at two minutes. The RRB estimates that approximately 960 Form G–315's, 210 Form G–315a's and 60 Form G–315a.1's are received annually.

Additional information or comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information

collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 03–21406 Filed 8–20–03; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27713; 70–10083]

Hydro-Quebec, et al.; Order Granting Limited Approval to Application of Hydro Quebec, et al.

On July 30, 2003, we issued notice of an application by Hydro-Quebec and certain of its subsidiaries under sections 9(a)(2) and 10 of the Act to acquire an interest in Cross-Sound Cable Company (New York) LLC (''CSC NY''). *See* Holding Co. Act Release 27703 (July 30, 2003.[1] The application also seeks exemptions for Hydro-Quebec and certain of its subsidiaries under sections 3(a)(5) and 3(a)(1) of the Act. As described in the notice, CSNY is constructing a transmission line (the ''Cross Sound Cable'') between New York and Connecticut. The transmission line has not yet entered into commercial operation. The notice period for filing comments or requests for hearing with respect to the application runs through August 25, 2003.

On August 14, 2003, in response to a sudden black-out affecting large parts of the eastern and midwestern sections of the United States, the Department of Energy issued an order pursuant to section 202(c) of the Federal Power Act requiring that the Cross Sound Cable be operated to, among other things, ''alleviate the current disruptions in electric transmission service.'' Department of Energy Order No. 202–03–1 (Aug. 14, 2003) (''DOE Order'').

Based upon these circumstances, we hereby grant the application of Hydro-Quebec *et al.* for the limited purpose of complying with the DOE Order.[2] Our grant of the application for these limited purposes is without prejudice to our ability to take any action with respect to this Order or the application following the conclusion of the notice period.

The necessity for immediate action of the Commission does not permit prior notice of the Commission's action. CF. Holding Co. Act Release No. 35–27502 (Mar. 18, 2002).

Accordingly, it is ordered, pursuant to sections 3, 9(a)(2), 10 and 20 of the Public Utility Holding Company Act of 1935 that the application of Hydro-Quebec *et al.* is granted for the limited purpose of complying with Department of Energy Order 202–03–1.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–21401 Filed 8–20–03; 8:45 am]

BILLING CODE 8010–01–P

[1] Specifically, Hydro-Québec (''HQ''), 75 René-Lévesque Blvd. West, Montréal, Québec H2Z 1A4 Canada, a corporation wholly owned by the government of Québec and a public-utility holding company that claims exemption under the Act under rule 10, and its subsidiaries, TransEnergie HQ, Inc. (''TEI''), 740 rue Nôtre-Dame Ouest, Bureau 800, Montréal, Québec, H3C 3X6 Canada, a Canadian corporation, TransEnergie U.S. Ltd. (''TEUS''), a Delaware corporation and Cross-Sound Cable Company (New York), LLC (''CSC NY''), a New York limited liability company, both located at 110 Turnpike Road, Westborough, MA 01581 (collectively, ''Applicants'') have filed an application under sections 3(a)(1), 3(a)(5), 9(a)(2) and 10 of the Act in connection with a proposed acquisition of interests in CSC NY (the ''Transaction'').

Applicants request an order under sections 9(a)(2) and 10 of the Act authorizing HQ through TEI and TEUS to acquire interests in CSC NY; an order exempting TEUS from registration under section 3(a)(1); and an order exempting HQ from registration under section 3(a)(5).

[2] The Commission has, in the past, issued orders in response to crises in the energy sector while at the same time retaining its authority to reconsider the matter at an appropriate time. *See* Union Electric Co., Holding Co. Act Release No. 18368 (Apr. 10, 1974).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26151; 812–13003]

Barclays Global Fund Advisors, et al.; Notice of Application

August 15, 2003.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application to amend a prior order under section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 2(a)(32), 5(a)(1), and 22(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to amend a prior order that permits: (a) An open-end management investment company, whose series are based on certain fixed-income securities indices, to issue shares of limited redeemability; (b) secondary market transactions in the shares of the series to occur at negotiated prices; and (c) affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of aggregations of the series' shares (''Prior Order'').[1] Applicants seek to amend the Prior Order in order to offer additional series based on different fixed-income securities indices.

APPLICANTS: Barclays Global Fund Advisors (''Adviser''), iShares Trust (''Trust'') and SEI Investments Distribution Co. (''Distributor'').

FILING DATES: The application was filed on August 15, 2003.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 5, 2003 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW., Washington, DC 20549–0609. Applicants: Richard F. Morris, Esq., Barclays Global Fund Advisors, c/o Barclays Global Investors, N.A., 45 Fremont Street, San Francisco, CA 94105; Susan C. Mosher, Esq., iShares Trust, c/o Investors Bank & Trust Company, 200 Clarendon Street, Boston, MA 02116; and William E. Zitelli, Esq., SEI Investments Distribution Co., One Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 942–0567, or Michael W. Mundt, Senior Special Counsel, at (202) 942–0564 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Trust is an open-end management investment company

[1] Barclays Global Fund Advisors, *et al.,* Investment Company Act Release Nos. 25594 (May 29, 2002) (notice) and 25622 (June 25, 2002) (order).

registered under the Act and established in the state of Delaware. The Trust is organized as a series fund with multiple series. The Adviser, an investment adviser registered under the Investment Advisers Act of 1940, will serve as investment adviser to each New Fund. The Distributor, a broker-dealer unaffiliated with the Adviser and registered under the Securities Exchange Act of 1934, serves as the principal underwriter for the Trust.

2. The Trust is currently permitted to offer seven series based on fixed-income securities indices in reliance on the Prior Order. Applicants seek to amend the Prior Order to permit the Trust to offer 11 new series based on fixed-income securities indices (each, a ''New Fund'') that, except as described in the application, would operate in a manner identical to the existing series of the Trust that are subject to the Prior Order.[2]

3. Each New Fund will invest in a portfolio of securities generally consisting of the component securities of a specified fixed income securities index (each, an ''Underlying Index'').[3] No entity that creates, compiles, sponsors, or maintains an Underlying Index is or will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, the Adviser, the Distributor, or a promoter of a New Fund.

4. Except for the TIPS Index and the Aggregate Index, all of the Underlying Indices contain fixed-income securities that are eligible for inclusion in the underlying indices for the existing series of the Trust that are subject to the Prior Order. The TIPS Index represents all of the inflation protected public obligations of the United States Treasury. The Aggregate Bond Index includes United States agency mortgage pass-through securities, in addition to fixed-income securities that are included in certain underlying indices for existing series of the Trust. The New Fund that would track the Aggregate Index (''Aggregate Fund'') intends to use ''to-be-announced'' (''TBA'') transactions to track the United States agency mortgage pass-through securities in the Aggregate Index.[4] Applicants state that information about the intraday prices for the fixed income securities held by the New Funds (and TBAs held by the Aggregate Fund) is readily available to the marketplace.

5. The investment objective of each New Fund will be to provide investment results that correspond generally to the price and yield performance of its relevant Underlying Index. Each New Fund will utilize as an investment approach a representative sampling strategy where each New Fund will seek to hold a representative sample of the component securities of the Underlying Index. Except for the Aggregate Fund and the New Funds that track the GS 5-Year Index (''GS 5-Year Fund'') and the GS 10-Year Index (''GS 10-Year Fund''), each New Fund will invest at least 90% of its assets in the component securities of its Underlying Index and may invest the remainder of its assets in certain futures, options, and swap contracts, cash and cash equivalents, and in bonds not included in its Underlying Index which the Adviser believes will help the New Fund track its Underlying Index. Each of the GS 5-Year Fund and the GS 10-Year Fund generally will invest 90% of its assets in the component securities of its Underlying Index, though at times each of those New Funds may invest up to 20% of its assets in certain futures, options and swap contracts, cash and cash equivalents, as well as in bonds not included in its Underlying Index in order to manage prospective changes to the indices.[5] The Aggregate Bond Fund will have at least 90% of its net assets invested in: (a) Component securities of its Underlying Index and (b) investments that have economic characteristics that are substantially identical to the economic characteristics of the component securities of its Underlying Index (*i.e.*, the TBAs, as discussed above). Applicants expect that each New Fund will have a tracking error relative to the performance of its respective Underlying Index of no more than 5 percent.

6. Applicants state that all discussions contained in the application for the Prior Order are equally applicable to the New Funds, except as specifically noted by applicants (as summarized above). Applicants agree that the amended order will subject applicants to the same conditions as imposed by the Prior Order. Applicants believe that the requested relief continues to meet the necessary exemptive standards.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–21447 Filed 8–20–03; 8:45 am]

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[2] If the amended order is granted, the New Funds would also be able to rely on an exemptive order granting certain relief from section 24(d) of the Act to the existing series of the Trust that are subject to the Prior Order. *See* iShares, Inc., *et al.*, Investment Company Act Release Nos. 25595 (May 29, 2002) (notice) and 25623 (June 25, 2002) (order).

[3] The Underlying Indices for the New Funds are Lehman Brothers Short U.S. Treasury Index, Lehman Brothers 3–7 Year U.S. Treasury Index, Lehman Brothers 10–20 Year U.S. Treasury Index, Lehman Brothers U.S. Treasury Inflation Notes Index (''TIPS Index''), Lehman Brothers U.S. Credit Index, Lehman Brothers Intermediate U.S. Credit Index, Lehman Brothers Intermediate U.S. Government/Credit Index, Lehman Brothers U.S. Aggregate Index (''Aggregate Index''), Credit Suisse First Boston Liquid U.S. Agency Index, GS $ InvesTop 5-Year Index (''GS 5-Year Index'') and GS $ InvesTop 10-Year Index (''GS 10-Year Index'').

[4] A TBA transaction essentially is a purchase or sale of a United States agency mortgage pass-through security for future settlement at an agreed upon date. Applicants state that 90% of United States agency mortgage pass-through securities are executed as TBA trades. Applicants state that TBA transactions increase the liquidity and pricing efficiency of transactions in United States agency mortgage pass-through securities since they permit similar United States agency mortgage pass-through securities to be traded interchangeably pursuant to commonly observed settlement and delivery requirements.

[5] The bonds will be bonds that the Adviser believes will help the New Fund track its Underlying Index and which are either: (a) included in the broader index upon which such Underlying Index is based; or (b) new issues entering or about to enter the Underlying Index or the broader index upon which such Underlying Index is based.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27712]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

August 15, 2003.

Notice is hereby given that the following filing(s) has/have been made with the Commission under provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 10, 2003, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A persons who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order is issued in

the matter. After September 10, 2003, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities, et al. (70–9343)

Northeast Utilities (''NU''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010, a registered holding company, NU's wholly-owned nonutility subsidiary, NU Enterprises, Inc. (''NUEI''), and Northeast Utilities Service Company, both located at 107 Selden Street, Berlin, Connecticut 06037, (collectively, the ''Applicants'') have filed a post effective amendment to their application-declaration under section 12(b) and rules 45 and 54 under the Act.

By order dated November 12, 1998 (HCAR No. 26939) (''Prior Order''), the Commission Authorized NU and NUEI to, among other things, issue guarantees or provide similar forms of credit support or enhancements (collectively, ''Guarantees''), to, or for the benefit of NUEI, NUEI's nonutility subsidiaries, or NU's other to-be-formed direct or indirect energy-related companies, as defined in rule 58 of the Act. The Commission, through subsequent orders in this file, authorized an increase in this Guarantee authority to $500 million and the extension of the date through which Guarantees may be provided through September 30, 2003, under the terms and conditions of the Prior Order. Applicants request in this filing to maintain the Guarantee authority at $500 million and to extend the date through which the Guarantees may be provided through June 30, 2004, under the terms and conditions of the Prior Order.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–21400 Filed 8–20–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48347; File No. SR–NASD–2003–95]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Arbitrator Classification and Disclosure in NASD Arbitration

August 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 12, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. 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 NASD proposes to amend Rules 10308 and 10312 of the NASD Code of Arbitration Procedure (''Code'') to provide additional assurance that individuals with significant ties to the securities industry may not serve as public arbitrators in NASD arbitrations. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

10100. Code of Arbitration Procedure

* * * * *

Rule 10308. Selection of Arbitrators

This Rule specifies how parties may select or reject arbitrators, and who can be a public arbitrator.

(a) Definitions.

(1)–(3) Unchanged.

* * * * *

(4) ''non-public arbitrator''

The term ''non-public arbitrator'' means a person who is otherwise qualified to serve as an arbitrator and:

(A) is, or within the past *5* [three] years, was:

(i) associated with a broker or a dealer (including a government securities broker or dealer or a municipal securities dealer);

(ii) registered under the Commodity Exchange Act;

(iii) a member of a commodities exchange or a registered futures association; or

(iv) associated with a person or firm registered under the Commodity Exchange Act;

(B) is retired from, *or spent a substantial part of a career,* engaging in any of the business activities listed in subparagraph (4)(A);

(C) Is an attorney, accountant, or other professional who has devoted 20 percent or more of his or her professional work, in the last 2 years, to clients who are engaged in any of the business activities listed in subparagraph (4)(A); or

(D) Is an employee of a bank or other financial institution and effects transactions in securities, including government or municipal securities, and commodities futures or options or supervises or monitors the compliance with the securities and commodities laws of employees who engage in such activities.

(5) ''public arbitrator''

(A) The term ''public arbitrator'' means a person who is otherwise qualified to serve as an arbitrator and [is not]:

(i) *Is not* engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D); [or]

(ii) *Was not engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D) for a total of 20 years or more;*

(iii) Is not an investment adviser;

(iv) Is an attorney, accountant, or other professional whose firm derived 10 percent or more of its annual revenue in the past 2 years from any persons or entities listed in paragraph (a)(4)(A); and

(v) Is not the spouse or an immediate family member of a person who is engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D).

(B) For the purpose of this Rule, the term ''immediate family member'' means:

(i) *The parent, stepparent, child, or stepchild, of a person engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D);*

(i*i*) *A member of the household of* [family member who shares a home with] a person engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D);

(ii*i*) A person who receives financial support of more than 50 percent of his or her annual income from a person engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D); or

(*iv*[iii]) A person who is claimed as a dependent for federal income tax purposes by a person engaged in the conduct or activities described in paragraphs (a)(4)(A) through (D).

* * * * *

Remainder of (a) through (c) unchanged.

* * * * *

(d) Disqualification and Removal of Arbitrator Due to Conflict of Interest or Bias

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(1) Disqualification by Director

After the appointment of an arbitrator and prior to the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, if the Director or a party objects to the continued service of the arbitrator, the Director shall determine if the arbitrator should be disqualified. If the Director sends a notice to the parties that the arbitrator shall be disqualified, the arbitrator will be disqualified unless the parties unanimously agree otherwise in writing and notify the Director not later than 15 days after the Director sent the notice.

(2) Removal by Director

After the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, the Director may remove an arbitrator based only on information that is required to be disclosed pursuant to Rule 10312 and that was not previously disclosed.

(3) The Director will grant a party's request to disqualify an arbitrator if it is reasonable to infer, based on information known a the time of the request, that the arbitrator is biased, lacks impartiality, or has an interest in the outcome of the arbitration. The interest or bias must be direct, definite, and capable of reasonable demonstration, rather than remote or speculative.

(e) Discretionary Authority

The Director may exercise discretionary authority and make any decision that is consistent with the purposes of this Rule and the Rule 10000 Series to facilitate the appointment of arbitration panels and the resolution of arbitration disputes.

(f) Challenges by Customers

In cases involving public customers, any close questions regarding arbitrator classification or challenges for cause brought by a customer will be resolved in favor of the customer.

* * * * *

Rule 10312. Disclosures Required of Arbitrators and Director's Authority to Disqualify

(a) Each arbitrator shall be required to disclose to the Director of Arbitration any circumstances which might preclude such arbitrator from rendering an objective and impartial determination. Each arbitrator shall disclose:

(1) Any direct or indirect financial or personal interest in the outcome of the arbitration;

(2) Any existing or past financial, business, professional, family, social, or other relationships or circumstances that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. Persons requested to serve as arbitrators *must* [should] disclose any such relationships or circumstances that they have with any party or its counsel, or with any individual whom they have been told will be a witness. They *must* [should] also disclose any such relationship or circumstances involving members of their families or their current employers, partners, or business associates.

(b) Persons who are requested to accept appointment as arbitrators *must* [should] make a reasonable effort to inform themselves of any interests, relationships or circumstances described in paragraph (a) above.

(c) The obligation to disclose interests, relationships, or circumstances that might preclude an arbitrator from rendering an objective and impartial determination described in paragraph (a) is a continuing duty that requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances that arise, or are recalled or discovered.

(d) Removal by Director

(1) The Director may remove an arbitrator based on information that is required to be disclosed pursuant to this Rule.

(2) After the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, the Director may remove an arbitrator based only on information not known to the parties when the arbitrator was selected. The Director's authority under this subparagraph (2) may be exercised only by the Director or the President of NASD Dispute Resolution.

(3) The Director will grant a party's request to disqualify an arbitrator if it is reasonable to infer, based on information known at the time of the request, that the arbitrator is biased, lacks impartiality, or has an interest in the outcome of the arbitration. The interest or bias must be direct, definite, and capable of reasonable demonstration, rather than remote or speculative.

* * * * *

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 NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NASD represents that the proposed rule change would amend Rules 10308 and 10312 of the Code to: (1) Modify the definitions of public and non-public arbitrators to further ensure that individuals with significant ties to the securities industry are not able to serve as public arbitrators; (2) provide specific standards for deciding challenges to arbitrators for cause; and (3) clarify that compliance with arbitrator disclosure requirements is mandatory.

Background

In July 2002, the SEC retained Professor Michael Perino to assess the adequacy of NASD (and New York Stock Exchange) arbitrator disclosure requirements, and to evaluate the impact of the recently adopted California Ethics Standards [3] on the current conflict disclosure rules of the self-regulatory organizations (SROs). The SEC released professor Perino's report, *Report to the Securities and Exchange Commission Regarding Arbitrator Conflict Disclosure Requirements in NASD and NYSE Securities Arbitrations (Perino Report), on November 4, 2002.*

The Perino Report concluded that undisclosed conflicts of interest were not a significant problem in SRO-sponsored arbitrations. Specifically, the Perino Report concluded that adoption of the California Ethics Standards by SROs would yield very few benefits to parties, but would impose significant costs and could have significant unintended consequencies that might reduce investors' perception of the fairness of SRO arbitrations. However, the Perino Report recommended several amendments to SRO arbitrator classification and disclosure rules that, according to the Perino Report, might ''provide additional assurance to investors that arbitrations are in fact neutral and fair.''

[3] California Rules of Court, Division VI of the Appendix, entitled, ''Ethics Standards for Neutral Arbitrators in Contractual Arbitration.''

This rule change would implement those recommendations, as well as several other related changes to the definition of public and non-public arbitrators that are consistent with the Perino Report recommendations.

Definition of Public and Non-Public Arbitrators

The Code classifies arbitrators as public or non-public (*i.e.,* ''industry''). When investors have a dispute with member firms or associated persons in NASD arbitration, they are entitled to have their cases heard by a panel consisting of either a single public arbitrator, or a majority public panel consisting of two public arbitrators and one non-public arbitrator, depending on the amount of the claim.

Rule 10308(a)(5) of the Code defines ''public'' arbitrators as persons who are qualified to serve as arbitrators and who are not either personally engaged in certain activities that would make them non-public, or the immediate family member of a person engaged in such activities. Specifically, under Rule 10308(a)(4) of the Code, a person is currently classified as a non-public arbitrator if he or she:

(A) Is, or within the past three years, was:

- Associated with a broker or a dealer (including a government securities broker or dealer or a municipal securities dealer);
- Registered under the Commodity Exchange Act;
- A member of a commodities exchange or a registered futures association; or
- Associated with a person or firm registered under the Commodity Exchange Act;

(B) Is retired from engaging in any of the business activities listed in subparagraph (4)(A).

(C) Is an attorney, accountant, or other professional who has devoted 20 percent or more of his or her professional work, in the last two years, to clients who are engaged in any of the business activities listed in subparagraph (4)(A);

(D) Is an employee of a bank or other financial institution and effects transactions in securities, including government or municipal securities, and commodities futures or options or supervises or monitors the compliance with the securities and commodities laws of employees who engage in such activities; or

(E) Is the immediate family member of anyone who meets the criteria above.

Rule 10308(a)(5) of the Code currently defines ''immediate family member'' to include spouses of non-public arbitrators, as well as family members who share a home with, receive substantial financial support from, or are declared as dependents for federal income tax purposes by, non-public arbitrators.

The proposed rule change would amend these definitions in several ways to further ensure that individuals with significant ties to the securities industry are not able to serve as public arbitrators. Specifically, the proposed rule change would amend the definition of non-public arbitrator in Rule 10308(a)(4) of the Code to:

- Increase from three years to five years the period for transitioning from an industry to public arbitrator; and
- Clarify that the term ''retired'' from the industry includes anyone who spent a substantial part of his or her career in the industry.

In addition, the proposed rule change would amend the definition of public arbitrator in Rule 10308(a)(5)(A) of the Code to:

- Prohibit anyone who has been associated with the industry for at least 20 years from ever becoming a public arbitrator, regardless of how may years ago the association ended;
- Exclude from the definition of public arbitrator attorneys, accountants, and other professionals whose firms have derived 10 percent or more of their annual revenue, in the last two years, from clients involved in the activities defined in the definition of non-public arbitrator; and
- Provide that investment advisers may not serve as public arbitrators, and many only serve as non-public arbitrators if they otherwise qualify unde Rule 10308(a)(4) of the Code.

The proposed rule change would also significantly amend the definition of ''immediate family member'' in Rule 10308(a)(5)(B) of the Code to further ensure that individuals with significant, albeit indirect, tries to the securities industry may not serve as public arbitrators. The Perino Report recommended that NASD expand the definition of ''immediate family member'' to include parents and children, even if the parent or child does not share a home with or receive substantial support from, a non-public arbitrator. Although the Perino Report referred only to parents and children, NASD believes that the same rationale applies to stepparents and stepchildren, and therefore recommends including such relationships in the definition as well. And, although the Perino Report did not address the issue, NASD believes that it is consistent with the Perino Report recommendations to amend the definition of the term ''immediate family member'' to also include anyone, related or not, who is a member of the household of a non-public arbitrator.

Standard for Deciding Challenges for Cause

Rules 10308(d) and 10312(d) of the Code provide that under certain circumstances, the Director of NASD Dispute Resolution may remove an arbitrator upon request of a party or under the Director's own initiative. Rule 10308(d)(1) of the Code provides that, before the first hearing session, if a party objects to the continued service of an arbitrator, the Director may disqualify an arbitrator if the Director determines that the arbitrator should be disqualified. Rule 10312(d)(1) of the Code provides that the Director may remove an arbitrator from a panel based on information that must be disclosed pursuant to the rule. Under both rules, once the first hearing session has begun, the Director may only remove an arbitrator based on information that was required to be disclosed under Rule 10312 of the Code but was not previously disclosed.

The Code does not provide a specific standard for deciding whether an arbitrator should be removed under these provisions. However, the NASD Arbitrator's Manual states that such challenges:

> will be granted where it is reasonable to infer an absence of impartiality, the presence of bias, or the existence of some interest on the part of the arbitrator in the outcome of the arbitration as it affects one of the parties. The interest or bias must be direct, definite, and capable of reasonable demonstration, rather than remote or speculative.[4]

The Perino Report noted that including this standard in the Code would provide greater transparency with respect to challenges for cause, and would enhance the parties' confidence that all challenges for cause will be granted or denied on the same basis. Therefore, NASD is amending Rule 10308(d) of the Code and Rule 10312(d) of the Code to provide that in deciding challenges for cause, the Director will apply the standard described above.

In addition, based on the recommendation of the Perino Report, NASD is amending Rule 10308 of the Code to add a new paragraph (f) providing that, consistent with both NASD current practice and the New York Stock Exchange's Guidelines for Classifying Arbitrators, close questions regarding arbitrator classification or

[4] As the Perino Report noted, this is essentially the same standard followed by the New York Stock Exchange.

challenges for cause brought by a public customer will be resolved in favor of the customer.

Arbitrator Duty To Disclose and Update Conflict Information

Rule 10312(a) of the Code currently provides that arbitrators ''shall be required to disclose'' any circumstances which might preclude an arbitrator from rendering an objective and impartial determination, and enumerates specific personal, and professional and financial information that ''should'' be disclosed under the rule. Rule 10312(b) of the Code provides that arbitrators ''should'' make a reasonable effort to inform themselves of any such conflicts. Rule 10312(c) of the Code provides that the duties imposed by paragraphs (a) and (b) are ongoing, and that arbitrators must disclose at any stage of the proceeding any such information that arises, is recalled or discovered.

While NASD has always interpreted Rule 10312 of the Code to impose a mandatory duty on arbitrators to disclose the required information, and to update their disclosure, the Perino Report noted that the use of the term ''should'' in paragraphs (a) and (b) of the Rule may create the misimpression that disclosing and updating the information are merely recommended, but not required. Therefore, to eliminate any possible misunderstanding or confusion, NASD is amending Rule 10312(a) and (b) of the Code to clarify that arbitrators ''must'' disclose the required information and ''must'' make reasonable efforts to inform themselves of potential conflicts and update their disclosures as necessary.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act[5], which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that, by providing further assurance to parties that individuals with significant ties to the securities industry are not able to serve as public arbitrators in NASD arbitrations, the proposed rule change will enhance investor confidence in the fairness and neutrality of NASD's arbitration forum.

[5] 15 U.S.C. 78*o*–3(b)(6).

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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 NASD. All submissions should refer to File No. SR–NASD–2003–95 and should be submitted by September 11, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–21402 Filed 8–20–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48358; File No. SR–NASD–2003–111]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by National Association of Securities Dealers, Inc. Relating to Charges for ViewSuite Services Set Forth in NASD Rule 7010(q)

August 15, 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 July 17, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On August 11, 2003, Nasdaq filed Amendment No. 1 that entirely replaced the original rule filing.[3] The Commission is publishing this notice, as amended, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq is proposing a pilot program for a one-year period to reduce the price and simplify the structure of the fees assessed for the Nasdaq ViewSuite products under Rule 7010(q). Nasdaq proposes to implement this rule change effective as of September 15, 2003. Proposed new language is italicized.[4]

* * * * *

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated August 8, 2003.

[4] The Commission made certain edits to the notice submitted by Nasdaq as part of Amendment No. 1 to conform it to the changes made to the Form 19b–4. Telephone conversation between Eleni Constantine, Office of General Counsel, Nasdaq and

Rule 7010. Charges for Services and Equipment

(a)–(p) No Change

(q) Nasdaq Data Entitlement Packages

This subsection (q) sets out the charges for the data entitlement packages collectively known as ViewSuite. Subsections (q)(1) and (q)(2) describe the data entitlement packages and set out the regular charges for each. Subsection (q)(3) describes the Enterprise License Program, a optional pilot program that modifies the regular charges for participants as set out therein. Subsection (q)(4) describes the ViewSuite entitlement, a second pilot program that suspends the regular charges set out in (q)(1) and (q)(2) during its operation. Thus, the monthly charges set out in (q)(1) and (q)(2) below are not in effect during the length of the pilot program set out in (q)(4).

(1) No Change

(2) No Change

(3) No Change

(4) For a one-year pilot period commencing on September 15, 2003, the DepthView, PowerView and TotalView entitlements described above in (1) and (2) of this subsection (q) shall be offered as a single entitlement, ''the ViewSuite entitlement,'' and not offered separately. The ViewSuite entitlement shall allow a subscriber to see all of the data in DepthView, PowerView and TotalView including the ADAP data feed (aggregated depth at the top five price levels), the NQDS feed, and Prime (aggregated quotes of all participants in the top five price levels).

(A)(i) Except as provided in (4)(A)(ii) below, for the ViewSuite entitlement there shall be a $70 monthly charge for each controlled device, as defined in subsection (q)(1)(A)(i) above.

(ii) A non-professional subscriber, as defined in subsection (q)(1)(A)(ii) above, shall pay $14 per month for each controlled device.

(B) The pilot ViewSuite entitlement shall not affect the distributor charges for ADAP data or Prime data set out in subsections (q)(1)(C) and (q)(2)(A) respectively. Those distributors who are presently receiving only aggregate data may at their option continue to receive that feed at the ADAP distributor charge set out in subsection (q)(1)(C) above.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The launch of SuperMontage, Nasdaq's integrated quotation and execution system, vastly expanded Nasdaq's ability to offer market data to market participants that choose to display trading interest on Nasdaq that goes beyond the best bid and offer: Nasdaq DepthView, PowerView, and TotalView, collectively referred to as the ''ViewSuite'' products, offer a wide array of quotation information to market data vendors and broker/dealer distributors. DepthView shows the aggregate size, by price level, of all Nasdaq market participants' attributed and unattributed quotations/orders that are in the top five price levels in SuperMontage. PowerView bundles the Nasdaq Quotation Dissemination Service or ''NQDS'' and DepthView. TotalView offers the PowerView services plus all Nasdaq market participants' attributed quotations/orders that are in the top five price levels in SuperMontage, in addition to the aggregate size of all unattributed quotes/orders at each of the top five price levels.

On November 20, 2002, the Securities and Exchange Commission approved a rule proposal that established fees assessed for the ViewSuite products, which are offered exclusively through distributors.[5] DepthView is offered through distributors to professional subscribers for $50 per month per controlled device[6] and to non-professional subscribers for $25 per month per controlled device, plus $1,000 per distributor per month (a single DepthView/PowerView distributor payment covers distribution of both products to professional and non-professional subscribers).[7] PowerView is offered through distributors to professional subscribers for $75 per month per controlled device and to non-professional subscribers for $29 per month per controlled device, plus $1,000 per month per distributor. TotalView is offered through distributors to professional subscribers for $150 per month per controlled device and to non-professional subscribers for $150 per month per controlled device, plus $7,500 per month per distributor (a single TotalView distributor payment covers distribution of DepthView, PowerView, and TotalView to professional and non-professional subscribers).

It is important to note, however, that the total fees, described above, include fees for NQDS. The NQDS-only fees (incremental to the Level 1 charges) are $30 for professional users and $9 for non-professional users.[8] There is no distributor fee for the NQDS service.

To encourage the broadest possible display of the SuperMontage data contained in the ViewSuite products, Nasdaq then proposed an optional pilot program to offer an enterprise-wide license to distributors.[9] This pilot allows each distributor to provide a ViewSuite product to large numbers of subscribers for a fixed rate based upon a multiple of (1) The incremental cost of the ViewSuite product and (2) the size of that distributor's reported subscriber base for NQDS (in the case of PowerView and TotalView) or for Level 1 (in the case of DepthView) for December 2002. The fee for an Enterprise License will remain the same throughout the pilot, even if its NQDS subscriber base increases or decreases. This Enterprise License Pilot does not apply to the Level 1 or NQDS data services.

Leah Mesfin, Attorney, Division, Commission on August 14, 2003.

[5] *See* Securities Exchange Act Release No. 46843 (Nov. 18, 2002), 67 FR 70471 (Nov. 22, 2002). The term ''distributor'' is defined in footnote six of Rule 7010(q).

[6] A ''controlled device'' is defined, in footnote one of Rule 7010(q), as any device that a distributor of the Nasdaq Data Entitlement Package(s) permits to: (a) access the information in the Nasdaq Data Entitlement Package(s); or (b) communicate with the distributor so as to cause the distributor to access the information in the Nasdaq Data Entitlement Package(s).

[7] To comply with the SEC Vendor Display Rule, 17 CFR 240.11Ac1–2, distributors must also provide their controlled devices with the Level 1 entitlement service, separately priced at $20 per professional user and capped at $1 per non-professional user. The Level 1 entitlement includes the UTP Quotation Data Feed (UQDF), the UTP Trade Data Feed (UTDF), and the Level 1 proprietary feed. The Level 1 charges are not included in the fees discussed in this filing.

[8] NQDS fees are separately administered and accounted for within Nasdaq in order to maintain its obligations as Administrator to the UTP Plan. As a result, the $30 per user attributed to NQDS is included in the gross NQDS revenue calculation for UTP revenue sharing.

[9] *See* Securities Exchange Act Release No. 47477 (March 10, 2003), 68 FR 13747 (March 20, 2003). This pilot program was effective as of April 2003 and is in effect through December 2003. To participate, a distributor must have purchased an Enterprise License in the first two months of the program.

Nasdaq believes that the originally approved ViewSuite pricing is reasonably related to the costs of creating and operating the product and reflects its eventual value to subscribers. As SuperMontage becomes established and understood by investors and the trading community, Nasdaq believes that the existing pricing will be appropriate for the ViewSuite product. At present, because SuperMontage and ViewSuite are still new products, Nasdaq is seeking to maximize adoption of the products through lower prices and by simplifying user entitlements for potential new subscribers.

To support broad dissemination of the data and understanding by its customers, Nasdaq proposes to simplify and reduce the pricing for ViewSuite on a pilot basis. The pilot would be for one year. The sole ViewSuite entitlement would include ADAP, Prime, and NQDS service, as those products are defined in Rule 7010(q). Nasdaq does not believe that it is appropriate to offer a stand-alone data package of the incremental ViewSuite data that is not contained in NQDS. This is because the incremental information consists of supplemental quotation and order information (NQDS contains all market participants' best quotes) that might be misleading to subscribers as a stand-alone package.

As with the existing ViewSuite pricing, both professional and non-professional fees would be offered. Monthly controlled device fees for existing ViewSuite subscribers would be reduced, with the exception of professional subscribers to DepthView.[10] Nasdaq believes that the impact of the effective increase in the fees to professional DepthView users will be minimal; Nasdaq's research suggests that, in general, these users will willingly purchase the additional information contained in the ViewSuite entitlement once the charge for this information is reduced.

Nasdaq would continue to distribute both detailed and aggregate data from SuperMontage but decisions on how to display the data would be left to vendors' discretion (subject to the SEC Vendor Display Rule). Any Enterprise License Agreements will remain in effect for their specified term.

[10] Fees would be generally reduced, as follows:

TotalView Professional: −$80

TotalView Non-Professional: −$136

PowerView Professional: −$5

PowerView Non-Professional: −$15

DepthView Professional: +$20

DepthView Non-Professional: −$11

Nasdaq believes that the increase in Depth View pricing reflects the addition of NQDS, which cannot be discounted because it is part of the UTP Plan, as described above.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[11] in general and with section 15A(b)(5) of the Act,[12] in particular, in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Nasdaq represents that the proposed pilot programs are available to all distributors of the ViewSuite products.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 NASD. All submissions should refer to file number SR–NASD–2003–111 and should be submitted by September 11, 2003.

[11] 15 U.S.C. 78*o*–3.

[12] 15 U.S.C. 78*o*–3(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–21448 Filed 8–20–03; 8:45 am]

BILLING CODE 8010–01–P

[13] 1917 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48353; File No. SR–NASD–2003–126]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend the Pilot Period for Rules Relating to Bond Fund Volatility Ratings

August 15, 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 August 7, 2003, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the NASD. The NASD filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The NASD provided written notice of its intention to file the proposed rule change on August 5, 2003. The Commission reviewed the NASD's submission, and told the NASD it was acceptable to file the proposed rule change immediately. The NASD asked the Commission to waive the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

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 NASD proposes to extend the expiration date of the pilot period for the NASD's rules concerning bond mutual fund volatility ratings. The current pilot is scheduled to expire on August 31, 2003. The proposed rule change extends the pilot period until August 31, 2005. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

IM–2210–5. Requirements for the Use of Bond Mutual Fund Volatility Ratings

(This rule and Rule 2210(c)(3) will expire on August 31, [2003] *2005*, unless extended or permanently approved by [the Association] *NASD* at or before such date.)

(a) through (c) No change.

* * * * *

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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background and Description of the NASD's Rules on Bond Mutual Fund Volatility Ratings. On February 29, 2000, the Commission approved the adoption of NASD Interpretive Material 2210–5, which permits members and their associated persons to include bond fund volatility ratings in supplemental sales literature (mutual fund sales material that is accompanied or preceded by a fund prospectus).[6] The Commission also approved at that time new NASD Rule 2210(c)(3), which sets forth the filing requirements and review procedures applicable to sales literature containing bond mutual fund volatility ratings. Previously, the NASD staff interpreted NASD rules to prohibit the use of bond fund volatility ratings in sales material.

IM–2210–5 permits the use of bond fund volatility ratings only in supplemental sales literature and only if certain conditions are met:

- The word ''risk'' may not be used to describe the rating.
- The rating must be the most recent available and be current to the most recent calendar quarter ended prior to use.
- The rating must be based exclusively on objective, quantifiable factors.
- The entity issuing the rating must provide detailed disclosure on its rating methodology to investors through a toll-free telephone number, a web site, or both.
- A disclosure statement containing all of the information required by the rule must accompany the rating. The statement must include such information as the name of the entity issuing the rating, the most current rating and the date it was issued, and a description of the rating in narrative form containing certain specified disclosures.

Rule 2210(c)(3) requires members to file bond mutual fund sales literature that includes or incorporates volatility ratings with the Advertising Regulation Department of the NASD (''Department'') at least 10 days prior to use for Department approval. If the Department requests changes to the material, the material must be withheld from publication or circulation until the requested changes have been made or the material has been refiled and approved.

IM–2210–5 and the new Rule 2210(c)(3) initially were approved on an 18-month trial basis that was scheduled to expire on August 31, 2001.[7] On August 10, 2001, the NASD filed with the Commission a proposed rule change that was effective upon filing that extended the effectiveness of IM–2210–5 and Rule 2210(c)(3) an additional two years until August 31, 2003.[8]

Proposed Rule Change to Extend the Expiration Date of IM–2210–5 and Rule 2210(c)(3). As indicated in the Commission's order approving IM–2210–5 and Rule 2210(c)(3), the NASD requested the 18-month trial period to provide an opportunity to assess whether the rule had facilitated the dissemination of useful, understandable information to investors, and whether it had prevented the dissemination of inappropriate and misleading information.[9] During the initial 18-month pilot period, the Department received very few filings that contained bond fund volatility ratings. Although these filings generally met the rule's requirements, the staff did not believe that it had received a sufficient number of filings to adequately evaluate the rule's effectiveness. Accordingly, in July 2001, the NASD Regulation, Inc. Board of Directors authorized a rule filing with the Commission to extend the pilot for two years. The NASD subsequently filed with the Commission a proposed rule change, which was effective upon filing, to extend the pilot period until August 31, 2003.[10]

Since August 2001, the Department has continued to receive very few filings under this rule. During the entire period from February 2000, when the rule was first approved, until the present, the NASD has received a total of 41 submissions from three NASD members. In general, these filings met the requirements of IM–2210–5. However, the staff does not believe that it has received a sufficient number of filings to adequately evaluate the rule's effectiveness.

In particular, the NASD believes that, because of the low interest rates over the last two years, bond mutual funds have had little reason to distribute sales material that contains volatility ratings. The NASD believes that it needs to review the rule in an environment in which there is greater demand for sales literature that includes bond mutual fund volatility ratings to determine the rule's effectiveness. The NASD believes there is a reasonable probability that such environment will exist over the next two years.

Accordingly, the NASD proposes to extend the expiration date of IM–2210–5 and Rule 2110(c)(3) for an additional two years, until August 31, 2005, to allow more filings to be made. Before this period expires, the staff will evaluate the rule and determine whether to recommend that the rule be eliminated, modified, or permanently approved as is. The proposal contains no substantive changes to the way in which the pilot has operated during the past two years; it only extends the pilot period by an additional two years.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the

[6] *See* Securities Exchange Act Release No. 42476 (February 29, 2000), 65 FR 12305 (March 8, 2000) (SR–NASD–97–89).

[7] *Id.*

[8] *See* Securities Exchange Act Release No. 44737 (August 22, 2001), 66 FR 45350 (August 28, 2001) (SR–NASD–2001–49).

[9] *See* footnote 6, *supra.*

[10] *See* footnote 8, *supra.*

Act,[11] which requires, among other things, that the NASD's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and, in general, protect investors and the public interest. The NASD believes that extending the expiration date of IM–2210–5 and Rule 2210(c)(3) will provide the additional experience necessary to fully analyze and evaluate the provisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The NASD has asked the Commission to waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Such waiver will allow the pilot to operate without interruption through August 31, 2005. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[14]

[11] 15 U.S.C. 78o–3(b)(6).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 NASD. All submissions should refer to file number SR–NASD–2003–126 and should be submitted by September 11, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–21449 Filed 8–20–03; 8:45 am]

BILLING CODE 8010–01–P

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4454]

Culturally Significant Objects Imported for Exhibition Determinations: Cultural Artifacts From Iraq

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the historic and modern books, documents, parchment scrolls, and other items discovered in early May 2003 in the basement of the Mukhabahrat in Baghdad, most of which pertain to the Jewish community, imported from abroad for temporary exhibition in the United States, including restoration necessary thereto, are of cultural significance. The objects are imported pursuant to an agreement with the foreign owner or custodian. I also determine that their temporary exhibition or display by the National Archives and Records Administration, or another educational or cultural institution, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including available descriptive materials, contact Lorie J. Nierenberg, Assistant Legal Adviser for Public Diplomacy and Public Affairs, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 619–5078). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 18, 2003

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–21573 Filed 8–20–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4453]

Bureau of Political—Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: As shown on each of the twenty-eight letters.

FOR FURTHER INFORMATION CONTACT: Mr. Peter J. Berry, Director, Office of Defense Trade Controls Licensing, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202 663–2700).

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and

36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: August 11, 2003.

Terry L. Davis,

Acting Director, Office of Defense Trade Controls Licensing, Directorate of Defense Trade Controls, Bureau of Political—Military Affairs, Department of State. (TG)

United States Department of State

Washington, DC 20520
June 23, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and defense services to Belgium, Canada, Denmark, France, Germany, Ireland, Italy, Norway and the United Kingdom related to an improved Air Defense Ground Environment (ADGE) System for use by NATO.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 010–03

United States Department of State

Washington, DC 20520
June 23, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction described in the attached certification involves the transfer of technical data and assistance to Canada for the manufacture of Optomechanical major assemblies components and sub-assemblies for the Stringer Missile Weapons System Launch Tube Assembly. The Optomechanical assemblies will be for end-use in the United States.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 012–03

United States Department of State

Washington, D.C. 20520
June 23, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) and (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services, technical data and defense articles to South Korea to support the manufacture, assembly and testing of six (6) Mk 45 Mod 4 Naval Gun Mounts for the Government of the Republic of Korea.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 034–03

United States Department of State

Washington, D.C. 20520
June 23, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under the contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical information, hardware and services to Japan to support the manufacture, test and interface of the JQ–70 console for use by the Japanese Defense Agency on Japanese military ships.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 035–03

United States Department of State

Washington, D.C. 20520
June 23, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical information, hardware and services to Japan to support the manufacture, test and interface of the JQ–70 console for use by the Japanese Defense Agency on Japanese military ships.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 036–03

United States Department of State

Washington, D.C. 20520
June 23, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and defense hardware to Japan to support the manufacture of non-significant military equipment including the AN/ASQ–212/CP–2044 Data Processing System for the Japan Defense Agency's P–3C Transition Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 037–03

United States Department of State

Washington, D.C. 20520
June 23, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical information, hardware and services to Israel to support the development of the Israeli Arrow Weapon System (AWS) Program and Modified Arrow Radar Seeker (MARS) Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 038–03

United States Department of State

Washington, D.C. 20520
June 23, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of production, manufacturing hardware and services to Japan to add one additional ship set of the MK 41 Vertical Launching Systems (VLS) to the new Japanese Navy Guided Missile Destroyer, DDG2317.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though, unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 039–03

United States Department of State

Washington, DC 20520
June 23, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense services, technical data and defense articles sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export to South Korea of tooling and kits to support the manufacture, assembly and repair abroad of non-significant military equipment associated with the AH–64 Apache helicopter fuselage, fuselage components and spare parts, which will be re-exported back to the United States.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 043–03

United States Department of State

Washington, DC 20520
July 7, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense services, technical data and defense articles in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export to the NATO AEW&C Programme Management Organization (NAPMO) in The Netherlands of defense services, technical data and defense articles required to upgrade the NATO E–3A fleet with new or enhanced capabilities.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 045–03

United States Department of State

Washington, DC 20520
July 7, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export to Greece of F–16 Block–52 Advanced Self Protection Integrated Suites (ASPIS), AN/ALQ–187 Jammers and the retrofit of previously exported AN/ALQ–187 Jammers to Digital RF Memory configuration in support of the Greek F–16 upgrade program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 054–03

United States Department of State

Washington, D.C. 20520
July 7, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under Category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of 2,500 9mm pistols and associated equipment to the National Police of Ecuador.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 056–03

United States Department of State

Washington, D.C. 20520
July 9, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of major

defense equipment and defense articles in the amount of $25,000,000 or more.

The transaction contained in the attached certification involves the export to Denmark of three C–130J–30 aircraft, a basic logistics support program, spare parts and ground support equipment.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 044–03

United States Department of State

Washington, D.C. 20520
July 9, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under Category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of 472 M240 7.62mm caliber machine guns and supporting equipment to the Israeli Ministry of Defense for use by the Israeli Armed Forces.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 046–03

United States Department of State

Washington, DC 20520
July 9, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and assistance for the manufacture of Infrared Detecting Sets in Japan for end-use by the Japanese Defense Agency.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 047–03

United States Department of State

Washington, DC 20520
July 9, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and assistance in the manufacture of AGM–65 Maverick Weapon System in the United Kingdom for end-use by the United Kingdom Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control consideration.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 049–03

United States Department of State

Washington, DC 20520
July 9, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a license for the export of defense services, technical data and defense articles abroad in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of United Kingdom of defense services, technical data and defense articles related to the integration of weapon systems in a Tactical Command and Sensor System for the MRA4 Maritime Patrol Aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 052–03

United States Department of State

Washington, D.C. 20520
July 11, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense services, technical data and defense articles to the United Kingdom to support the manufacture and assembly of the Javelin missile seeker system as part of the United Kingdom Ministry of Defence's Light Forces Anti-Tank Guided Weapon system program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 067–03

United States Department of State

Washington, D.C. 20520
July 14, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical information, hardware and defense services to Saudi Arabia, Norway and France to support the development of the Saudi Ministry of Defense and Aviation (MODA) Command, Control, Communications, Computers and Intelligence (C4I) System (Project Al Diriyah).

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though

unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 016–03

United States Department of State

Washington, D.C. 20520
July 14, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of 267 .50 caliber M82A1 Rifle Systems and associated equipment to the Norwegian Armed Forces for use by the Norwegian Army.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 055–03

United States Department of State

Washington, D.C. 20520
July 14, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 1504 of the Emergency Wartime Supplemental Appropriations Act, 2003, P.L. 108–11, I am transmitting, herewith, notification that the Deputy Secretary of State (as delegated by the Secretary of State) has determined that the export to Iraq of the certain body armor, nuclear, biological and chemical protective equipment, and military equipment (such as small arms and ammunition) for use in reconstituting the Iraqi military or police forces (or interim forces), is in the national interest of the United States.

The exports described in the attached notification represent the category of exports for which this notification applies. It includes the specific exports to Iraq of equipment that consists of protective gear under a Department of State contract to help organize effective Iraqi civilian law enforcement, judicial and correctional agencies and small arms and ammunition for use in reconstituting Iraqi military or police forces.

The United States Government is prepared to license the export of such items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal notification that, though unclassified, contains business information ;submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assist Secretary, Legislative Affairs.
Enclosure: Transmittal No. DTC 01IZ–03

United States Department of State

Washington, D.C. 20520
July 15, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of 10,000 M4, 5.56MM caliber, semi-/full automatic carbines and minor associated equipment to the U.A.E. Armed Forces.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicants, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 065–03

United States Department of State

Washington, D.C. 20520
July 17, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and defense articles to Jordan for the installation and maintenance of the Integrated Fire Control System (IFCS) for the AB9B1 M60 Tank Upgrade Program for use by the Jordanian Armed Forces.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 032–03

United States Department of State

Washington, D.C. 20520
July 17, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export to Malaysia of one MEASAT–3 Commercial Communications Satellite.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DDTC 051–03

United States Department of State

Washington, D.C. 20520
July 18, 2003.
The Honorable: J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List Sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of 5,344 Model 37, .38 caliber revolvers to the National Polices Agency of Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, eoncomic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 084–03

United States Department of State

Washington, D.C. 20520
July 21, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification concerns exports of technical data and defense services for delivery of the JCSAT–9 commercial communications satellite to Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DDTC 063–03

United States Department of State

Washington, D.C. 20520
July 21, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles in the amount of $25,000,000 or more.

The transaction contained in the attached certification involves the export of a commercial communications satellite to be launched from an Ariane 5 launch vehicle from Kourou, French Guiana.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DDTC 064–03

United States Department of State

Washington, D.C. 20520
July 21, 2003.
The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, technical assistance, and hardware to Egypt related to the refurbishment, maintenance, and operating of Chaparral Air Defense Missile Launch Stations and vehicles for ultimate end use by the Arab Republic of Egypt Government.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DDTC 064–03

[FR Doc. 03–21436 Filed 8–20–03; 8:45 am]
BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 4452]

Bureau of Educational and Cultural Affairs Request for Grant Proposals (RFGPs): FY2004 Educational Partnerships Program

SUMMARY: The Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs announces an open competition for the Educational Partnerships Program. Accredited U.S. post-secondary educational institutions meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to support the Program's goals of encouraging mutual understanding, educational reform, economic development, and civil society through educational cooperation in higher education with targeted countries and regions that are of high priority to the Department of State.

Program Overview

To encourage mutual understanding, educational reform, economic development, and civil society in the targeted countries, the Educational Partnerships Program enables U.S. colleges and universities and foreign counterpart institutions to pursue objectives cooperatively through exchange visits of faculty, administrators, highly advanced foreign students, and advanced U.S. graduate students who can demonstrate the ability to work independently. The Educational Partnerships Program is not designed to support study abroad activities for undergraduate students or less advanced graduate students.

Applicants are strongly encouraged to discuss their project ideas during the proposal development process with the relevant Bureau program officer for guidance. (Please see ''For further information'' section for contact details.)

U.S. and foreign colleges and universities that have hosted, enrolled, or employed State Department sponsored grantees or alumni as professors, students, or administrators are especially encouraged to develop proposals that build on the achievements of these individual grantees and extend their impact.

A separate Request for Grant Proposals under the Freedom Support Educational Partnerships Program with Eurasia has been issued for Fiscal Year 2004 and is accessible on the State Department Web site at *http://exchanges.state.gov/education/rfgps.* For information about the Freedom Support Educational Partnerships Program with Eurasia, which supports partnerships with countries previously recognized as belonging to the Soviet Union, contact the Humphrey Fellowships and Institutional Linkages Branch, Office of Global Educational Programs (ECA/A/S/U), Room 349, U.S. Department of State, State Annex 44, 301 4th Street, SW., Washington, DC 20547, phone: (202) 619–5289, fax: (202) 401–1433.

Additional RFGPs for educational partnerships to be funded in FY2004 with specific world regions may be published later this year or early in 2004 and will be accessible on the State Department Web site at *http://exchanges.state.gov/education/rfgps.*

Foreign Country and Location Eligibility

The eligibility of foreign countries and locations is limited and varies from year to year. Proposals to increase the understanding of the United States in countries and societies with significant Muslim populations are especially encouraged, as are proposals to increase the understanding of these countries and societies in the United States. Except as noted below for the Western Hemisphere and for North Africa and the Middle East, a proposal may not include more than one of the foreign countries or locations listed below.

(1) East Asia and the Pacific

Eligible for FY 2004: Indonesia, Malaysia, Philippines.

We encourage projects that will increase the U.S. understanding of cultures and societies with significant Muslim populations in eligible East Asian countries, and the understanding of U.S. culture and society in East Asia. We also encourage projects that will encourage good governance and responsible administrative practices, and that will provide wider access to education, strengthen civil society, or help to create more transparent, market-oriented economies.

(2) North Africa and the Middle East

Eligible for FY 2004: Algeria, Jordan, Kuwait, Lebanon, Morocco, Oman, Saudi Arabia, Syria, Tunisia, United Arab Emirates. We encourage projects that will increase the U.S. understanding of Muslim cultures and societies in North Africa and the Middle East, and the understanding of U.S. culture and society in the region. We also encourage projects that will strengthen civil society in eligible foreign countries, that will support educational reform through curriculum development or teacher training, or that will encourage economic development or responsible, transparent administration in the public sector. Tunisia is eligible for special funding in FY2004 for projects supporting modernization in higher education or the economy (maximum award $195,000). Proposals for North Africa and the Middle East may include more than one eligible country.

(3) Sub-Saharan Africa

Eligible for FY2004: Botswana, Ethiopia, Nigeria, Senegal,

Tanzania, Uganda. We encourage projects that will increase the U.S. understanding of Muslim cultures and societies in sub-Saharan Africa, and the African understanding of U.S. culture and society. We also encourage projects that will strengthen the role of African institutions of higher education in an eligible country's development and that will encourage increased involvement of African universities with other local and international institutions that contribute to African social, political or economic development.

(4) The Western Hemisphere

Eligible for FY 2004: Barbados, Dominican Republic, Haiti,

Jamaica, Trinidad and Tobago. We encourage projects for the Caribbean basin that will strengthen civil society or effective administration in the public or the private sectors, with special interest in economic development, environmental studies, educational reform and teacher training, journalism, and media studies. Proposals for the Caribbean basin may include more than one eligible country.

(5) South Asia

Eligible for FY 2004: Afghanistan, Bangladesh, India, and

Pakistan. We encourage projects that will increase the U.S. understanding of South Asian cultures and societies with significant Muslim populations, and the South Asian understanding of U.S. culture and society. We also encourage projects that will promote the development of good governance and responsible administrative practices in either the public sector or the private sector in an eligible country; that will provide wider access to education; or that will address issues of social or religious diversity.

(6) Europe and Eurasia

Eligible for FY 2004: Bosnia and Herzegovina, Serbia and Montenegro, Turkey, and the United Kingdom as noted below. In addition, please consult the Request for Grant Proposals for the FY2004 Freedom Support Educational Partnerships Program with Eurasia.

Eligible for special funding in FY 2004 in designated fields and locations are Bosnia and Herzegovina (comparative religious studies or American Studies, maximum request $195,000); Montenegro (university administration or social sciences curriculum reform, maximum request $150,000); and Serbia (journalism curriculum reform, maximum request $195,000).

For Turkey, we encourage proposals in the field of comparative law with a focus on Muslim and Western legal traditions and with particular reference to the approaches to human rights and fair judicial procedures in these traditions.

For the United Kingdom, eligibility is limited to projects that will study inter-ethnic or inter-religious relations and that promote cooperation with immigrant and minority populations in the United Kingdom.

Project Design

The project should be designed to focus on specific institutional objectives that will support the Program's goals of encouraging mutual understanding, educational reform, economic development, and civil society with special reference to the regional needs and U.S. foreign policy priorities described in this document under the heading ''Foreign Country and Location Eligibility.'' The design should include a series of exchange visits that will lead to the achievement of the project's objectives within a three-year period, and should describe a process for evaluating the results of project implementation. The design should also provide for the effective administration of the project.

Statement of Need

To justify a request for support, proposals should demonstrate the need of the participating institutions for the project that they are proposing. Proposals should explain how each participating department and institution will utilize the project to address the institution's needs as well as larger needs in its country and society.

If the proposed partnership would occur within the context of a previous or ongoing project, the proposal should outline distinct objectives and outcomes for the new project and should explain how new Bureau funding would build upon the previously funded activities. Proposals should describe the amounts and sources of support for the earlier projects as well as the results to date.

Project Objectives

Proposals should explain in detail how the project will enable the participating institutions to achieve specific institutional or departmental changes that will support the goals of the Educational Partnerships Program. Proposals should outline a series of activities for meeting specific objectives for each participating institution and society. The benefits of the project to each of the participating institutions may differ significantly in nature and scope based on their respective needs and resource bases. Project objectives may include the development or revision of courses, curricula, and programs of study and outreach at participating institutions to support mutual understanding, educational reform, economic development, or civil society. Proposals may outline the parameters and possible content of new courses; new teaching specializations or methodologies; new or revised curricula; and new programs for outreach to educators, professional groups, or the general public. Proposals may also describe strategies to promote administrative reform through faculty or staff development.

In most cases a limited number of related thematic objectives at each institution will be more feasible to achieve than a larger number of unrelated objectives.

The following fields are eligible if they support the foreign policy goals previously described under the heading ''Foreign Country and Location Eligibility'':

—The social, political, and economic sciences;
—business administration;
—journalism and media studies;
—law;
—public administration and public policy analysis;
—library science;
—education, continuing education, and educational administration, including Teaching English as a Foreign Language;
—religious studies;
—health policy and administration;
—environmental studies.

Projects in the physical, technical, and medical sciences are not eligible except when pertaining directly to health policy and administration.

Exchange Activities and Project Implementation

Proposals should demonstrate that a project's objectives are feasible to achieve within a three-year period through a series of exchange activities that take into account prevailing conditions in the participating countries. For example, projects focusing on curricular reform should describe the existing curriculum and the courses targeted for revision, and should explain how exchange activities will result in the restructuring of the current content to incorporate the new academic themes. The proposal should describe the topics and content of any new courses or educational materials that will be developed and introduced, and should identify those persons who will be responsible for developing the new courses and for teaching them. If the project proposes to develop a new degree or certificate program, the proposal should outline the steps being taken to secure approval for the new program from the institution itself and from all relevant educational authorities. The proposal should also describe the composition and size of the student population and any other group that will benefit from the innovations to be introduced through the project.

Except for translators, interpreters, and outside evaluators, participation in the exchange visits is limited to teachers, researchers, advanced foreign students, advanced U.S. graduate students, and administrators from the participating institution(s). Advanced graduate students at the U.S. institution(s) are eligible to participate as visiting instructors at a foreign partner institution. Advanced foreign students are eligible to participate in exchange visits if they have teaching or research responsibilities or are preparing for such responsibilities. Applicants planning to submit proposals with advanced foreign students or advanced U.S. graduate students as exchange participants are encouraged to contact the program office to discuss the rationale for their participation.

Foreign participants must be both qualified to receive U.S. J–1 visas and willing to travel to the U.S. under the provisions of a J–1 visa during the exchange visits funded by this Program. Foreign participants may not be U.S. citizens.

Material and Technical Support for Exchange Activities

To increase the feasibility and impact of the project's exchange activities, a proposal may include a request for funding for educational materials (including books and periodical subscriptions) and technical components (including the establishment or maintenance of Internet and/or electronic mail facilities and of interactive technology-based distance-learning programs). The funding requested for educational and technical materials should supplement the project's exchange activities by reinforcing their impact on project objectives. Proposals with distance learning components should describe pertinent course delivery methods, audiences, and technical requirements. Proposals that include the introduction of Internet, electronic mail, and other interactive technologies for long-term use in countries where these technologies are not easily maintained or financed should discuss how the foreign partner institution will cover their costs after the project ends.

Applicants may propose other project components not specifically mentioned in this solicitation document if the activities will increase the impact on project objectives.

Project Duration

Pending the availability of funds, grant activities should begin on or about September 1, 2004 for a three-year period. Grant activities are expected to be completed within the three-year timeframe.

Project Evaluation

Proposals should describe and budget for a methodology for project evaluation. Institutions that are awarded partnership grants must formally submit periodic reports to the Bureau on the project's activities in relation to its objectives. The formal evaluation reports should include an assessment of the current status of each participating department's and institution's needs at the time of program inception with specific reference to project objectives; formative evaluation to allow for mid-course revisions in the implementation strategy; and, at the conclusion of the project, summative evaluation of the degree to which the project's objectives have been achieved. The proposal should discuss how the issues raised throughout the formative evaluation process will be assessed and addressed. The summative evaluation should describe the project's influence on the participating institutions and their surrounding communities or societies. The summative evaluation should also include recommendations about how to build upon project achievements. Evaluative observations by external consultants with appropriate subject, cultural, and regional expertise are especially encouraged. Copies of evaluation reports must be provided to the Department of State.

In addition to the formally scheduled reports, the evaluation strategy should include a mechanism for promptly providing the Bureau with information that will equip the Department of State to summarize and illustrate project activities and achievements as they occur.

Project Administration

Proposals should explain how project activities will be administered both in the U.S. and overseas in ways that will ensure that the project maintains a focus on its objectives while adjusting to changing conditions, assessments, and opportunities.

Institutional Commitment

A U.S. college or university must submit the proposal and must serve as the grant recipient with responsibility for project coordination. Proposals must include letters of commitment from all institutional partners including the institution submitting the proposal. An official who is authorized to commit institutional resources to the project must sign the letter of support. The letters of support as well as the proposal as a whole should demonstrate that the participating institutions understand one another and are committed to mutual support and cooperation in project implementation.

Eligible Institutions

The lead institution and grant recipient in the project must be an accredited U.S. college or university.

Applications from community colleges, institutions serving significant minority populations, undergraduate liberal arts colleges, comprehensive universities, research universities, and combinations of these institutions are

eligible. The lead U.S. organization in a consortium or other combination of cooperating institutions is responsible for submitting the application. Each application must document the lead organization's authority to represent all U.S. cooperating partners. Secondary U.S. partners may include governmental or non-governmental organizations at the federal, state, or local levels as well as non-profit service, community, and professional organizations.

Foreign institutional partners may be recognized institutions of post-secondary education, state-supported universities, independent universities, research institutes, relevant educational authorities, and other public or private non-profit organizations with project-related educational missions.

Costs and Cost-Sharing

The commitment of all partner institutions to the proposed project should be reflected in the cost-sharing which they offer in the context of their respective institutional capacities. Although the contributions offered by institutions with relatively few resources may be less than those offered by applicants with greater resources, all participating institutions should identify appropriate contributions. These costs may include estimated in-kind contributions. U.S. institutions are encouraged to contribute to the international travel expenses of U.S. participants as part of their institutional cost-share. Proposed cost-sharing will be considered an important indicator of the applicant institution's commitment to the project.

The Bureau's support may be used to assist with the costs of the exchange visits as well as the costs of the administration of the project by the U.S. grantee institution, as explained in additional detail in the associated document entitled ''Project Objectives, Goals, and Implementation'' (POGI). U.S. administrative costs that may be covered by the Bureau, with certain limitations, include administrative salaries, faculty replacement costs, other direct administrative costs, and partial indirect costs. The cost of administering the project at the foreign partner organization(s) is also eligible for the Bureau's support. Although each grant will be awarded to a single U.S. institutional partner, the proposal should make adequate provision for the administrative costs of all partner institutions, including the foreign partner(s), especially if a foreign partner has relatively few resources. See the POGI for additional information on the restrictions and maximum amounts that apply to certain budget categories.

Pending the availability of FY 2004 funds, the maximum award in the FY 2004 competition will be $150,000 for a three-year period with the exceptions noted under the heading ''Foreign Country and Location Eligibility.'' Requests for amounts smaller than the maximum are eligible. Budgets and budget notes should carefully justify the amounts requested. Grants awarded to organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

The response to Requests for Grant Proposals for the support of partnerships in higher education has been unusually strong in recent years. In FY 2002, 99 eligible proposals were submitted to the Educational Partnerships Program, and 17 awards were made. Special FY 2004 funding with higher grant maximums and more favorable grant-to-application ratios is expected for projects in Bosnia and Herzegovina, Serbia and Montenegro, and Tunisia as noted previously under the heading ''Foreign Country and Location Eligibility.''

Ineligibility

A proposal will be deemed technically ineligible for consideration if:

(1) It does not fully adhere to the guidelines established in this document and in the Solicitation Package;

(2) It is not received by the deadline;

(3) It is not submitted by the U.S. partner;

(4) The U.S. applicant organization is ineligible;

(5) The foreign country or geographic location is ineligible.

Projects must conform with the Bureau's requirements and guidelines outlined in the solicitation package for this RFGP. Proposals that do not follow RFGP requirements and the guidelines appearing in the POGI and PSI will be excluded from consideration due to technical ineligibility.

Announcement Title and Number

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/S/U–04–03.

For Further Information

For further information, contact the Humphrey Fellowships and Institutional Linkages Branch; Office of Global Educational Programs; Bureau of Educational and Cultural Affairs; ECA/A/S/U, Room 349; U.S. Department of State; SA–44, 301 4th Street, SW.; Washington, DC 20547; phone: (202) 619–5289, fax: (202) 401–1433.

Prospective applicants are strongly encouraged to communicate about their proposals with one of the following regional program officers: for North Africa and the Middle East, Michelle Johnson, phone: (202) 205–8434, (e-mail *johnsonmi@pd.state.gov*); for the United Kingdom, Paul Schelp, phone: (202) 205–8266 (e-mail: *pschelp@pd.state.gov*); for the Balkans and the Western Hemisphere, Maria Urbina, phone: (202) 260–6797 (e-mail *murbina@pd.state.gov*); for Turkey, Jonathan Cebra, phone: (202) 205–8379 (e-mail *jcebra@pd.state.gov*); and for sub-Saharan Africa, East Asia, and South Asia, Joan Zaffarano, phone: (202) 401–1323 (e-mail *jzaffara@pd.state.gov*).

Please read the complete Solicitation Package before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The Solicitation Package includes more detailed award criteria, all application forms, and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. The Solicitation Package includes the POGI and the Proposal Submission Instructions (PSI). The entire Solicitation Package may be downloaded from the Bureau's Web site at: *http://exchanges.state.gov/education/rfgps.* Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC, time on Friday, December 12, 2003. Faxed documents are not acceptable, with the exception of letters of endorsement that are submitted as part of the proposal. Documents postmarked with the due date but received on a later date will not be accepted. Applicants must ensure that their proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and 10 copies of the complete application should be sent by the project's lead U.S. college or university to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/S/U–04–03, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Submission of Electronic Copies

No later than one week after the deadline for receipt of the grant proposal, applicants must also submit the ''Proposal Title Page'' described in the Project Objectives, Goals, and Implementation document with attachments (the resumes for the U.S. and foreign project directors only and the Participants Statistics Page), the ''Executive Summary,'' and ''Proposal Narrative,'' sections of the proposal as e-mail attachments in Microsoft Word (preferred) or WordPerfect files to the following e-mail address: *partnerships@pd.state.gov.* In the e-mail message subject line, include the following: ECA/A/S/U–04–03 and the country or countries of the foreign partner(s) together with the names of the U.S. and foreign partner institutions. To reduce the time needed to obtain advisory comments from the Public Affairs Sections of U.S. Embassies overseas and Fulbright Commissions, the Bureau will transmit these files electronically to these offices.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106—113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 6Z, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting, and other requirements.

The Grantee will be responsible for issuing DS–2019 forms to participants in this program. A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD–SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 401–9810, FAX: (202) 401–9809.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. All eligible proposals will be evaluated by independent external reviewers. These reviewers, who will be professional, scholarly, or educational experts with appropriate regional and thematic knowledge, will provide recommendations and assessments for consideration by the Bureau. The Bureau will consider for funding only those proposals which are recommended for funding by the independent external reviewers.

Proposals may be reviewed by the Office of the Legal Advisor or by other offices of the U.S. Department of State. In addition, U.S. Embassy or binational Fulbright Commission officers may provide advisory comment. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Proposals must also be approved by the J. William Fulbright Foreign Scholarship Board. Final technical authority for assistance awards (grants or cooperative agreements) will reside with the Bureau's grants officer.

Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package.

Review Criteria

All reviewers will use the criteria below to reach funding recommendations and decisions. Technically eligible applications will be reviewed competitively according to these criteria, which are not rank-ordered or weighted.

(1) *Broad and Enduring Significance of Institutional Objectives:* Project objectives should have significant and ongoing impact on the participating institutions and their surrounding societies, communities, or countries by providing a deepened understanding of critical issues in one or more of the eligible fields. Project objectives should relate clearly to institutional and societal needs as well as to U.S. foreign policy goals.

(2) *Feasibility and Effectiveness of Strategy to Achieve Project Objectives:* Strategies to achieve project objectives should be feasible and realistic within the projected budget and timeframe. Proposals should contain detailed information on specific exchange activities and outline the methodology and timeframe for achieving project goals.

(3) *Institutional Commitment to Cooperation:* Proposals should demonstrate significant understanding by each institution of its own needs and capacities and of the needs and capacities of its proposed partner(s), together with a strong commitment by the partner institutions, during and after the period of grant activity, to cooperate with one another in the mutual pursuit of institutional objectives.

(4) *Project Evaluation:* Proposals should describe a methodology for determining the degree to which a project meets its objectives, both while the project is underway and at its conclusion. The final project evaluation should include an external component and should provide observations about the project's influence within the participating institutions as well as their surrounding communities or societies.

(5) *Cost-effectiveness:* Administrative and program costs should be reasonable and appropriate with cost-sharing provided by all participating institutions within the context of their respective capacities. The Bureau views cost-sharing as a reflection of institutional commitment to the project. Contributions should not be limited to indirect costs.

(6) *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity by explaining how issues of diversity are included in project objectives for all institutional partners. Issues resulting from differences of race, ethnicity, gender, religion, geography, socio-economic status, or physical challenge should be addressed during project implementation. In addition, project participants and administrators should reflect the diversity within the societies, which they represent (see the section of this document on ''Diversity, Freedom, and Democracy Guidelines''). Proposals should also discuss how the various institutional partners approach diversity issues in their respective communities or societies.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding for Balkan countries eligible in FY 2004 has previously been provided through SEED legislation. The President's budget request for Educational and Cultural Exchanges for Fiscal Year 2004 includes funding for this purpose.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: August 13, 2003.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–21435 Filed 8–20–03; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 4451]

Bureau of Educational and Cultural Affairs Request for Grant Proposals (RFGPs): Fulbright American Studies Institutes for Foreign University Faculty and Secondary Educators; Notice

SUMMARY: The Study of the U.S. Branch, Office of Academic Exchange Programs, Bureau of Educational and Cultural Affairs, announces an open competition for three (3) assistance awards. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(C)(3) may apply to develop and implement one of the following three post-graduate level Fulbright American Studies Institute programs designed for multinational groups of either 18 or 30 experienced foreign university faculty and secondary educators:

A. American Civilization

B. U.S. Political Economy and the Global Economic System

C. American Studies for Foreign Secondary School Educators

These programs are intended to provide participants with a deeper understanding of American life and institutions, past and present, in order to strengthen curricula and to improve the quality of teaching about the United States at universities abroad. Programs should therefore be designed to elucidate the topic or theme of the Institute as well as American civilization as a whole.

Programs are six weeks in length and will be conducted during the Summer of 2004.

The Bureau is seeking detailed proposals from colleges, universities, consortia of colleges and universities, and other not-for-profit academic organizations that have an established reputation in one or more of the following fields: political science, international relations, law, history, sociology, literature, American studies, and/or other disciplines or sub-disciplines related to the program themes.

It is the Bureau's intention to fund one institute in each of the above three thematic areas, subject to the number and quality of proposals received and the availability of funding.

Applicant institutions must demonstrate expertise in conducting post-graduate programs for foreign educators, and *must have a minimum of four years experience in conducting international exchange programs.* Bureau guidelines stipulate that grants to organizations with less than four years experience in conducting international exchanges are limited to $60,000. As it is expected that the budget for these programs will exceed $60,000, organizations that can not demonstrate at least four years experience will not be eligible to apply under this competition.

The project director or one of the key program staff responsible for the academic program must have an advanced degree in one of the fields listed above. Staff escorts traveling under the cooperative agreement must have demonstrated qualifications for this service. Programs must conform with Bureau requirements and guidelines outlined in the Solicitation Package. Bureau programs are subject to the availability of funds.

Program Information

Overview and Objectives: Fulbright American Studies Institutes are intended to offer foreign scholars and teachers whose professional work focuses on the United States the opportunity to deepen their understanding of American society, culture and institutions. Their ultimate goal is to strengthen curricula and to improve the quality of teaching about the U.S. in institutions of higher learning and secondary school systems abroad.

Programs should be six weeks in length and must include an academic residency segment of at least four weeks duration at a U.S. college or university campus (or other appropriate location). A study tour segment of not more than two weeks should also be planned and should directly complement the academic residency segment; the study tour should include visits to one or two additional regions of the United States.

All institutes should be designed as intensive, academically rigorous seminars intended for an experienced group of fellow scholars from outside the United States. The institutes should be organized through an integrated series of lectures, readings, seminar discussions, regional travel and site visits, and they should also include some opportunity for limited but well-directed independent research.

Applicants are encouraged to design thematically coherent programs in ways that draw upon the particular strengths, faculty and resources of their institutions as well as upon the nationally recognized expertise of scholars and other experts throughout the United States. All Fulbright American Studies Institute programs, regardless of their particular thematic focus, should seek to:

1. Provide participants with a view of contemporary scholarship within the institute's governing academic discipline, delineating the current scholarly debates within the field. In this regard, the seminar should indicate how prevailing academic practice in the discipline represents both a continuation of and a departure from past scholarly trends and practices. It is therefore critical that a variety of scholarly viewpoints be represented, including bringing in presenters from other institutions, as appropriate. Please note that the ways these alternative schools of thought will be presented should be clearly described in the proposal;

2. Bring an interdisciplinary or multi-disciplinary focus to bear on the program content if appropriate;

3. Give participants a multi-dimensional examination of U.S. society and institutions that reflects a broad and balanced range of perspectives and responsible views. Programs should include the views not only of scholars, cultural critics and public intellectuals, but also those of other professionals outside the university such as government officials, journalists and others who can substantively contribute to the topics at issue; and,

4. Ensure access to library and material resources that will enable grantees to continue their research, study and curriculum development upon returning to their home institutions.

Program Descriptions

A. American Civilization

The Fulbright American Studies Institute on American Civilization should provide 18 foreign university faculty and scholars with a deeper understanding of U.S. society, culture, values and institutions. While the program will likely examine some of the critical historical epochs, movements, issues and conflicts that have influenced the development of the nation and its people, it should also include a strong contemporary component, particularly current political, social, and economic issues and debates.

The complexity and heterogeneous nature of American society should be highlighted, as should the institutions and values that enable the nation to accommodate that diversity.

The program should be designed to assist foreign university faculty who are attempting to develop or enhance courses focusing on the United States at their home institutions.

The program should draw from a diverse disciplinary base, and should itself be a model of how a foreign university might approach the study of the United States.

B. U.S. Political Economy and the Global Economic System

The Fulbright American Studies Institute on U.S. Political Economy and the Global Economic System should provide 18 experienced foreign university faculty and practitioners with a deeper understanding of the domestic political context of and influences on U.S. economic policymaking, as well as the substance of U.S. domestic and foreign economic policy.

Prospective topics to be treated include: philosophical assumptions and social norms underpinning the U.S.'s democratic market system; the evolution of post-war American economic thought on the role of the market and the state in society (different schools or approaches); roles of Congress and executive branch department and agencies (including *e.g.* the White House, the departments of Commerce, Treasury and State, Office of the U.S. Trade Representative), and the U.S. Federal Reserve, in the formation of U.S. economic policy; role of private corporations, interest groups, trade associations, lobbying organizations, think tanks and research institutes, and other actors in economic policymaking; regulation of the economy, and economic consequences of governmental interventions in pursuit of environmental, health and safety, and other policy concerns; impact of cross-border flows of direct investment, technology and skilled labor on the American economy and politics; role of U.S.-based multinational corporations in the global economic system; role of the United States in regional economic institutions (including, *e.g.*, NAFTA and the proposed Free Trade Area of the Americas) and in multilateral economic institutions (*e.g.*, the IMF, World Bank and WTO); and, current U.S. negotiating strategies in the international economy.

Specific areas of economic policy to be examined should include international trade and finance, U.S. fiscal and monetary policy (especially international spillover effects), and U.S. foreign/development assistance policy.

C. American Studies for Foreign Secondary School Educators

This Fulbright American Studies Institute should provide a multinational group of up to 30 experienced foreign secondary school educators (including teacher trainers, curriculum developers and education ministry officials) with a deeper understanding of U.S. society and culture, past and present. The institute should be organized around a central theme or themes in U.S. civilization and should have a strong contemporary component. Through a combination of traditional, multi-disciplinary and interdisciplinary approaches, program content should be imaginatively integrated in order to elucidate the history and evolution of U.S. institutions and values, broadly defined. The program should also serve to illuminate the contemporary political, social, and economic debates in American society. The program's ultimate goal is to promote the development and improvement of courses and teaching about the U.S. at secondary schools and teacher training institutions abroad.

Program Dates: Ideally, the programs should be 44 days in length (including participant arrival and departure days) and should begin in late June or early July, 2004.

Participants: As specified in the Project Objectives, Goals and Implementation (POGI) guidelines in the solicitation package, programs should be designed for highly-motivated and experienced multinational groups of either 18 foreign university faculty and scholars (for programs A and B above) or 30 secondary educators, including teachers, teacher trainers, curriculum developers and education ministry officials (for program C above). Participants will be interested in participating in an intensive seminar on aspects of U.S. civilization as a means to develop or improve courses and teaching about the United States at their home institutions and school systems.

Participants will be varied in terms of age, professional position, and travel experience abroad. Participants can be expected to come from educational institutions where the study of the U.S. is relatively well-developed as well as from institutions that are just beginning to introduce courses and programs focusing on the United States. While participants may not have in-depth knowledge of the particular institute program theme, they will likely have had exposure to the relevant discipline

and some experience teaching about the United States.

Participants will be drawn from all regions of the world and will be fluent in the English language.

Participants will be nominated by Fulbright Commissions and by U.S. Embassies abroad. Nominations will be reviewed by the Study of the U.S. Branch at the Department of State. Final selection of grantees will be made by the Fulbright Foreign Scholarship Board.

Program Guidelines: While the conception and structure of the institute program is the responsibility of the organizers, it is critically important that proposals provide a full, detailed and comprehensive narrative describing the objectives of the institute; the title, scope and content of each session; and, how each session relates to the overall institute theme. The syllabus must therefore indicate the subject matter for each lecture or panel discussion, confirm or provisionally identify proposed lecturers and discussants, and clearly show how assigned readings will support each session. A calendar of all activities for the program must also be included. Overall, proposals will be reviewed on the basis of their fullness, coherence, clarity, and attention to detail.

Programs must comply with J–1 visa regulations. Please refer to the Solicitation Package for further details on program design and implementation, as well as additional information on all other requirements.

Budget Guidelines: Based on groups of 18 participants, the total Bureau-funded budget (program and administrative) for programs (A) and (B) above should be up to approximately $220,000, and Bureau-funded administrative costs as defined in the budget details section of the solicitation package should be up to approximately $80,000.

Based on a group of 30 participants, the total Bureau-funded budget (program and administrative) for program (C) above should be up to approximately $300,000, and Bureau-funded administrative costs as defined in the budget details section of the solicitation package should be up to approximately $85,000.

Justifications for any costs above these amounts must be clearly indicated in the proposal submission. Proposals should try to maximize cost-sharing in all facets of the program and to stimulate U.S. private sector, including foundation and corporate, support. Applicants must submit a comprehensive budget for the entire program. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program, and availability of U.S. government funding.

Please refer to the ''POGI'' in the Solicitation Package for complete institute budget guidelines and formatting instructions.

Announcement Name and Number: All communications with the Bureau concerning this announcement should refer to the following titles and reference numbers:

Fulbright American Studies Institute on ''American Civilization''—(ECA/A/E/USS–04–02A–Taylor)

Fulbright American Studies Institute on ''U.S. Political Economy and the Global Economic System''—(ECA/A/E/USS–04–02B–Benda)

Fulbright American Studies Institute for Foreign Secondary School Educators—(ECA/A/E/USS–04–02C–Taylor)

FOR FURTHER INFORMATION CONTACT: To request a Solicitation Package containing more detailed program information, award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation, applicants should contact: U.S. Department of State, Bureau of Educational and Cultural Affairs, Office of Academic Exchange Programs, Study of the U.S. Branch, State Annex 44, ECA/A/E/USS—Room 252, 301 4th Street, SW., Washington, DC 20547, Attention: Richard Taylor, Telephone number: (202) 619–4578, Fax number: (202) 619–6790, Internet address: *rtaylor@pd.state.gov.*

The Study of the U.S. Branch is willing to consult with potential applicants regarding proposal content and preparation. Please specify Senior Program Officer Richard Taylor on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the office listed above or submitting their proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition in any way with applicants until after the proposal review process has been completed.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/RFGPS/.* Please read all information before downloading.

Deadline for Proposals: All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on Monday, November 24, 2003. Faxed documents will NOT be accepted, nor will documents postmarked November 24, 2003 but received at a later date. It is the responsibility of each applicant to ensure that proposal submissions arrive by the deadline.

Submissions: Applicants must follow all instructions in the Solicitation Package. The original and 13 copies of the complete application should be sent to: U.S. Department of State, Bureau of Educational and Cultural Affairs, Reference: (insert appropriate reference number from above, *e.g.* ECA/A/E/USS–04–02x–Taylor), Program Management Staff, ECA/EX/PM, Room 534, State Annex 44, 301 4th Street, SW., Washington, DC 20547.

Applicants should also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) format on a PC-formatted disk. If possible, please also include on the disk any program calendar or syllabus addendum to the proposal.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Pub. L. 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Pub. L. 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper

administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 6Z, including the oversight of Responsible Officers and Alternate Responsible Officers, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements. ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 401–9810, FAX: (202) 401–9809.

Review Process: The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office. Eligible proposals will then be forwarded to panels of senior Bureau officers for advisory review. Proposals may also be reviewed by the Department of State's Office of the Legal Advisor, by other Bureau elements, or by outside experts and/or academics. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria: Technically eligible applications will be competitively reviewed according to the criteria stated below. More weight will be given to items one and two, and all remaining criteria will be evaluated equally.

1. *Overall Quality:* Proposals should exhibit originality and substance, consonant with the highest standards of American teaching and scholarship. Program design should reflect the main currents as well as the debates within the subject discipline of each institute. Program elements should be coherently and thoughtfully integrated. Lectures, panels, field visits and readings, taken as a whole, should offer a balanced presentation of issues, reflecting both the continuity of the American experience as well as the diversity and dynamism inherent in it.

2. *Program Planning and Administration:* Proposals should demonstrate careful planning. The organization and structure of the institute should be clearly delineated and be fully responsive to all program objectives. A program syllabus (noting specific sessions and topical readings supporting each academic unit) should be included, as should a calendar of activities. The travel component should not simply be a tour, but should be an integral and substantive part of the program, reinforcing and complementing the academic segment. Proposals should provide evidence of continuous administrative and managerial capacity as well as the means by which program activities and logistical matters will be implemented.

3. *Institutional Capacity:* Proposed personnel, including faculty and administrative staff as well as outside presenters, should be fully qualified to achieve the project's goals. Library and meeting facilities, housing, meals, transportation and other logistical arrangements should fully meet the needs of the participants.

4. *Support for Diversity:* Substantive support of the bureau's policy on diversity should be demonstrated.

This can be accomplished through documentation, such as a written statement, summarizing past and/or on-going activities and efforts that further the principle of diversity within the organization and its activities. Program activities that address this issue should be highlighted.

5. *Experience:* Proposals should demonstrate an institutional record of successful exchange program activity, indicating the experience that the organization and its professional staff have had in working with foreign educators.

6. *Evaluation and Follow-up:* A plan for evaluating activities during the Institute and at its conclusion should be included. Proposals should discuss provisions made for follow-up with returned grantees as a means of establishing longer-term individual and institutional linkages.

7. *Cost Effectiveness:* Proposals should maximize cost-sharing through direct institutional contributions, in-kind support, and other private sector support. Overhead and administrative components, including salaries and honoraria, should be kept as low as possible.

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of this RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification: Final awards cannot be made until funds have been appropriated by Congress, and allocated and committed through internal Bureau procedures.

Dated: August 13, 2003.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–21434 Filed 8–20–03; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 4410]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 1 PM on Tuesday, September 9, 2003, in Room 4400 of the Department of Transportation Headquarters, 400 Seventh Street SW., Washington, DC 20590–0001. The primary purpose of the meeting is to prepare for the Eighth Session of the International Maritime Organization (IMO) Sub-Committee on Dangerous Goods, Solid Cargoes and Containers to be held at the IMO Headquarters in London, England from September 22 to September 26, 2003.

The primary matters to be considered include:

- Amendments to the International Maritime Dangerous Goods (IMDG) Code and Supplements including harmonization of the IMDG Code with

the United Nations Recommendations on the Transport of Dangerous Goods, and review of Annex III of the Marine Pollution Convention (MARPOL 73/78), as amended.

- Review of the Code of Safe Practice for Solid Bulk Cargoes (BC Code), including evaluation of properties of solid bulk cargoes.
- Cargo securing manual.
- Casualty and incident reports and analysis.
- Development of a manual on loading and unloading of solid bulk cargoes for terminal representatives.
- Guidance on serious structural deficiencies in containers.
- Measures to enhance maritime security.
- Ship/terminal interface improvement for bulk carriers.
- Alternative hold loading ban for bulk carriers.

Members of the public may attend the meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. E. P. Pfersich, U.S. Coast Guard (G–MSO–3), Room 1210, 2100 Second Street SW., Washington, DC 20593–0001 or by calling (202) 267–1217.

Dated: August 15, 2003.

Margaret F. Hayes,

Chairman, Shipping Coordinating Committee, Department of State.

[FR Doc. 03–21433 Filed 8–20–03; 8:45 am]

BILLING CODE 4710–70–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2003–15745]

High Density Traffic Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Disposition of comments on the lottery procedures.

SUMMARY: This notice addresses comments received on the lottery procedures to be used by the FAA in the allocation of limited air carrier and commuter slots at Washington Reagan National Airport on August 12, 2003. Additionally, this notice lists all carriers eligible to participate and provides the carriers' classification for slot selection in the lottery.

DATES: August 11, 2003.

Date/Location of Lottery: The lottery will be held in the Federal Aviation Administration (FAA) Auditorium, 3rd floor, 800 Independence Avenue, SW., Washington, DC 20591 on August 12, 2003, beginning a 1 p.m.

FOR FURTHER INFORMATION CONTACT: Lorelei Peter, Operations and Air Traffic Law Branch, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number (202) 267–3134.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 2003, the FAA published in the **Federal Register** a notice of lottery and allocation procedures for a limited number of air carrier and commuter slots at Reagan National Airport (DCA) (68 FR 41037). A clarification regarding the applicable definition of a limited incumbent carrier was published in the **Federal Register** on July 18, 2003 (68 FR 42796). On July 24, 2003, the FAA opened a docket for the lottery (FAA–2003–15745) and invited interested parties to comment on issues related to the lottery procedures by July 28, 2003. On July 31, 2003, the FAA issued a notice rescheduling the lottery from July 31, 2003, to August 12, 2003, in order to address these issues and others raised in the comments, prior to the scheduled lottery (68 FR 47378; August 8, 2003).

This notice responds to the comments received, explains the lottery procedures, and classifies the carriers eligible to participate in the lottery under our applicable regulations as new entrants, limited incumbents, and incumbents, as defined in 14 CFR 93.213. We also note which carriers are considered single operators for the purposes of slot allocation.

Discussion of Comments

The FAA received comments from the Metropolitan Washington Airports Authority (MWAA), Air Canada, ATA Airlines (ATA), Spirit Airlines, US Airways, the Air Carrier Association of America (ACAA) and Congressman Regula, as well as several reply comments. The comments identified five major issues, which are discussed below.

1. Definition of New Entrant

Under the applicable regulations, a ''new entrant'' carrier is an air carrier or commuter operator that does not hold a slot at a particular airport and has neither sold or given up a slot at that airport since December 16, 1985 (14 CFR 93.213(a)(1)) (emphasis added). A limited incumbent carrier is defined in 14 CFR 93.213(a)(5) and is a commuter operator or air carrier operator that holds or operates fewer than 12 air carrier or commuter slots, in any combination, at a particular airport (emphasis added). In determining who qualifies as a limited incumbent carrier, the definition requires that we exclude international slots, Essential Air Service Program slots, or slots allocated at DCA between the local hours of 2200 and 0659. A carrier that holds or operates 12 or more slots at an airport is an incumbent carrier.

There are two carriers requesting to participate in the lottery that do not hold slots at DCA, but have a presence at the airport, and in fact, conduct operations at DCA. Chautauqua and Atlantic Coast Airlines operate slots, which are actually held by larger, incumbent carriers, through codeshare arrangements or by lease and conduct these operations on behalf of the incumbents.

The definitions cited do create something of an anomaly in that a carrier that holds no slots but operates more than 12 cannot be a ''limited incumbent'' under the lottery rule but could be a ''new entrant.'' Similarly, a carrier could be both a limited incumbent and a new entrant if it operates fewer than 12 slots but holds none. ATA and Air Canada urge the FAA to apply the term ''new entrant'' as plainly defined and argue that any carrier that does not hold slots in its own right at DCA should be included in the new entrant category regardless of its operations at the airport. ACAA argues that Air Canada and Mesa should not be allowed to participate either as a ''new entrant'' or ''limited incumbent'' given that both operate more than 12 slots at the airport. ACAA argues if the regulations preclude a carrier from being a limited incumbent, the carrier logically cannot be a new entrant.

In making the argument that the FAA should veer from the plain language of the regulation, ACAA selects a phrase from section 93.225(e), the provision which sets out the lottery procedures and provides that ''any U.S. carrier or foreign carrier where provided for by bilateral agreement, *that is not operating scheduled service at the airport * * * but wishes to initiate scheduled passenger service at the airport,* shall be included in the lottery if it notifies the FAA.'' (Emphasis added.) ACAA contends that because this provision distinguishes carriers operating at the airport from those who do not, a ''new entrant'' must mean a carrier that is not already operating at the airport.

A significant difference between a new entrant carrier and a limited incumbent carrier is that slots allocated under the Essential Air Service Program, for international operation or in the low-demand hours at DCA (2200–0659) are counted in determining whether a

carrier is a new entrant. Air Canada and ATA Airlines both hold slots in the low-demand hours. Mesa previously has held EAS slots at DCA. Consequently, Air Canada and Mesa are incumbents and ATA Airlines is a limited incumbent.

For several reason we conclude that the definition of ''new entrant'' should be applied as written, with the result that carriers who do not hold any slots at the airport according to the FAA's records will be considered new entrants for purposes of this lottery, regardless of whether they also operate any slots at the airport. First, in 1985, when the definition of ''new entrant'' was promulgated as part of the ''buy/sell'' rule, (50 FR 52189; December 20, 1985), the industry operated much differently than today. At that time, most commuter service was provided by independent companies who held their own slots and entered into feeder or marketing relationships with the larger carriers. The Department did not want to define ''new entrant'' in such a way as to create a disincentive toward such arrangements by making it more difficult for carriers to conduct operations at the airport through leased slots to obtain permanent slots of their own. Chautauqua, and Atlantic Coast's access to DCA is a result of lease arrangements and neither of these carriers hold slots outright. The underlying policy goal that was the basis for first defining a new entrant in this way remains a valid consideration today.

Second, leasing a slot that is necessary to enter competition is a far cry from holding the slot outright. Both air carriers who would be adversely affected by an interpretation that equated ''operations'' with ''holdings'' are independent companies who have entered into codeshare arrangements with larger carriers to operate commuter flights. We have no information to suggest that these carriers cannot conduct operations on their own, outside of their codeshare arrangements, competing against incumbents.[1] ACAA's proposed interpretation of our rules would potentially inhibit competition.

Lastly, interpreting the definition of ''new entrant'' in the manner suggested by ACAA—that is, against its literal language—would necessitate a lengthier proceeding that we believe is warranted. It may well be that a review of this definition along with other important questions is justified in view of the changes that have occurred in the industry since 1985, and the plethora of arrangements by which slots are made available under the rule (common ownership, contracts, leases and multiple codeshare arrangements). For now, however, the FAA finds that the public interest lies in allocating these slots promptly. Therefore, the new entrant definition will be applied in its present form.

2. New Entrant Preference

ATA claims that the FAA's intended procedure, by which we will permit the first ranked new entrant carrier to select four of the available six air carrier slots, is inconsistent with the regulatory requirements and fundamentally unfair. ATA contends that the original rationale for our rule allowing new entrants to select four slots in the first sequence of the lottery—*i.e.*, that four slots are minimally necessary for an economically viable operation—is clearly no longer justified. ATA would prefer that we remake the procedures so as to maximize the number of carriers who receive slots in the lottery, by allowing three new entrant carriers to select two slots each.

The regulation governing slot lotteries establishes two preferences for new entrant carriers: (1) In the first selection sequence, 25 percent of the slots available in the lottery, or no less than 2, are reserved for new entrants (''new entrant set-aside''); and (2) new entrant carriers may select four slots, if available in the first sequence. (*See* 14 CFR 93.225(h) and (f) respectively.)

The upcoming lottery offers six slots in the air carrier category. A rank order of all carriers eligible to participate in the lottery will be established at the start of the lottery. Incumbent carriers may only select after all new entrant and limited incumbent carriers have made their selections. After the rank order is established, the first new entrant may select two slots. This will complete the new entrant set-aside. The lottery continues with the first selection sequence by starting at the top of the established rank order and moving to the first new entrant or limited incumbent carrier. If the first carrier in the rank order is a new entrant (that also selected two slots in the new entrant set-aside), that this new entrant is eligible to select only two additional slots, which completes its selection of four slots in the first selection sequence, as provided for in the regulation. Alternatively, after completing the new entrant set-aside selections, if the first non-incumbent carrier in the rank order is a limited incumbent carrier, then that carrier may select two slots. Following the rank order to the next new entrant or limited incumbent carrier, that carrier would in this case select the remaining two slots.

ATA asks the FAA to disregard the governing regulatory provisions referenced above and instead adopt an *ad hoc* allocation approach that ATA argues will better achieve the policy goal of maximizing competitive services at DCA. In promulgating the lottery procedures, the FAA and the Department of Transportation specifically found that the two articulated preferences for new entrants were warranted to further policies enunciated in the Airline Deregulation Act of 1978 (50 FR 52193; December 20, 1985). The resulting lottery provision is quite specific in this regard and the FAA does not find that it has the latitude suggested by ATA to arbitrarily change this provision, or ignore it. Given the limited number of slots available in this lottery relative to the number of participants, it may be that only a few carriers will get to select slots. As discussed below, the FAA and the Department are neither amending nor abandoning the agencies' position that the opportunity for a new entrant carrier to select four slots is preferable in meeting the stated goals.

ATA also argues that all the new entrants already have some slots (or slot exemptions) and that four slots are not economically necessary for new entrants to establish service at the airport. ATA points to service conducted by Alaska Airlines and Frontier Airlines, which have both been successful conducting a single roundtrip at DCA. In recent FAA and Department proceedings however, several new entrant carriers have argued the opposite, contending that even four slots during peak hours are not enough today to launch viable service.

We recognize that ATA successfully operates at DCA using only four peak hour AIR–21 exemption slots and two off-peak hour slots. Likewise, both Alaska Airlines and Frontier Airlines are the recipients of AIR–21 slot exemptions by the Department for beyond the perimeter service at DCA. Frontier Airlines provides the only nonstop DCA/Denver service (Order 2000–7–1) and Alaska Airlines (Order 2001–6–20) provides the only nonstop DCA/Seattle service. That nonstop service from DCA to these markets can be operated successfully in the absence of other non-stop competition is not surprising; new entrant carriers seeking to provide competitive alternatives on city-pairs already served by other

[1] Indeed, very recently one of these carriers—Atlantic Coast announced it anticipates that its longstanding relationship with United Airlines will end, and that it will establish a new, independent low-fare airline. *See http://www.atlanticcoast.com/pressreleasearchive/2003/july/728.htm.*

carriers on a nonstop basis is a different situation.

US Airways objects to any lottery, characterizes the lottery mechanism as ''anti-incumbent'' and argues that ''redistributive lotteries'' are not appropriate.

One of the primary purposes of the lottery provision was to enhance competition by affording new entrant and limited incumbent carriers greater access to slot-controlled airports. Thus, the Department believed that allowing incumbent carriers to participate on equal terms with new entrants in seeking permanent allocation of slots would reduce the opportunities for new entrants or limited incumbents to introduce competitive service (57 FR 37309; August 18, 1992). Therefore, in promulgating this rule, the FAA and the Department restricted the permanent allocation of slots to incumbent carriers. Whether or not that policy should be revisited today, in light of the economic condition of incumbent carriers, the FAA is clearly bound to give it its full force and effect and to carry out the intent of our regulations.

US Airways complains that the lottery provision is ''anti-incumbent'' in that airlines that hold a substantial number of slots may only receive a temporary allocation through the lottery after all new entrant and limited incumbent carriers have finished their selections. However, incumbent carriers such as US Airways received a large base level of slots at the time the allocation rules were adopted in 1985; as a whole, arguably, the provisions benefited incumbents. Today, US Airways and its wholly owned subsidiaries hold 43 percent of the slots at DCA. the next largest slot holder at the airport is Delta and its wholly owned subsidiaries with approximately 14 percent of the slots. Thus, two carrier groups account for nearly 60 percent of the slots at the airport. Despite the buy-sell rule, the lottery provision in the regulations is the only mechanism that specifically addresses competitive access to slot-controlled airports such as DCA.

The need for a lottery also stems from other aspects of our rules. The slots in question have never been allocated permanently, and the lottery allocation provision is the only means of allocating these peak hour slots on a permanent basis. US Airways and other carriers were allocated slots during peak hours on a temporary basis subject to recall by the FAA and distribution by lottery in accordance with the regulations. Consequently, this process is entirely appropriate to allocate available slots.

3. Lottery Allocation in Light of Other Related Proceedings

Spirit Airlines points to the variety of pending proceedings concerning slots and slot exemptions and asks the FAA and the Department to end the practice of allocating slots on a piecemeal basis, saying this practice makes it difficult for any new entrant carrier to evaluate the true economics of potential operations at the airport. Spirit would defer the lottery until other agency actions on slots exemptions and/or the potential exemptions in pending legislation, in particular, H.R. 2115 ''Aviation Investment and Revitalization Vision Act,'' are allocated. Conversely, ATA argues that the public interest requires that slots be allocated whenever they become available and says that slots should be used once allocated. ATA and MWAA also oppose a delay of the lottery to wait for the potential allocation of slot exemptions currently under consideration by Congress. US Airways again questions the basis for any lottery and forecasts that it is likely that slots will become available after the current slot usage waiver terminates and that a lottery should be conducted at that time.

The FAA has discretion to conduct a lottery when it determines that there are sufficient slots available for allocation. The fifteen slots that are available for allocation in this lottery are slots that were previously returned to the FAA or were allocated temporarily to carriers on a first-come, first-served basis on the express condition that they would be recalled when the FAA determines that it is necessary to allocate the slots permanently. Over the past many months the FAA received numerous inquiries and requests for slots at DCA by new entrant carriers. In light of the expressed demand for permanent allocation of the available slots at the airport, we believe that the spirit of our regulations require that we allocate whatever capacity is available at the earliest practical time. As indicted by the number of carriers that filed requests to participate in the lottery and by the comments submitted to the docket, it is evident that there is demand by many carriers for even this limited number of slots.

We have no indication that slots at DCA will be returned to the FAA after the expiration of the slot usage waiver period, instituted in April 2003. (Temporary return of peak-hour slots for non-use during this waiver period has been minimal.) Some AIR–21 slot exemptions were recalled for non-use, however, their reallocation process is not done by lottery. We find it would be inconsistent with the regulatory allocation regime to indefinitely postpone the lottery. Consequently, the FAA will proceed with the lottery on August 12, 2003.

4. Use of Commuter Equipment in Air Carrier Slots

MWAA and the ACAA express concern over the increasing incidence with which air carrier slots are operated by carriers using commuter type aircraft that qualify for commuter slots. These parties argue that this practice has resulted in a decline of passenger activity at DCA even as the number of overall operations at the airport has remained relatively constant. MWAA asks that we require air carriers participating in the lottery not only to have aircraft that meet the definition of the equipment that may be operated in this category of slots, but also to have the stated intention to use these slots for operations with the larger aircraft.

A carrier that wishes to participate in a lottery for either air carrier or commuter slots must hold the appropriate FAA operating authority for the slots the operator seeks to select (14 CFR 93.225a(g)). The FAA has interpreted the existing provisions of § 93.225 to limit participation in air carrier lotteries to carriers capable of operating air carrier equipment within the meaning of 14 CFR 93.123(c) (51 FR 21706; June 13, 1986). After air carrier slots have been allocated, a carrier may use smaller aircraft in air carrier slots in accordance with 14 CFR 93.221(c). While we are sympathetic to MWAA's position, the FAA cannot limit or condition approval on participation in the air carrier lottery in the manner suggested by MWAA, without amending the regulation.

5. ''Mandatory Participation''

ATA complains that the FAA plans to include all carriers that currently operate at DCA in the lottery, even if those carriers did not actually notify the FAA that they want to participate in the lottery. ATA says this plan constitutes a ''mandatory participation'' regime that is not in accordance with either the regulations or the lottery notice.

This argument reflects a misunderstanding of the rule. The rule expressly provides that ''participation in a lottery is *open* to each U.S. air carrier or commuter operating at the airport * * * as well as where provided for by bilateral agreement'' (14 CFR 93.225(e) (emphasis added). Participation is not mandatory. As a matter of procedure, the FAA includes every carrier at the airport as eligible to participate and each carrier receives a rank order. These

carriers also are not required to submit notice to the FAA of their intention to participate in the lottery; carriers that do not conduct scheduled service at the airport are required to submit notice to the FAA of intention to participate in the lottery no later than the date specified in the **Federal Register** notice, which was July 16. However, it is up each carrier as to whether it ultimately chooses to participate or select slots in the lottery. A carrier may advise the FAA at any time that it does not want to participate or it may simply pass at the lottery by not selecting available slots.

List of Carriers Eligible to Participate in the Lottery by Category

The lottery for the air carrier slots will be conducted first and the lottery for the commuter slots will follow.

Air Carrier Slot Lottery	Category
Air Canada	Incumbent
AirTran Airway	New Entrant
Alaska Airlines	New Entrant
ATA Airlines	Limited Incumbent
Frontier Airlines	New Entrant
Mesa Air Group (Air Midwest, Freedom, Mesa).	Incumbent
Spirit Airlines	New Entrant
America West Airlines	Limited Incumbent
American Airlines	Incumbent
Continental Airlines	Incumbent
Delta Air Lines	Incumbent
Midwest Airlines	Incumbent
Northwest Airlines	Incumbent
United Airlines	Incumbent
US Airways	Incumbent

Commuter Slot Lottery	Category
Air Canada	Incumbent
Atlantic Coast Airlines	New Entrant
Chautauqua Airlines/Shuttle America.	New Entrant
Colgan Air	New Entrant
Corporate Airlines	New Entrant
Mesa Air Group (Air Midwest, Freedom, Mesa).	Incumbent
Allegheny Airlines/Piedmont Airlines/PSA Airlines (US Airways Express).	Incumbent
American Eagle	Incumbent
Atlantic Southwest/Comair (Delta Connection).	Incumbent
Midway Airlines	Incumbent
Skyway Airlines	Incumbent
Trans States Airlines	Incumbent

Issued on August 11, 2003 in Washington, DC.

Andrew B. Steinberg,

Chief Counsel.

[FR Doc. 03–21456 Filed 8–20–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2003–15639

Applicant: New Jersey Transit, Mr. William B. Duggan, Vice President and General Manager, Rail Operations, One Penn Plaza East, Newark, New Jersey 07105–2246.

New Jersey Transit (NJT) seeks temporary relief from the requirements of section 236.566 of the Rules, Standard and Instructions, to the extent that NJT be permitted to operate non-equipped New York Susquehanna and Western (NYS&W) steam locomotive number 142, in automatic train control territory, on NJT's Raritan Valley Line between Cranford, New Jersey, milepost 15.0 and High Bridge, New Jersey, milepost 52.2, on Saturday and Sunday, September 13 and 14, 2003, in celebration of the City of Dunellen, New Jersey's event, ''Dunellen Railroad Days.'' In addition, NJT seeks temporary relief from the requirements in section 236.566 to the extent that NJT be permitted to operate non-equipped NYS&W steam locomotive number 142, in automatic train control territory, on NJT's Montclair and Morristown Lines between Newark, New Jersey, milepost 9.0 and Hackettstown, New Jersey, milepost 56.9, on Saturday and Sunday, October 4 and 5, 2003, in celebration of the Borough of Lincoln Park, New Jersey's event, ''Lincoln Park Days.''

Also, excursion trips are in the planning stages that would either take place on NJT's Main Line to Suffern, New York, then over MTA Metro-North Railroad (MNR) to Port Jervis, New York, or on NJT's Bergen County Line to the NYS&W interchange at BT Interlocking, milepost 14.2. Thus, NJT seeks temporary relief from the requirements in section 236.566 to the extent that NJT be permitted to operate non-equipped NYS&W steam locomotive number 142, in automatic train control territory, on NJT's Main Line between Jersey City, New Jersey, milepost 2.2 and Suffern, New York, milepost 30.5, or on the Bergen County Line between Jersey City, New Jersey, milepost P 2.2 and Ridgewood Junction Interlocking, milepost 19.0, on Saturday and Sunday, October 11 and 12, and October 25 and 26, 2003, for the proposed NYS&W Technical and Historical Society events.

Applicant's justification for relief: The three NJT lines are equipped with automatic block signals and operate under NORAC Rules 251 and 261, and the steam excursion train movements for each event would be limited to no more than four trips daily, would not exceed 50 miles per hour, and would establish an absolute block ahead of each movement.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Since the anticipated operations would take place early next month, communications must be received within 15 days of the date of this notice to be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA wishes to inform all potential commenters that 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.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written

statements, an application may be set for public hearing.

Issued in Washington, DC on August 13, 2003.

George Gavalla,

Associate Administrator for Safety.

[FR Doc. 03–21424 Filed 8–20–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34385]

Palouse River & Coulee City Railroad, Inc.—Lease and Operation Exemption—Union Pacific Railroad Company

Palouse River & Coulee City Railroad, Inc. (PRCC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 *et seq.* to lease, from Union Pacific Railroad company (UP), and operate approximately 11.5 miles of rail line between milepost 0.0 at Arlington, and milepost 11.5 at Gilliam, in Gilliam County, OR. PRCC certifies that its projected annual revenues as a result of this transaction will not exceed $5 million, and thus the transaction will not result in the creation of a Class II or Class I rail carrier.

Consummation of this transaction was expected to occur on or after August 1, 2003, the effective date of the exemption.

It the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleading, referring to STB Finance docket No. 34385, must be filed with the Surface Transportation Board, 1925 K Street NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, Suite 225, 1455 F St., NW., Washington, DC 2005.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: August 14, 2003.

By the Board, David M. Konschink, Director, Office of Proceedings.

Vernon A. Williams,

Secretary

[FR Doc. 03–21297 Filed 8–20–03; 8:45 am]

BILLING CODE 4915–00—P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 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 September 22, 2003, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0129.

Form Number: IRS Form 1120–POL.

Type of Review: Extension.

Title: U.S. Income Tax Return for Certain Political Organizations.

Description: Certain political organizations file Form 1120–POL to report the tax imposed by section 527. The form is used to designate a principal business campaign committee that is subject to a lower rate of tax under section 527(h). IRS uses Form 1120–POL to determine if the proper tax was paid.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 6,527.

Estimated Burden Hours per Respondent/Recordkeeper:

Recordkeeping—17 hr., 13 min.
Learning about the law or the form—5 hr., 15 min.
Preparing the form—12 hr., 17 min.
Copying, assembling, and sending the form to the IRS—1 hr., 52 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 239,150 hours.

OMB Number: 1545–0935.

Form Number: IRS Form 1120–FSC and Schedule P (1120–FSC).

Type of Review: Revision.

Title: U.S. Income Tax Return of a Foreign Sales Corporation (Form 1120–FSC); and Transfer Price or Commission (Schedule P).

Description: Form 1120–FSC is filed by foreign corporations that have elected to be FSCs or small FSCs. The FSC uses Form 1120–FSC to report income and expenses and to figure its tax liability. IRS uses Form 1120–FSC and Schedule P (Form 1120–FSC) to determine whether the FSC has correctly reported its income and expenses and figured its tax liability correctly.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 5,000.

Estimated Burden Hours per Respondent/Recordkeeper:

	1120–FSC	Schedule P (1120–FSC)
Recordkeeping	94 hr., 13 min	9 hr., 48 min.
Learning about the law or the form	19 hr., 45 min	1 hr., 29 min.
Preparing and sending the form to the IRS	38 hr., 56 min	1 hr., 43 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 1,089,900 hours.

OMB Number: 1545–0956.

Form Number: IRS Form 5500–EZ.

Type of Review: Revision.

Title: Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan.

Description: Form 5500–EZ is an annual return filed by a one-participant or one-participant and spouse pension plan. The IRS uses this data to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 250,000.

Estimated Burden Hours per Respondent/Recordkeeper:

Recordkeeping—18 hr., 10 min.
Learning about the law or the form—2 hr., 49 min.
Preparing the form—5 hr., 6 min.
Copying, assembling, and sending the form to the IRS—32 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 6,660,000 hours.

OMB Number: 1545–1444.

Form Number: IRS Form 8844.

Type of Review: Revision.

Title: Empowerment Zone Employment Credit.

Description: Employers who hire employees who live and work in one of the 11 designated empowerment zones can receive a tax credit for the first $15,000 of wages paid to each employee. The credit is applicable from the date of designation through the year 2004.

Respondents: Business or other for-profit Individuals or households, Not-for-profit institutions, Farms.

Estimated Number of Respondents/ Recordkeepers: 40,000.

Estimated Burden Hours per Respondent/Recordkeeper:

Recordkeeping—10 hr., 2 min.
Learning about the law or the form—2 hr., 10 min.
Preparing and sending the form to the IRS—2 hr., 26 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 586,800 hours.

OMB Number: 1545–1606.

Form Number: IRS Form 8860.

Type of Review: Extension.

Title: Qualified Zone Academy Bond Credit.

Description: A qualified zone academy bond is a taxable bond issued after 1997 by a state or local government, with the proceeds used to improve certain eligible public schools. In lieu of receiving interest payments from the issuer, an eligible holder of the bond is generally allowed an annual income tax credit. Eligible holders of qualified zone academy bonds use Form 8860 to figure and claim this credit.

Respondents: Business or other for-profit, State, local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 50.

Estimated Burden Hours per Respondent/Recordkeeper:

Recordkeeping—6 hr., 56 min.
Learning about the law or the form—18 min.
Preparing and sending the form to the IRS—25 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 383 hours.

Clearance Officer: Glenn Kirkland, (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 03–21403 Filed 8–20–03; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INSTITUTE OF PEACE

Notice of Meeting

Date/Time: Thursday, September 18, 2003; 9:30 a.m.–5:30 p.m.

Location: 1200 17th Street, NW., Suite 200, Washington, DC 20036–3011.

Status: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: September 2003 Board Meeting; Approval of Minutes of the One Hundred Tenth Meeting (June 19–20, 2003) of the Board of Directors; Chairman's Report; President's Report; Committee Reports; Fiscal Years 2004 and 2005 Budget Review; Approval of 2003 Unsolicited and Solicited Grant; Other General Issues.

Contact: Mr. John Brinkley, Director, Office of Public Outreach, Telephone: (202) 457–1700.

Dated: August 19, 2003.

Harriet Hentges,

Executive Vice President, United States Institute of Peace.

[FR Doc. 03–21542 Filed 8–19–03; 11:25 am]

BILLING CODE 6820–AR–M

Federal Register

Thursday,
August 21, 2003

Part II

Department of Health and Human Services

Substance Abuse and Mental Health Services Administration

Proposed Changes in Announcement of SAMHSA Discretionary Grant Funding Opportunities; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Proposed Changes in Announcement of SAMHSA Discretionary Grant Funding Opportunities

Authority: Sections 509, 516, and 520A of the Public Health Service Act.

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of proposed changes in announcement of SAMHSA discretionary grant funding opportunities.

SUMMARY: Beginning in Fiscal Year (FY) 2004, the Substance Abuse and Mental Health Services Administration (SAMHSA) plans to change its approach to announcing and soliciting applications for its discretionary grant programs. This notice describes the proposed changes and invites public comment on those changes. This notice will be followed by proposed text for four standard grant announcements (Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service to Science Grants). Comments are invited on the proposed standard grant announcements, as well.

DATES: Submit written comments on this proposal by October 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding SAMHSA's proposed changes in the announcement of discretionary grant funding opportunities to: Office of Policy, Planning and Budget, SAMHSA, Attn: Jennifer Fiedelholtz by fax (301–594–6159) or e-mail (*samhsa_standard_grants@samhsa.gov*). Please include a phone number in your e-mail, so that SAMHSA staff may contact you if there are questions about your comments.

FOR FURTHER INFORMATION CONTACT: Jennifer Fiedelholtz of the Office of Policy, Planning and Budget, SAMHSA, by fax (301–594–6159) or e-mail (*samhsa_standard_grants@samhsa.gov*). If you would like a SAMHSA staff person to call you about your questions, please state this in an e-mail or fax request and provide a telephone number where you can be reached between 8:30 a.m. and 5 p.m., Eastern Standard Time.

SUPPLEMENTARY INFORMATION:

In recent years, SAMHSA has announced funding opportunities for 30–40 discretionary grant programs each year. Despite similarities among these programs, the program requirements described in each grant announcement varied significantly. Some of this variation was necessary due to differences in program goals and objectives. However, much of the variation was unnecessary and significantly limited the ability of potential applicants to anticipate, plan, and lay the essential groundwork for proposed grant projects. The large number of unique grant announcements published each year also required the allocation of substantial staff resources to development of grant announcements. SAMHSA believes that these staff resources could be better used for post-award project management and monitoring.

Starting in FY 2004, SAMHSA plans to change its approach to announcing and soliciting applications for its discretionary grants. SAMHSA plans to issue four standard grant announcements that will describe the general program design and provide application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. These standard grant announcements will be posted on SAMHSA's web page and will be available from SAMHSA's clearinghouses on an ongoing basis. The standard announcements will be used in conjunction with brief Notices of Funding Availability (NOFAs) that will announce the availability of funds for specific grant funding opportunities within each of the standard grant programs (*e.g.,* Homeless Treatment grants, Statewide Family Network grants, or HIV/AIDS and Substance Abuse Prevention Planning Grants).

SAMHSA expects that use of these four standard grant announcements will result in the following benefits:

- The field of potential applicants will be able to more effectively anticipate the program requirements for SAMHSA's grant funding opportunities and will be better able to anticipate and plan their proposed grant projects. As a result, applicants will be able to prepare more thorough grant applications, and grantees will be better prepared to begin their grant projects in a timely manner after awards are made.
- SAMHSA's funding opportunities will be published in a more timely manner, with funding opportunities, application deadlines and awards distributed more evenly throughout the fiscal year.
- SAMHSA will be able to more clearly and consistently articulate its mission to external stakeholders.
- SAMHSA will be able to use its staff resources more efficiently and effectively.

The four grant announcements address the following core aspects of SAMHSA's mission:

1. *Services Grants* provide funding to implement substance abuse and mental health services.
2. *Infrastructure Grants* support identification and implementation of systems changes but are not designed to fund services.
3. *Best Practices Planning and Implementation Grants* help communities and providers identify practices to effectively meet local needs, develop strategic plans for implementing/adapting those practices and pilot-test practices prior to full-scale implementation.
4. *Service to Science Grants* document and evaluate innovative practices that address critical substance abuse and mental health service gaps but that have not yet been formally evaluated.

These four grant announcements were designed around several of SAMHSA's core grant programs, including Targeted Capacity Expansion Grants, State Incentive Grants, and Community Action Grants.

The Notices of Funding Availability (NOFAs) announcing the availability of funds for specific grant funding opportunities will be published separately in the **Federal Register,** on the Federal grants Web site (*http://www.grants.gov*) and on the SAMHSA Web site. The NOFAs will:

- Identify any specific target population or issue for the specific grant funding opportunity,
- Identify which of the four standard announcements applicants must use to prepare their applications,
- Specify total funding available for the first year of the grants and the expected size and number of awards,
- Specify the application deadline,
- Note any specific program requirements for each funding opportunity, and
- Include any limitations or exceptions to the general provisions in the standard announcement.

SAMHSA expects that the NOFAs will be brief. Because a primary goal of this effort is to increase the field's ability to anticipate funding opportunities and program requirements, special program requirements and deviations from the standard announcements should be few in number and limited to only those that are necessary, given the nature of the specific funding opportunity. For example, Homeless Treatment grants would likely require applicants not only

to provide substance abuse and mental health services for homeless individuals, but also to link with housing and other support services needed by homeless individuals.

Applicants will need to have both the NOFA and the appropriate standard announcement to prepare their applications. Both documents will be provided, along with application materials, in the application kits available from SAMHSA's clearinghouses as well as on SAMHSA's Web site.

SAMHSA anticipaters that the four standard grant announcements will be used for the majority of its grant funding opportunities. However, there will be some funding opportunities that do not fit the standard announcements. In those instances, separate stand-alone grant announcements will be published and provided to applicants as they have been in the past (*i.e.,* in the **Federal Register,** on the SAMHSA Web site, on the Federal grants Web site, and through SAMHSA's clearinghouses).

The proposed text for each of the four standard announcements and a sample NOFA are provided in separate notices that follow immediately after this notice. In particular, SAMHSA welcomes comment on the following issues:

1. Is the difference between the standard announcement and a NOFA clear?

2. Are the programmatic requirements for each standard announcement clear?

3. Are the goals/objectives for each type of standard grant clear?

4. If you are a potential applicant for a SAMHSA grant, do you believe you will be able to use the standard announcement with the NOFA to prepare your application? Will the ability to anticipate programmatic requirements improve your ability to prepare a solid application? Is the additional benefit ''worth'' the ''cost'' of having to use two different documents to prepare your application?

Note: Past applicants for SAMHSA grant programs may notice significant formatting differences between these standard announcements and previous SAMHSA grant announcements. For example, the headings for the different sections of the grant announcements have changed. These formatting differences reflect a new, mandatory outline for all Federal grant solicitations and are not related to the new approach to SAMHSA's grant announcements. These formatting changes are part of a Federal government-wide effort to make it easier for applicants to apply for Federal financial assistance. SAMHSA endorses this effort and notes that all information previously provided in SAMHSA grant announcements is provided in the new announcements, although it may be in a different location or under a different heading.

Dated: August 13, 2003.

Anna Marsh,

Acting Executive Officer.

[FR Doc. 03–21115 Filed 8–20–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Proposed Changes in Announcement of SAMHSA Discretionary Grant Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of proposed standard services grant announcement.

SUMMARY: Beginning in Fiscal Year (FY) 2004, the Substance Abuse and Mental Health Services Administration (SAMHSA) plans to change its approach to announcing and soliciting applications for its discretionary grant programs. The following announcement is a proposed standard announcement for SAMHSA's Services Grants. *It is not an actual grant solicitation.*

Authority: Sections 509, 516, and 520A of the Public Health Service Act.

When published in final, the standard SAMHSA Services Grant announcement will be used by applicants in conjunction with specific Notices of Funding Availability (NOFAs) to prepare applications for certain SAMHSA grants. SAMHSA is providing this draft announcement for public review and comment in order to ensure that the field is aware of the planned change and has an opportunity to identify areas where the announcement is unclear and needs improvement.

DATES: Submit written comments on this proposal by October 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding SAMHSA's proposed standard Services Grant announcement to: Office of Policy, Planning and Budget, SAMHSA, Attn: Jennifer Fiedelholtz by fax (301–594–6159) or email (*samhsa_standard_grants@samhsa.gov*). Please include a phone number in your email, so that SAMHSA staff may contact you if there are questions about your comments.

FOR FURTHER INFORMATION CONTACT: Jennifer Fiedelholtz of the Office of Policy, Planning and Budget, SAMHSA, by fax (301–594–6159) or email (*samhsa_standard_grants@samhsa.gov*). If you would like a SAMHSA staff person to call you about your questions, please state this in an email or fax request and provide a telephone number where you can be reached between 8:30 a.m. and 5 p.m. Eastern Standard Time.

SUPPLEMENTARY INFORMATION: Starting in FY 2004, SAMHSA plans to change its approach to announcing and soliciting applications for its discretionary grants. SAMHSA plans to issue the following Services Grant announcement as one of four standard grant announcements that will describe the general program design and provide application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The standard announcements will be used in conjunction with brief Notices of Funding Availability (NOFAs) that will announce the availability of funds for specific grant funding opportunities within each of the standard grant programs (*e.g.*, Homeless Treatment grants, Statewide Family Network grants, or HIV/AIDS and Substance Abuse Prevention Planning Grants).

A complete description of the proposed process, the other three proposed standard announcements and a sample NOFA are contained in separate notices in this issue of the **Federal Register**.

SAMHSA welcomes public comment on all aspects of the following announcement. In particular, SAMHSA welcomes comment on the following issues:

1. Is the difference between the standard announcement and a NOFA clear?

2. Are the programmatic requirements for SAMHSA's Services Grants clear?

3. Are the goals/objectives for SAMHSA's Services Grants clear?

4. If you are a potential applicant for a SAMHSA Services Grant, do you believe you will be able to use the standard Services Grant announcement with the NOFA to prepare your application? Will the ability to anticipate programmatic requirements through reviewing the standard grant announcements ahead of time improve your ability to prepare a solid application? Is the additional benefit ''worth'' the ''cost'' of having to use two different documents to prepare your application?

Text of Proposed Standard Announcement

Department of Health and Human Services

Substance Abuse and Mental Health Services Administration

Services Grants—SVC 04 (Initial Announcement)

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*).

Authority: Sections 509, 516 and/or 520A of the Public Health Service Act, as amended, and subject to the availability of funds (unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*).

Key Dates

Application Deadline	This Program Announcement provides general instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the **Federal Register** and on *http://www.grants.gov.*
Intergovernmental Review (E.O. 12372)	Letters from State Single Point of Contact (SPOC) are due no later than 60 days after application deadline.
Public Health System Impact Statement (PHSIS)/Single State Agency Coordination.	Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due no later than 60 days after application deadline.

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I. Funding Opportunity Description

A. Introduction

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Services Grants. These grants will expand and strengthen effective, culturally appropriate substance abuse and mental health services at the State and local levels. The services implemented through SAMHSA's Services Grants must incorporate the best objective information available from recognized experts regarding effectiveness and acceptability. In general, the services implemented through SAMHSA's Services Grants will have strong evidence of effectiveness. However, depending on the ''state of the science'' in a given area, services may be funded for which the evidence base, while sound, is limited. SAMHSA expects that the services funded through these grants will be sustained by the grantee beyond the term of the grant.

SAMHSA also funds grants under three other standard grant announcements:

- *Infrastructure Grants* support identification and implementation of systems changes but are not designed to fund services.
- *Best Practices Planning and Implementation Grants* help communities and providers identify practices to effectively meet local needs, develop strategic plans for implementing/adapting those practices and pilot-test practices prior to full-scale implementation.
- *Service to Science Grants* document and evaluate innovative practices that address critical substance abuse and mental health service gaps but that have not yet been formally evaluated.

This announcement describes the general program design and provides application instructions for all SAMHSA Services Grants. The availability of funds for specific Services Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at *http://www.grants.gov*—the Federal grant announcement Web page.

Typically, funding for Services Grants will be targeted to specific populations and/or issue areas, which will be specified in the NOFAs. The NOFAs will also:

- Specify total funding available for the first year of the grants and the expected size and number of awards;
- Provide the application deadline;
- Note any specific program requirements for each funding opportunity; and
- Include any limitations or exceptions to the general provisions in this announcement (*e.g.*, eligibility, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

B. Expectations

The Services Grant program is designed to address gaps in substance abuse and mental health services and/or to increase the ability of States, units of local government, Indian tribes, tribal organizations and governments, and community- and faith-based organizations to help specific populations or geographic areas with serious, emerging mental health and substance abuse problems. SAMHSA intends that its Services Grants result in

the delivery of services as soon as possible and *no later than 4 months* after award. SAMHSA's Services Grants may include substance abuse prevention, substance abuse treatment and/or mental health services. Throughout this announcement, SAMHSA will use the term ''services'' to refer to all three types of services. The NOFA will provide guidance on the particular type of service to be provided through each funding opportunity.

1. Documenting the Evidence-Base for Services To Be Implemented

The services implemented through SAMHSA's Services Grants must incorporate the best objective information available from recognized experts regarding effectiveness and acceptability. In general, the services implemented through SAMHSA's Services Grants will have strong evidence of effectiveness. However, because the evidence base is limited in some areas, SAMHSA may fund some services for which the evidence of effectiveness is based on formal consensus among recognized experts in the field and/or evaluation studies that have not been published in the peer reviewed literature.

Applicants proposing to implement practices included in the following sources meet the standard of effectiveness for SAMHSA's Services Grants, and will not be required to provide further documentation of the practice's effectiveness:

- SAMHSA's National Registry of Effective Programs (NREP) (see Appendix D),
- Center for Mental Health Services (CMHS) Evidence Based Practice Tool Kits (see Appendix E),
- List of Effective Substance Abuse Treatment Practices (see Appendix F),
- Additional practices identified in the NOFA for a specific funding opportunity.

Applicants proposing services/practices that have *not* been identified by SAMHSA as meeting the required effectiveness standard must show that the services to be implemented through their proposed projects incorporate the best objective information available from recognized experts regarding effectiveness and acceptability. To do so, applicants must provide a narrative justification that describes the evidence for the services/practices and summarizes the evidence for effectiveness. The evidence may come from various sources, including the published research literature, formal consensus among recognized experts, and studies that have not been published in the peer-reviewed research literature.

2. Services Delivery

SAMHSA's Services Grant funds must be used primarily to support direct services, including the following types of activities:

- Conducting outreach *and* pre-service strategies to expand access to treatment or prevention services to underserved populations. If you propose to provide *only* outreach and pre-service strategies, you must show that your organization is an effective and integral part of a network of service providers.
- Purchasing or providing direct treatment or prevention services for populations at risk. Treatment must be provided in outpatient, day treatment or intensive outpatient, or residential programs.
- Purchasing or providing ''wrap-around'' services (*e.g.*, child care, vocational, educational and transportation services) designed to improve access and retention.
- Collecting data using specified tools and standards to measure and monitor treatment or prevention services and costs. (No more than 20% of the total grant award may be used for data collection and evaluation.)

3. Infrastructure Development (Maximum 15% of Total Grant Award)

Although SAMHSA expects that its Services Grant funds will be used primarily for direct services, SAMHSA recognizes that infrastructure changes may be needed to support service delivery expansion in some instances. You may use up to 15% of the total Services Grant award for the following types of infrastructure development, if necessary to support the direct service expansion of the grant project.

- Building partnerships to ensure the success of the project and entering into service delivery and other agreements.
- Developing or changing the infrastructure to expand treatment or prevention services.
- Training to assist treatment or prevention providers and community support systems to identify and address mental health or substance abuse issues.

4. Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, D.C., area, and attendance is mandatory.

5. Data and Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L.103–62, or ''GPRA'') requires all Federal agencies to:

- Develop strategic plans that specify what they will accomplish over a 3 to 5-year period;
- Set performance targets annually related to their strategic plan; and
- Report annually on the degree to which the previous year's targets were met.

The law further requires agencies to link their performance to their budgets. Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures.

To meet these requirements, SAMHSA must collect performance data (*i.e.*, ''GPRA data'') from grantees. You are required to report these GPRA data to SAMHSA on a timely basis so that performance results are available to support budgetary decisions.

In particular, you will be required to provide data on a core set of required measures, depending on the SAMHSA Center that is funding the grant. In your application, you must demonstrate your ability to collect and report on these measures, and you must provide some baseline data.

Appendix A provides the performance indicators for SAMHSA's Services grantees. For complete information on the core measures relating to these indicators and the methodology for data collection and reporting, please consult the following Web sites:

- Center for Mental Health Services-funded grants: *http://www.samhsa.gov/aps/CMHS/GPRA*.
- Center for Substance Abuse Prevention-funded grants: *http://www.samhsa.gov/aps/CSAP/GPRA*.
- Center for Substance Abuse Treatment-funded-grants: *http://www.samhsa.gov/aps/CSAT/GPRA*.

This information will be provided in the hard copy application kits distributed by SAMHSA's Clearinghouses, as well.

In some instances, you may be required to participate in cross-site evaluations and comply with additional data collection requirements. The NOFA will state if participation in a cross-site evaluation is required and will specify additional data collection requirements. Before grant award, a final agreement regarding data collection will be reached. The terms and conditions of the grant award will specify the data to

be submitted and the schedule for submission. Grantees will be required to adhere to these terms and conditions of award.

6. Evaluation

Grantees must evaluate their projects, and you are required to describe your evaluation plans in your application. The evaluation should be designed to provide regular feedback to the project to improve services. Therefore, the evaluation must include the required performance measures described above. The evaluation must include both process and outcome components. Process and outcome evaluations must measure change relating to project goals and objectives over time compared to baseline information. Control or comparison groups are not required. You must consider your evaluation plan when preparing the project budget.

Process components should address issues such as:

- How closely did implementation match the plan?
- What types of deviation from the plan occurred?
- What led to the deviations?
- What effect did the deviations have on the planned intervention and evaluation?
- Who provided (program, staff) what services (modality, type, intensity, duration), to whom (individual characteristics), in what context (system, community), and at what cost (facilities, personnel, dollars)?

Outcome components should address issues such as:

- What was the effect of treatment on participants?
- What program/contextual factors were associated with outcomes?
- What individual factors were associated with outcomes?
- How durable were the effects?

No more than 20% of the total grant award may be used for evaluation and data collection.

II. Award Information

A. Award Amount

The expected award amount for each funding opportunity will be specified in the NOFA. Typically, SAMHSA's Services Grant awards are expected to be about $500,000 per year for up to 5 years. Awards may range as high as $3.0 million per year for up to 5 years. Regardless of the award amount specified in the NOFA, the actual award amount will depend on the availability of funds.

Applications with proposed budgets that exceed the allowable amount specified in the NOFA in any year of the proposed project will be screened out and will not be reviewed. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

B. Funding Mechanism

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (*see* the Glossary in Appendix C for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are domestic public and private *nonprofit* entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program precludes grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

B. Cost-Sharing

Cost-sharing is not required in this program, and applications will not be screened out on the basis of cost-sharing. However, you may include cash or in-kind contributions in your proposal as evidence of commitment to the proposed project. Reviewers may consider this information in evaluating the quality of the application.

C. Other

1. Additional Eligibility Requirements

SAMHSA applicants must comply with certain program requirements, including:

- Provisions relating to participant protection and the protection of human subjects specified in Section VIII–A of this document;
- Budgetary limitations as specified in Sections I, II, and IV–E of this document;
- Documentation of nonprofit status as required in the PHS 5161–1;
- Requirements relating to provider organization experience and provider organization certification and licensure, described below.

You also must comply with any additional program requirements specified in the NOFA, such as signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

Applications that do not comply with the specific program requirements for the funding opportunity for which the application is submitted will be screened out and will not be reviewed.

2. Evidence of Experience and Credentials

SAMHSA believes that only existing, experienced, and appropriately credentialed organizations with demonstrated infrastructure and expertise will be able to provide required services quickly and effectively. Therefore, in addition to the basic eligibility requirements specified in this announcement, applicants must meet three additional requirements related to the provision of treatment or prevention services.

The three requirements are:

- A provider organization for direct client services (*e.g.*, substance abuse treatment, substance abuse prevention, mental health services) appropriate to the grant must be involved in each application. The provider may be the applicant or another organization committed to the project. More than one provider organization may be involved;
- Each of the direct service provider organization(s) must have at least 2 years experience providing services in the area(s) covered by the application, as of the due date of the application; and
- The direct service provider organization(s) must comply with all applicable local (city, county) and State/tribal licensing, accreditation, and certification requirements, as of the due date of the application.

Note: The above requirements apply to all service provider organizations. A license from an individual clinician will not be accepted in lieu of a provider organization's license.

In Appendix 1 of the application, you must: (1) Identify at least one experienced, licensed service provider organization; (2) include a list of all direct service provider organizations that have agreed to participate in the proposed project, including the applicant agency if the applicant is a treatment or prevention service provider organization; and (3) include the Statement of Assurance (provided in Appendix G of this announcement), signed by the authorized representative of the applicant organization identified on the face-page of the application, that all participating service provider organizations:

- Meet the 2-year experience requirement;

• Are licensed, accredited, and certified; and,

• If the application is within the funding range, will provide the Government Project Officer (GPO) with the required documentation within the specified timeframe.

If Appendix 1 of the application does not contain these three items, the application will be considered ineligible and will not be reviewed.

In addition, if, following application review, an application's score is within the fundable range for a grant award, the GPO will call the applicant and request that the following documentation be sent by overnight mail:

• A letter of commitment that specifies the nature of the participation and what service(s) will be provided from every service provider organization that has agreed to participate in the project;

• Official documentation that all participating organizations have been providing relevant services for a minimum of 2 years before the date of the application in the area(s) in which the services are to be provided; and

• Official documentation that all participating service provider organizations comply with all applicable local (city, county) and State/tribal requirements for licensing, accreditation, and certification or official documentation from the appropriate agency of the applicable State/tribal, county, or other governmental unit that licensing, accreditation, and certification requirements do not exist.

If the GPO does not receive this documentation within the time specified, the application will be removed from consideration for an award and the funds will be provided to another applicant meeting these requirements.

IV. Application and Submission Information

(To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix B of this document.)

A. Address to Request Application Package

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

• For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686.

• For mental health grants, call the National Mental Health Information Center at 1–800–789–CMHS (2647).

You also may download the required documents from the SAMHSA Web site at *http://www.samhsa.gov.* Click on ''grant opportunities.''

Additional materials available on this Web site include:

• A technical assistance manual for potential applicants;

• Standard terms and conditions for SAMHSA grants;

• Guidelines and policies that relate to SAMHSA grants (*e.g.*, guidelines on cultural competence, consumer and family participation, and evaluation); and

• Enhanced instructions for completing the PHS 5161–1 application.

B. Content and Form of Application Submission

1. Required Documents

SAMHSA application kits include the following documents:

• PHS 5161–1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. Use the PHS 5161–1, unless otherwise specified in the NOFA. Applications that are not submitted on the required application form will be screened out and will not be reviewed.

• Program Announcement (PA)—Includes instructions for the grant application. This document is the PA.

• Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA. The NOFAs will be published in the **Federal Register**, as well as on the Federal grants Web site (*http://www.grants.gov*).

You must use all of the above documents in completing your application.

2. Order of Sections

Applications must be complete and contain all information needed for review. In order for your application to be complete, it must include the following sections in the order listed. Applications that do not contain these sections will be screened out and will not be reviewed.

• *Face Page*—Use Standard Form (SF) 424, which is part of the PHS 5161–1.

Note: Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at *http://www.dunandbradstreet.com* or call 1–866–705–5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.

• *Abstract*—Your total abstract should not be longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.

• *Table of Contents*—Include page numbers for each of the major sections of your application and for each appendix.

• *Budget Form*—Use SF 424A, which is part of the PHS 5161–1. Fill out Sections B, C, and E of the SF 424A.

• *Project Narrative and Supporting Documentation*—The Project Narrative describes your project. It consists of Sections A through E. Section A may not be longer than 3 pages in length. Sections B–E together may not be longer than 25 pages. More detailed instructions for completing each section of the Project Narrative are provided in ''Section V—Application Review Information'' of this document.

• The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections F through H. There are no page limits for these sections, except for Section G, the Biographical Sketches/Job Descriptions.

• *Section F*—Budget Justification, Existing Resources, Other Support. You must provide a narrative justification of the items included in your proposed budget, as well as a description of existing resources and other support you expect to receive for the proposed project. Be sure to show that no more than 15% of the total grant award will be used for infrastructure development and that no more than 20% of the total grant award will be used for data collection and evaluation.

• *Section G*—Biographical Sketches and Job Descriptions.

• Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a letter of commitment from the individual with a current biographical sketch.

• Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.

• Sample sketches and job descriptions are listed on page 22, Item 6 in the Program Narrative section of the PHS 5161–1.

• *Section H*—Confidentiality and SAMHSA Participant Protection/Human

Subjects. Instructions for completing Section H of your application are provided below in Section VIII–A of this document.

• *Appendices 1 through 5*—Use only the appendices listed below. Do not use more than 30 pages (excluding data collection instruments and interview protocols) for the appendices. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.

• *Appendix 1:* Letters of commitment/support. Identification of at least one experienced, licensed service provider organization. A list of all direct service provider organizations that have agreed to participate in the proposed project, including the applicant agency, if it is a treatment or prevention service provider organization. The Statement of Assurance (provided in Appendix G of this announcement) signed by the authorized representative of the applicant organization identified on the face page of the application, that assures SAMHSA that all listed providers meet the 2-year experience requirement, are appropriately licensed, accredited, and certified, and that if the application is within the funding range for an award, the applicant will send the GPO the required documentation within the specified time.

• *Appendix 2:* Data Collection Instruments/Interview Protocols.

• *Appendix 3:* Sample Consent Forms.

• *Appendix 4:* Letter to the SSA (if applicable; see Section VIII–C of this document).

• *Appendix 5:* A copy of the State Strategic Plan, a State needs assessment, or a letter from the State indicating that the proposed project addresses a State-identified priority.

• *Assurances*—Non-Construction Programs. Use Standard Form 424B found in PHS 5161–1.

• *Certifications*—Use the ''Certifications'' forms found in PHS 5161–1.

• *Disclosure of Lobbying Activities*—Use Standard Form LLL found in the PHS 5161–1. Federal law prohibits the use of appropriated funds for publicity or propaganda purposes, or for the preparation, distribution, or use of the information designed to support or defeat legislation pending before the Congress or State legislatures. This includes ''grass roots'' lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

• *Checklist*—Use the Checklist found in PHS 5161–1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

3. Application Formatting Requirements

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed.

• Text must be legible.

• Paper must be white and 8.5″ by 11.0″ in size.

• Pages must be typed single-spaced with one column per page.

• Page margins must be at least one inch.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.

• The pages cannot have printing on both sides.

• Page limitations specified for the Project Narrative and Appendices cannot be exceeded.

• Information must be sufficient for review.

To facilitate review of your application, follow these additional guidelines:

• Applications should be prepared using black ink. This improves the quality of the copies of applications that are provided to reviewers.

• Use white paper only. Do not use colored, heavy, or light-weight paper or any material that cannot be photocopied using automatic photocopying machines. Odd-sized and oversized attachments, such as posters, will not be copied or sent to reviewers. Do not send videotapes, audiotapes, or CD–ROMs.

• Pages should be numbered consecutively from beginning to end so that information can be located easily during review of the application. For example, the cover page should be labeled ''page 1,'' the abstract page should be ''page 2,'' and the table of contents page should be ''page 3.'' Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue in the sequence.

C. Submission Dates and Times

Deadlines for submission of applications for specific funding opportunities will be included in the NOFAs published in the **Federal Register** and posted on the Federal grants Web site (*http://www.grants.gov*).

Your application must be received by the application deadline. Applications received after this date must have a proof-of-mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing.

You will be notified by postal mail that your application has been received.

Applications not received by the application deadline or not postmarked by a week prior to the application deadline will be screened out and will not be reviewed.

D. Intergovernmental Review (E.O. 12372) Requirements

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. Instructions for this review are included in Section VIII–B of this document. Section VIII–C provides instructions for the Public Health System Impact Statement (PHSIS) and submission of comments from the Single State Agency (SSA).

E. Funding Limitations/Restrictions

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

• Institutions of Higher Education: OMB Circular A–21.

• State and Local Governments: OMB Circular A–87.

• Nonprofit Organizations: OMB Circular A–122.

• Appendix E Hospitals: 45 CFR Part 74.

In addition, SAMHSA Services Grant recipients must comply with the following funding restrictions:

• No more than 15% of the total grant award may be used for developing the infrastructure necessary for expansion of services.

• No more than 20% of the total grant award may be used for evaluation and data collection.

Service Grant funds must be used for purposes supported by the program and may not be used to:

• Pay for any lease beyond the project period.

• Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).

• Pay for the purchase or construction of any building or structure to house any part of the program. (Applicants may request up to $75,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project.)

• Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)

• Pay for housing other than residential mental health and/or substance abuse treatment.

• Provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.

• Pay for incentives to induce individuals to enter treatment. However, a grantee or treatment provider may provide up to $20 or equivalent (coupons, bus tokens, gifts, child care, and vouchers) to individuals as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.

• Implement syringe exchange programs, such as the purchase and distribution of syringes and/or needles.

• Pay for pharmacologies for HIV antiretroviral therapy, sexually transmitted diseases (STD)/sexually transmitted illnesses (STI), TB, and hepatitis B and C, or for psychotropic drugs.

F. Other Submission Requirements

1. Where To Send Applications

Send applications to the following address: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland, 20857.

Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (301) 443–4266.

2. How To Send Applications

Mail an original application and 2 copies (including appendices) to the mailing address provided above. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

You must use a recognized commercial or governmental carrier. Hand carried applications will not be accepted. Faxed or e-mailed applications will not be accepted.

V. Application Review Information

A. Evaluation Criteria

Your application will be reviewed and scored against the requirements listed below for developing the Project Narrative (Sections A–E). These sections describe what you intend to do with your project.

• In developing the Project Narrative section of your application, use these instructions, which have been tailored to this program. These are to be used instead of the ''Program Narrative'' instructions found in the PHS 5161–1.

• Be sure to provide references for any literature cited in your application. The reference list will not be counted toward the page limit for these sections. The Project Narrative may be no longer than 28 pages (3 pages for Section A and 25 pages total for Sections B–E).

• You must use the five sections/headings listed below in developing your Project Narrative. Be sure to place the required information in the correct section, or it will not be considered. Your application will be scored according to how well you address the requirements for each section of the Project Narrative.

• The Supporting Documentation you provide in Sections F–H, Appendices 1–5, and the References list will be considered by reviewers in assessing your response, along with the material in the Project Narrative.

• The number of points after each heading is the maximum number of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within the criterion.

There will be two levels of review for the SAMHSA Services Grants.

• *Level One Review* will consider how well the applicant addresses the requirements in Section A—Evidence of Effectiveness. If the service(s) proposed in the application does not meet the required standard of effectiveness as described below, the application will not move on to Level Two review and will not be considered for funding.

• *Level Two Review* will consider how well the applicant addresses the requirements in Section B (Statement of Need), Section C (Proposed Approach), Section D (Staff, Management and Relevant Experience), and Section E (Evaluation and Data). The applicant's score on Sections B–E combined will be used to determine the applicant's priority score.

1. Level One Review

Section A: Evidence of Effectiveness

Put all information to be considered in Level One review in Section A: Evidence of Effectiveness. Section A may not be longer than 3 pages. During Level One review, reviewers will decide whether the applicant's proposed services/practice meet the required standard for effectiveness. Reviewers will assess Level One review on a pass/fail basis. Applications that do not pass Level One review will not move on to Level Two review.

Applicants proposing to implement services/practices included in the following sources are considered by SAMHSA to have met the effectiveness standard required for SAMHSA's Services Grants. Such applicants are not required to provide further documentation of effectiveness of the services/practices. Such applicants must name the service/practice and indicate which of the following is the source(s) for the proposed service/practice:

• SAMHSA's National Registry of Effective Programs (NREP) (*see* Appendix D to this document).

• Center for Mental Health Services (CMHS) Evidence Based Practice Tool Kits (*see* Appendix E to this document).

• ''Effective Substance Abuse Treatment Practices'' (*see* Appendix F to this document).

• The NOFA for a specific funding opportunity (provide the name and funding opportunity number from the NOFA).

Applicants who select services/practices that are not identified in any of the sources listed above must provide a narrative justification that shows that the proposed services/practice includes the best objective information available from recognized experts regarding effectiveness and acceptability. The narrative must address the following:

• Describe the proposed services/practice.

• Indicate whether the evidence base for the proposed services/practice includes scientific studies published in the peer-reviewed literature, other studies not published in the peer-reviewed literature, and/or from formal consensus processes among recognized experts in the field.

• *If the evidence base includes scientific studies published in the peer-reviewed literature or other studies that have not been published, describe:*

—The extent to which the services/practice have been evaluated and the quality of the evaluation studies (*e.g.*,

whether they are descriptive, quasi-experimental studies, or experimental studies)
—The extent to which evaluation of the services/practice has demonstrated positive outcomes, and the extent to which positive outcomes have been demonstrated for different populations
—The extent to which evaluation of the services/practice has been studied
—The extent to which evaluation of the services/practice has been replicated
—The extent to which the services/practice have been documented (*e.g.*, through development of guidelines, tool kits, treatment protocols, and/or manuals)
—The extent to which fidelity measures have been developed (*e.g.*, no measures developed, key components identified, or fidelity measures developed)

• *If the evidence-base includes formal consensus processes involving recognized experts in the field, describe:*
—The experts involved in the consensus development activity related to the proposed services/practice (*e.g.*, members of an expert panel formally convened by NIH, the Institute of Medicine or other nationally recognized organization, or members of an informal group of experts, such as faculty at a leading research institution)
—The nature of the consensus that has been reached and the process used to reach consensus
—The extent to which the consensus has been documented (*e.g.*, in a consensus panel report, meeting minutes, or an accepted standard practice in the field)
—Any empirical evidence (whether formally published or not) supporting the effectiveness of the proposed services/practice
—Rationale for concluding that further empirical evidence does not exist to support the effectiveness of the proposed services/practice, if appropriate

In assessing applicants' narratives for Section A/Level One review, reviewers will consider whether the evidence presented in support of the proposed services/practice is, in their expert and professional opinion, commensurate with the best information available regarding effectiveness and acceptability.

Applicants should be aware that passing Level One review does not ensure that the application will be approved for funding, even if the proposed project includes a service/practice that is considered by SAMHSA to have met the standard of effectiveness.

2. Level Two Review

Section B: Statement of Need (10 Points)

• Define the target population (including demographics) and the geographic area to be served.
• Provide baseline data as required in Appendix A of this document.
• Describe the nature of the problem and extent of the need for the target population based on data. The statement of need should include a clearly established baseline for the project. Documentation of need may come from a variety of qualitative and quantitative sources. The quantitative data could come from local data or trend analyses, State data (*e.g.*, from State Needs Assessments), and/or national data (*e.g.*, from SAMHSA's National Household Survey on Drug Abuse and Health or from National Center for Health Statistics/Centers for Disease Control reports). For data sources that are not well known, provide sufficient information on how the data were collected so reviewers can assess the reliability and validity of the data.
• Non-tribal applicants must show that identified needs are consistent with priorities of the State. Include, in Appendix 5, a copy of the State Strategic Plan, a State needs assessment, or a letter from the State indicating that the proposed project addresses a State-identified priority. Tribal applicants must provide similar documentation relating to tribal priorities.

Section C: Proposed Approach (40 Points)

• Clearly state the purpose, goals and objectives of your proposed project. Describe how achievement of goals will produce meaningful and relevant results (*e.g.*, increase access, availability, prevention, outreach, pre-services, treatment, and/or intervention).
• Demonstrate how the proposed services/practice will meet your goals and objectives. Provide a logic model that links need, the services or practice to be implemented, and outcomes.
• Describe how the services or practice will be implemented.
• Clearly state the unduplicated number of individuals you propose to serve (annually and over the entire project period) with grant funds, including the types and numbers of services to be provided and anticipated outcomes. Describe how the target population will be identified, recruited, and retained.
• Describe how the proposed project will address issues of age, race, ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population, while retaining fidelity to the chosen practice.
• Describe how members of the target population helped prepare the application, and how they will help plan, implement, and evaluate the project.
• Describe how the project components will be embedded within the existing service delivery system, including other SAMHSA-funded projects, if applicable. Identify any other organizations that will participate in the proposed project. Describe their roles and responsibilities and demonstrate their commitment to the project. Include letters of commitment from community organizations supporting the project in Appendix 1. Identify any cash or in-kind contributions that will be made to the project by the applicant or other partnering organizations.
• Describe the potential barriers to successful conduct of the proposed project and how you will overcome them.

Section D: Staff, Management, and Relevant Experience (35 Points)

• Provide a time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**NOTE:** The timeline should be part of the Project Narrative. It should not be placed in an appendix.]
• Show that the necessary groundwork (*e.g.*, planning, consensus development, development of memoranda of agreement, identification of potential facilities) has been completed or is near completion so that the project can be implemented and service delivery can begin as soon as possible and no later than 4 months after grant award.
• Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.
• Provide a list of staff who will participate in the project, showing the role of each and their level of effort and qualifications. Include the Project Director and other key personnel, such as the evaluator and treatment/prevention personnel.
• Describe the resources available for the proposed project (*e.g.*, facilities, equipment), and provide evidence that services will be provided in a location that is adequate, accessible, compliant with the Americans with Disabilities Act (ADA), and amenable to the target population.

Section E: Evaluation and Data (15 Points)

• Document your ability to collect and report on the required performance measures for SAMHSA Services Grants. Specify and justify any additional outcome measures you plan to use for your grant project. (*See* Appendix A for required performance indicators.)

• Describe plans for data collection, management, analysis, interpretation and reporting. Describe the project provider's existing approach to the collection of individual, service use, and outcome data, along with any necessary modifications. Be sure to include data collection instruments/interview protocols in Appendix 2.

• Describe the process and outcome evaluation, including assessments of implementation and individual outcomes. Show how the evaluation will be integrated with requirements for collection and reporting of performance data, including data required by SAMHSA to meet GPRA requirements.

• Describe how the evaluation will be used to ensure the fidelity to the practice.

• Provide a per-person or unit cost of the project to be implemented, based on the applicant's actual costs and projected costs over the life of the project.

Note: Although the budget for the proposed project is not a review criterion, the Review Group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

B. Review and Selection Process

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over $100,000, applications must also be reviewed by the appropriate National Advisory Council.

C. Award Criteria

Decisions to fund a grant are based on:

• The strengths and weaknesses of the application as identified by the peer review committee and, when applicable, approved by the appropriate National Advisory Council;

• Availability of funds; and

• Equitable allocation of grants among the principal geographic regions of the United States. SAMHSA does not intend to award more than 2 grants per State for each funding opportunity.

VI. Award Administration Information

A. Award Notices

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

B. Administrative and National Policy Requirements

• You must comply with all terms and conditions of the grant award. SAMHSA's standard terms and conditions are available on the SAMHSA Web site (*http://www.samhsa.gov*).

• Depending on the nature of the specific funding opportunity and/or the proposed project as identified during review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

• Actions required to be in compliance with human subjects requirements;

• Requirements relating to additional data collection and reporting;

• Requirements relating to participation in a cross-site evaluation; or

• Requirements to address problems identified in review of the application.

• You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.

• In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services ''Survey on Ensuring Equal Opportunity for Applicants.'' This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

C. Reporting Requirements

1. Progress and Financial Reports

• Grantees must provide annual and final progress reports. The final report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing plans developed during the grant period.

• Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that treatment or prevention services can be sustained, your financial reports should explain plans to ensure the sustainability of efforts initiated under this grant. Initial plans for sustainability should be described in year 01. In each subsequent year, you should describe the status of your project, as well as the successes achieved and obstacles encountered in that year.

• SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

2. Government Performance and Results Act (GPRA)

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. The performance requirements for SAMHSA's Services Grants are described in Section I–B under ''Data and Performance Measurement'' and listed in Appendix A of this document.

3. Publications

If you are funded under this program, you are required to notify the Government Project Officer (GPO) and SAMHSA's Publications Clearance Officer (301–443–8596) of any materials based on the SAMHSA-funded grant project that are accepted for publication.

In addition, SAMHSA requests that grantees:

• Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.

• Include acknowledgment of the SAMHSA grant program as the source of funding for the project.

• Include a disclaimer stating that the views and opinions contained in the

publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/ mental health services community.

VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Stephen Hudak, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration/ OPS, 5600 Fishers Lane, Rockwall II 6th Floor, Rockville, MD 20857, (301) 443–9666, *shudak@samhsa.gov.*

VIII. Other Information

A. SAMHSA Confidentiality and Participant Protection Requirements and Protection of Human Subjects Regulations

You must describe your procedures relating to Confidentiality, Participant Protection and the Protection of Human Subjects Regulations in Section H of your application, using the guidelines provided below. Problems with confidentiality, participant protection, and protection of human subjects identified during peer review of your application may result in the delay of funding.

Confidentiality and Participant Protection: All applicants *must* address each of the following elements relating to confidentiality and participant protection. You must document how you will address these requirements or why they do not apply.

1. Protect Clients and Staff from Potential Risks

- Identify and describe any foreseeable physical, medical, psychological, social, legal, or other risks or adverse affects.
- Discuss risks that are due either to participation in the project itself or to the evaluation activities.
- Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.
- Identify plans to provide help if there are adverse effects to participants.
- Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. Fair Selection of Participants

- Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other groups.
- Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, or others who are likely to be vulnerable to HIV/AIDS.
- Explain the reasons for *including or excluding* participants.
- Explain how you will recruit and select participants. Identify who will select participants.

3. Absence of Coercion

- Explain if participation in the project is voluntary or required. Identify possible reasons why it is required, for example, court orders requiring people to participate in a program.
- If you plan to pay participants, state how participants will be awarded money or gifts.
- State how volunteer participants will be told that they may receive services even if they do not participate in the project.

4. Data Collection

- Identify from whom you will collect data (*e.g.*, from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (*e.g.*, school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.
- Identify what type of specimens (*e.g.*, urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.
- Provide in Appendix 2, ''Data Collection Instruments/Interview Protocols,'' copies of *all* available data collection instruments and interview protocols that you plan to use.

5. Privacy and Confidentiality

- Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.
- Describe:
- How you will use data collection instruments.
- Where data will be stored.
- Who will or will not have access to information.
- How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records, or storing identifiers separately from data.

Note: If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part II.

6. Adequate Consent Procedures

- List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used and how you will keep the data private.
- State:
- Whether or not their participation is voluntary.
- Their right to leave the project at any time without problems.
- Possible risks from participation in the project.
- Plans to protect clients from these risks.
- Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

Note: If the project poses potential physical, medical, psychological, legal, social or other risks, you must get *written* informed consent.

- Indicate if you will get informed consent from participants or from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?
- Include sample consent forms in your Appendix 3, ''Sample Consent Forms.'' If needed, give English translations.

Note: Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

- Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data.
- Additionally, if other consents (*e.g.*, consents to release information to others

or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. Risk/Benefit Discussion

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations

Depending on the evaluation and data collection requirements of the particular funding opportunity for which you are applying or the evaluation design you propose in your application, you may have to comply with the Protection of Human Subjects Regulations (45 CFR 46). The NOFA will indicate whether all applicants for a particular funding opportunity must comply with the Protection of Human Subject Regulations.

Applicants must be aware that even if the Protection of Human Subjects Regulations do not apply to all projects funded under a given funding opportunity, the specific evaluation design proposed by the applicant may require compliance with these regulations.

Applicants whose projects must comply with the Protection of Human Subjects Regulations must describe the process for obtaining Institutional Review Board (IRB) approval fully in their applications. While IRB approval is not required at the time of grant award, these applicants will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and the IRB approval has been received prior to enrolling any clients in the proposed project.

Additional information about Protection of Human Subjects Regulations can be obtained on the Web at *http://ohrp.osophs.dhhs.gov.* You may also contact OHRP by e-mail (*ohrp@osophs.dhhs.gov*) or by phone (301/496–7005).

B. Intergovernmental Review (E.O. 12372) Instructions

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at *http://www.whitehouse.gov/omb/grants/spoc.html.*

- Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.
- If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.
- For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.
- The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland, 20857, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from the NOFA].

C. Public Health System Impact Statement (PHSIS)

The Public Health System Impact Statement or PHSIS (Approved by OMB under control no. 0920–0428; see burden statement below) is intended to keep State and local health officials informed of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to the following Public Health System Reporting Requirements.

Community-based, non-governmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. This PHSIS consists of the following information:

- A copy of the face page of the application (SF 424); and
- A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at *http://www.samhsa.gov.* If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA *must* include a copy of a letter transmitting the PHSIS to the SSA in Appendix 4, ''Letter to the SSA.'' The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to:

Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland, 20857, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

- Applicants may request that the SSA send them a copy of any State comments.
- The applicant must notify the SSA within 30 days of receipt of an award.

[Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. 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 number for this project is 0920–0428. Send comments regarding this burden to CDC Clearance Officer, 1600 Clifton Road, MS D–24, Atlanta, GA 30333, ATTN: PRA (0920–0428)].

Appendix A—SAMHSA Services Indicators

The purpose of services programs is to implement a service improvement using a proven ''evidence based'' approach. Domains to be measured are persons served, cost per person, and other individual/system outcomes. This list of indicators and related measures will be updated periodically. The Notice of Funding Availability (NOFA) will specify which indicators are required for a particular funding opportunity. Applicants must provide expected baseline data for *asterisked items in the grant application. Grantees must collect and report data at the interval (*e.g.*, quarterly, annually) specified in the NOFA. Specific instructions for data collection will be provided on SAMHSA's web site and in application kits. Some NOFAs may specify indicators and measures not on this list or may request grantees to

identify measures appropriate to their specific project.

Accountability

Percent of grantees reporting valid data.

Capacity

* Number of persons served (Includes screening and assessment)

CMHS and CSAT grantees: Percent of providers providing services within approved costs (Costs to be proposed in application; to be approved by SAMHSA prior to award. A cost measure for substance abuse prevention is under development).

* Number, type, and capacity of services/product available.

* Percent of persons needing services/product who receive them.

Effectiveness

Participation of persons served and family members in planning, policy and service delivery.

Number of service/systems improvements implemented; maintained post-funding.

* Percent of programs reporting positive individual and systems outcomes.

CSAP grantees: Difference between 30 day substance use of population served by program and comparable local and national rates. CSAT grantees: Number of people who show no past month substance use 6 months post treatment admission.

Grantees also will be required to report on several outcomes from the following list, as specified in the NOFA:

Individual outcomes: Participants (adults or children) disapproving of substance use; perceiving personal health risks associated with substance abuse; increasing age of first use; reporting abstinence at discharge; decreasing substance abuse risk factors related to spread of HIV/AIDS, including risky sexual behavior and sharing needles; improving employment/school attendance; having no criminal justice involvement; having stable living situation; reporting (consumer/family) improvement in behavioral/emotional symptoms.

System outcomes: Percent of referrals from juvenile/adult justice systems to systems of care; decreased days in inpatient/residential facilities; readmission rates; past 30 day utilization of inpatient, outpatient facilities; inpatient, outpatient, or emergency room treatment for physical complaint, mental or emotional difficulties, or alcohol or substance abuse; seclusion/restraint deaths or injuries; number of communities with defined systems/continuum of care; number of persons contacted through outreach who enroll in services; percent of providers, administrators trained who report adopting approved service methods; percent of participants in sponsored events who have used information to change their practices; number of science based programs implemented. Completion and documentation of one or more of the following, depending upon the scope of the project: Needs assessment; revised financing plan for coordinating funding streams; organizational/structural change or quality improvements; coordination and network improvements; workforce improvements; data infrastructure/performance measurement improvements.

Appendix B—Checklist for Application Formatting Requirements

Your application must adhere to these formatting requirements. Failure to do so will result in your application being screened out and returned to you without review. In addition to these formatting requirements, there may be programmatic requirements specified in the NOFA. Please check the NOFA before preparing your application.

- Use the PHS 5161–1 application.
- Include the 10 application components required for SAMHSA applications (*i.e.*, Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist.)
- Provide legible text.
- Use white paper, 8.5″ by 11.0″ in size.
- Type single-spaced text with one column per page.
- Use margins that are at least 1 inch.
- Use type size in the Project Narrative that does not exceed an average of 15 characters per inch when measured with a ruler. Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.
- Do not use photo reduction or condensation of type closer than 15 characters per inch or 6 lines per inch.
- Print only on one side of the paper only; do not print on both sides.
- Do not exceed page limitations specified for the Project Narrative (3 pages for Section A and 25 pages total for Sections B–E) and Appendices (30 pages).
- Provide sufficient information for review.
- Applications must be received by the application deadline. Applications received after this date must have a proof of mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing. Applications not received by the application deadline or postmarked a week prior to the application deadline will not be reviewed.
- Applications that do not comply with the following requirements and any additional program requirements specified in the NOFA, or are otherwise unresponsive to PA guidelines will be screened out and returned to the applicant without review:
- Provisions relating to participant protection and the protection of human subjects specified in Section VIII–A of this document.
- Budgetary limitations as specified in Sections I, II and IV–E of this document.
- Documentation of nonprofit status as required in the PHS 5161–1.
- Requirements relating to provider organization experience and provider organization certification and licensure.

To facilitate review of your application, follow these additional guidelines. Failure to follow these guidelines will not result in your application being screened out. However, following these guidelines will help reviewers to consider your application.

- Please use black ink and number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.
- Send the original application and two copies to the mailing address in the PA. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROMs.

Appendix C: Glossary

Best Practice: Best practices are practices that incorporate the best objective information currently available from recognized experts regarding effectiveness and acceptability.

Cooperative Agreement: A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

Cost-Sharing or Matching: Cost-sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost-sharing or matching is not required, and applications will not be screened out on the basis of cost-sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by reviewers in evaluating the quality of the application.

Grant: A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

In-Kind Contribution: In-kind contributions toward a grant project are non-cash contributions (*e.g.*, facilities, space, services) that are derived from non-Federal sources,

such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

Practice: A practice is any activity, or collective set of activities, intended to improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

Practice Support System: This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-delivery phase, such as (a) community collaboration and consensus building, (b) training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

Stakeholder: A stakeholder is an individual, organization, constituent group, or other entity that has an interest in and will be affected by a proposed grant project.

Target population catchment area: The target population catchment area is the geographic area from which the target population to be served by a program will be drawn.

Wraparound Service: Wraparound services are non-clinical supportive services—such as child care, vocational, educational, and transportation services—that are designed to improve the individual's access to and retention in the proposed project.

Appendix D: National Registry of Effective Programs

To help SAMHSA's constituents learn more about science-based programs, SAMHSA's Center for Substance Abuse Prevention (CSAP) created a National Registry of Effective Programs (NREP) to review and identify effective programs. NREP seeks candidates from the practice community and the scientific literature. While the initial focus of NREP was substance abuse prevention programming, NREP has expanded its scope and now includes prevention and treatment of substance abuse and of co-occurring substance abuse and mental disorders, and psychopharmacological programs and workplace programs.

NREP includes three categories of programs: Effective Programs, Promising Programs, and Model Programs. Programs defined as Effective have the option of becoming Model Programs if their developers choose to take part in SAMHSA dissemination efforts. The conditions for making that choice, together with definitions of the three major criteria, are as follows.

Promising Programs have been implemented and evaluated sufficiently and are scientifically defensible. They have positive outcomes in preventing substance abuse and related behaviors. However, they have not yet been shown to have sufficient rigor and/or consistently positive outcomes required for Effective Program status. Nonetheless, Promising Programs are eligible to be elevated to Effective/Model status after review of additional documentation regarding program effectiveness. Originated from a range of settings and spanning target populations, Promising Programs can guide prevention, treatment, and rehabilitation.

Effective Programs are well-implemented, well-evaluated programs that produce consistently positive pattern of results (across domains and/or replications). Developers of Effective Programs have yet to help SAMHSA/CSAP disseminate their programs, but may do so themselves.

Model Programs are also well-implemented, well-evaluated programs, meaning they have been reviewed by NREP according to rigorous standards of research. Their developers have agreed with SAMHSA to provide materials, training, and technical assistance for nationwide implementation. That helps ensure the program is carefully implemented and likely to succeed.

Programs that have met the NREP standards for each category can be identified by accessing the NREP Model Programs Web site at *http://www.modelprograms.samhsa.gov.*

Appendix E: Center for Mental Health Services Evidence-Based Practice Toolkits

SAMHSA's Center for Mental Health Services and the Robert Wood Johnson Foundation initiated the Evidence-Based Practices Project to: (1) Help more consumers and families access services that are effective, (2) help providers of mental health services develop effective services, and (3) help administrators support and maintain these services. The project is now also funded and endorsed by numerous national, State, local, private and public organizations, including the Johnson & Johnson Charitable Trust, the MacArthur Foundation, and the West Family Foundation.

The project has been developed through the cooperation of many Federal and State mental health organizations, advocacy groups, mental health providers, researchers, consumers and family members. A Web site (*http://www.mentalhealthpractices.org*) was created as part of Phase I of the project, which included the identification of the first cluster of evidence-based practices and the design of implementation resource kits to help people understand and use these practices successfully.

Basic information about the first six evidence-based practices is available on the Web site. The six practices are:

1. Illness Management and Recovery.
2. Family Psychoeducation.
3. Medication Management Approaches in Psychiatry.
4. Assertive Community Treatment.
5. Supported Employment.
6. Integrated Dual Disorders Treatment.

Each of the resource kits contains information and materials written by and for the following groups:

—Consumers
—Families and Other Supporters
—Practitioners and Clinical Supervisors
—Mental Health Program Leaders
—Public Mental Health Authorities

Material on the web site can be printed or downloaded with Acrobat Reader, and references are provided where additional information can be obtained.

Once published, the full kits will be available from National Mental Health Information Center at *http://www.health.org* or 1–800–789–CMHS (2647).

Appendix F: Effective Substance Abuse Treatment Practices

To assist potential applicants, SAMHSA's Center for Substance Abuse Treatment (CSAT) has identified the following listing of current publications on effective treatment practices for use by treatment professionals in treating individuals with substance abuse disorders. These publications are available from the National Clearinghouse for Alcohol and Drug Information (NCADI); Tele: 1–800–729–6686 or *http://www.health.org* and *http://www.samhsa.gov/centers/csat2002/publications.html.*

CSAT Treatment Improvement Protocols (TIPs) are consensus-based guidelines developed by clinical, research, and administrative experts in the field.

- Integrating Substance Abuse Treatment and Vocational Services. TIP 38 (2000) NCADI # BKD381
- Substance Abuse Treatment for Persons with Child Abuse and Neglect Issues. TIP 36 (2000) NCADI # BKD343
- Substance Abuse Treatment for Persons with HIV/AIDS. TIP 37 (2000) NCADI # BKD359
- Brief Interventions and Brief Therapies for Substance Abuse. TIP 34 (1999) NCADI # BKD341
- Enhancing Motivation for Change in Substance Abuse Treatment. TIP 35 (1999) NCADI # BKD342
- Screening and Assessing Adolescents for Substance Use Disorders. TIP 31 (1999) NCADI # BKD306
- Treatment for Stimulant Use Disorders. TIP 33 (1999) NCADI # BKD289
- Treatment of Adolescents with Substance Use Disorders. TIP 32 (1999) NCADI # BKD307
- Comprehensive Case Management for Substance Abuse Treatment. TIP 27 (1998) NCADI # BKD251
- Continuity of Offender Treatment for Substance Use Disorders From Institution to Community. TIP 30 (1998) NCADI # BKD304
- Naltrexone and Alcoholism Treatment. TIP 28 (1998) NCADI # BKD268
- Substance Abuse Among Older Adults. TIP 26 (1998) NCADI # BKD250
- Substance Use Disorder Treatment for People With Physical and Cognitive Disabilities. TIP 29 (1998) NCADI # BKD288
- A Guide to Substance Abuse Services for Primary Care Clinicians. TIP 24 (1997) NCADI # BKD234
- Substance Abuse Treatment and Domestic Violence. TIP 25 (1997) NCADI # BKD239
- Treatment Drug Courts: Integrating Substance Abuse Treatment With Legal Case Processing. TIP 23 (1996) NCADI # BKD205

• Alcohol and Other Drug Screening of Hospitalized Trauma Patients. TIP 16 (1995) NCADI # BKD164

• Combining Alcohol and Other Drug Abuse Treatment With Diversion for Juveniles in the Justice System. TIP 21 (1995) NCADI # BKD169

• Detoxification From Alcohol and Other Drugs. TIP 19 (1995) NCADI # BKD172

• LAAM in the Treatment of Opiate Addiction. TIP 22 (1995) NCADI # BKD170

• Matching Treatment to Patient Needs in Opioid Substitution Therapy. TIP 20 (1995) NCADI # BKD168

• Planning for Alcohol and Other Drug Abuse Treatment for Adults in the Criminal Justice System. TIP 17 (1995) NCADI # BKD165

• Assessment and Treatment of Cocaine-Abusing Methadone-Maintained Patients. TIP 10 (1994) NCADI # BKD157

• Assessment and Treatment of Patients With Coexisting Mental Illness and Alcohol and Other Drug Abuse. TIP 9 (1994) NCADI # BKD134

• Intensive Outpatient Treatment for Alcohol and Other Drug Abuse. TIP 8 (1994) NCADI # BKD139

Other Effective Practice Publications

CSAT Publications

• Anger Management for Substance Abuse and Mental Health Clients: A Cognitive Behavioral Therapy Manual (2002) NCADI # BKD444

• Anger Management for Substance Abuse and Mental Health Clients: Participant Workbook (2002) NCADI # BKD445

• Multidimensional Family Therapy for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 5 (2002) NCADI # BKD388

• Navigating the Pathways: Lessons and Promising Practices in Linking Alcohol and Drug Services with Child Welfare. TAP 27 (2002) NCADI # BKD436

• The Motivational Enhancement Therapy and Cognitive Behavioral Therapy Supplement: 7 Sessions of Cognitive Behavioral Therapy for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 2 (2002) NCADI # BKD385

• Family Support Network for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 3 (2001) NCADI # BKD386

• Identifying Substance Abuse Among TANF-Eligible Families. TAP 26 (2001) NCADI # BKD410

• Motivational Enhancement Therapy and Cognitive Behavioral Therapy for Adolescent Cannabis Users: 5 Sessions. CYT Cannabis Youth Treatment Series Vol. 1 (2001) NCADI # BKD384

• The Adolescent Community Reinforcement Approach for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 4 (2001) NCADI # BKD387

• Substance Abuse Treatment for Women Offenders: Guide to Promising Practices. TAP 23 (1999) NCADI # BKD310

• Addiction Counseling Competencies: The Knowledge, Skills, and Attitudes of Professional Practice. TAP 21 (1998) NCADI # BKD246

• Bringing Excellence to Substance Abuse Services in Rural and Frontier America. TAP 20 (1997) NCADI # BKD220

• Counselor's Manual for Relapse Prevention with Chemically Dependent Criminal Offenders. TAP 19 (1996) NCADI # BKD723

• Draft Buprenorphine Curriculum for Physicians (Note: the Curriculum is in DRAFT form and is currently being updated) *http://www.buprenorphine.samhsa.gov*

• CSAT Guidelines for the Accreditation of Opioid Treatment Programs *http://www.samhsa.gov/centers/csat/content/dpt/accreditation.htm*

• Model Policy Guidelines for Opioid Addiction Treatment in the Medical Office *http://www.samhsa.gov/centers/csat/content/dpt/model_policy.htm*

NIDA Manuals—Available through NCADI

• Brief Strategic Family Therapy. Manual 5 (2003) NCADI # BKD481

• Drug Counseling for Cocaine Addiction: The Collaborative Cocaine Treatment Study Model. Manual 4 (2002) NCADI # BKD465

• The NIDA Community-Based Outreach Model: A Manual to Reduce Risk HIV and Other Blood-Borne Infections in Drug Users. (2000) NCADI # BKD366

• An Individual Counseling Approach to Treat Cocaine Addiction: The Collaborative Cocaine Treatment Study Model. Manual 3 (1999) NCADI # BKD337

• Cognitive-Behavioral Approach: Treating Cocaine Addiction. Manual 1 (1998) NCADI # BKD254

• Community Reinforcement Plus Vouchers Approach: Treating Cocaine Addiction. Manual 2 (1998) NCADI # BKD255

NIAAA Publications—These publications are available in PDF format or can be ordered on-line at *http://www.niaaa.nih.gov/publications/guides.htm.* An order form for the Project MATCH series is available on-line at *http://www.niaaa.nih.gov/publications/match.htm.* All publications listed can be ordered through the NIAAA Publications Distribution Center, P.O. Box 10686, Rockville, MD 20849–0686.

• * Alcohol Problems in Intimate Relationships: Identification and Intervention. A Guide for Marriage and Family Therapists (2003) NIH Pub. No. 03–5284

• * Helping Patients with Alcohol Problems: A Health Practitioner's Guide. (2003) NIH Pub. No. 03–3769

• Cognitive-Behavioral Coping Skills Therapy Manual. Project MATCH Series, Vol. 3 (1995) NIH Pub. No. 94–3724

• Twelve Step Facilitation Therapy Manual. Project MATCH Series, Vol. 1 (1995) NIH Pub. No. 94–3722

• Motivational Enhancement Therapy Manual. Project MATCH Series, Vol. 2 (1994) NIH Pub. No. 94–3723

Appendix G—Statement of Assurance

As the authorized representative of the applicant organization, I assure SAMHSA that if {insert name of organization} application is within the funding range for a grant award, the organization will provide the SAMHSA Government Project Officer (GPO) with the following documents. I understand that if this documentation is not received by the GPO within the specified timeframe, the application will be removed from consideration for an award and the funds will be provided to another applicant meeting these requirements.

• A letter of commitment that specifies the nature of the participation and what service(s) will be provided from every service provider organization, listed in Appendix 1 of the application, that has agreed to participate in the project;

• Official documentation that all service provider organizations participating in the project have been providing relevant services for a minimum of 2 years prior to the date of the application in the area(s) in which services are to be provided. Official documents must definitively establish that the organization has provided relevant services for the last 2 years; and

• Official documentation that all participating service provider organizations are in compliance with all local (city, county) and State/tribal requirements for licensing, accreditation, and certification or official documentation from the appropriate agency of the applicable State/tribal, county, or other governmental unit that licensing, accreditation, and certification requirements do not exist. (Official documentation is a copy of each service provider organization's license, accreditation, and certification. Documentation of accreditation will not be accepted in lieu of an organization's license. A statement by, or letter from, the applicant organization or from a provider organization attesting to compliance with licensing, accreditation and certification or that no licensing, accreditation, certification requirements exist does not constitute adequate documentation.)

Signature of Authorized Representative

Date

Dated: August 13, 2003.

Anna Marsh,

Acting Executive Officer.

[FR Doc. 03–21116 Filed 8–20–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Proposed Changes in Announcement of SAMHSA Discretionary Grant Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of proposed standard infrastructure grant announcement.

SUMMARY: Beginning in Fiscal Year (FY) 2004, the Substance Abuse and Mental Health Services Administration (SAMHSA) plans to change its approach to announcing and soliciting

applications for its discretionary grant programs. The following announcement is a proposed standard announcement for SAMHSA's Infrastructure Grants. *It is not an actual grant solicitation.*

Authority: Sections 509, 516, and 520A of the Public Health Service Act.

When published in final, the standard SAMHSA Infrastructure Grant announcement will be used by applicants in conjunction with specific Notices of Funding Availability (NOFAs) to prepare applications for certain SAMHSA grants. SAMHSA is providing this draft announcement for public review and comment in order to ensure that the field is aware of the planned change and has an opportunity to identify areas where the announcement is unclear and needs improvement.

DATES: Submit written comments on this proposal by October 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding SAMHSA's proposed standard Infrastructure Grant announcement to: Office of Policy, Planning and Budget, SAMHSA, Attn: Jennifer Fiedelholtz by fax (301–594–6159) or e-mail (*samhsa_standard_grants@samhsa.gov*). Please include a phone number in your e-mail, so that SAMHSA staff may contact you if there are questions about your comments.

FOR FURTHER INFORMATION CONTACT: Jennifer Fiedelholtz of the Office of Policy, Planning and Budget, SAMHSA, by fax (301–594–6159) or e-mail (*samhsa_standard_grants@samhsa.gov*). If you would like a SAMHSA staff person to call you about your questions, please state this in an e-mail or fax request and provide a telephone number where you can be reached between 8:30 and 5 p.m. Eastern Standard Time.

SUPPLEMENTARY INFORMATION: Starting in FY 2004, SAMHSA plans to change its approach to announcing and soliciting applications for its discretionary grants. SAMHSA plans to issue the following Infrastructure Grant announcement as one of four standard grant announcements that will describe the general program design and provide application instructions for four types of grants ''Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The standard announcements will be used in conjunction with brief Notices of Funding Availability (NOFAs) that will announce the availability of funds for specific grant funding opportunities within each of the standard grant programs (*e.g.*, Homeless Treatment grants, Statewide Family Network grants, or HIV/AIDS and Substance Abuse Prevention Planning Grants).

A complete description of the proposed process, the other three proposed standard announcements and a sample NOFA are contained in separate notices in this issue of the **Federal Register**.

SAMHSA welcomes public comment on all aspects of the following announcement. In particular, SAMHSA welcomes comment on the following issues:

1. Is the difference between the standard announcement and a NOFA clear?

2. Are the programmatic requirements for SAMHSA's Infrastructure Grants clear?

3. Are the goals/objectives for SAMHSA's Infrastructure Grants clear?

4. If you are a potential applicant for a SAMHSA Infrastructure Grant, do you believe you will be able to use the standard Infrastructure Grant announcement with the NOFA to prepare your application? Will the ability to anticipate programmatic requirements through reviewing the standard grant announcements ahead of time improve your ability to prepare a solid application? Is the additional benefit ''worth'' the ''cost'' of having to use two different documents to prepare your application?

Text of Proposed Standard Announcement

Department of Health and Human Services

Substance Abuse and Mental Health Services Administration

Infrastructure Grants—INF 04 (Initial Announcement)

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*).

Authority: Sections 509, 516 and/or 520A of the Public Health Service Act, as amended, and subject to the availability of funds (unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*).

Key Dates

Application Deadline	This Program Announcement provides general instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the **Federal Register** and on *http://www.grants.gov.*
Intergovernmental Review (E.O. 12372)	Letters from State Single Point of Contact (SPOC) are due no later than 60 days after application deadline.
Public Health System Impact Statement (PHSIS)/SSA Coordination.	Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due no later than 60 days after application deadline.

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I. Funding Opportunity Description

A. Introduction

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Infrastructure Grants. These grants will increase the capacity of mental health and/or substance abuse service systems to support effective programs and services. Applicants who seek Federal support to develop or enhance their service system infrastructure in order to support effective substance abuse and/or mental health services should apply for awards under this announcement.

SAMHSA also funds grants under three other standard grant announcements:

- *Services Grants* provide funding to implement substance abuse and mental health services.
- *Best Practices Planning and Implementation Grants* help communities and providers identify practices to effectively meet local needs, develop strategic plans for implementing/adapting those practices and pilot-test practices prior to full-scale implementation.
- *Service to Science Grants* document and evaluate innovative practices that address critical substance abuse and mental health service gaps but that have not yet been formally evaluated.

This announcement describes the general program design and provides application instructions for all SAMHSA Infrastructure Grants. The availability of funds for specific Infrastructure Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at *http://www.grants.gov*—the Federal grant announcement Web page.

Typically, funding for Infrastructure Grants will be targeted to specific populations and/or issue areas, which will be specified in the NOFAs. The NOFAs will also:

- Specify total funding available for the first year of the grants and the expected size and number of awards;
- Provide the application deadline;
- Note any specific program requirements for each funding opportunity; and
- Include any limitations or exceptions to the general provisions in this announcement (*e.g.*, eligibility, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

B. Expectations

SAMHSA's Infrastructure Grants support an array of activities to help the grantee build a solid foundation for delivering and sustaining effective substance abuse prevention and/or treatment and/or mental health services.

SAMHSA recognizes that each applicant will start from a unique point in developing infrastructure and will serve populations/communities with specific needs. Awardees may pursue diverse strategies and methods to achieve their infrastructure development and capacity expansion goals. Successful applicants will provide a coherent and detailed conceptual ''roadmap'' of the process by which they have assessed or intend to assess service system needs and plan/implement infrastructure development strategies that meet those needs. The plan put forward in the grant application must show the linkages among needs, the proposed infrastructure development strategy, and increased system capacity that will enhance and sustain effective programs and services.

1. Allowable Activities

SAMHSA's Infrastructure Grants will support the following types of activities:

Infrastructure Development—Infrastructure Grant funds must be used primarily to support infrastructure development, including the following types of activities:

- Needs assessment;
- Strategic planning;
- Financing/coordination of funding streams;
- Organizational/structural change (*e.g.*, to create locus of responsibility for a specific issue/population, or to increase access to or efficiency of services);
- Development of interagency coordination mechanisms;
- Provider/network development;
- Policy development to support needed service system improvements (*e.g.*, rate-setting activities, establishment of standards of care, development/revision of credentialing, licensure, or accreditation requirements);
- Quality improvement efforts;
- Performance measurement development;
- Workforce development (*e.g.*, training, support for licensure, credentialing, or accreditation);
- Data infrastructure/MIS development.

Implementation Pilots (maximum 15 percent of total grant award)—Depending on the scope of the project (see description of award categories below), up to 15 percent of the total grant award may be used for ''implementation pilots'' to test the effectiveness of the infrastructure changes on services delivery. Funds may not be used to provide direct services except in the context of an implementation pilot.

2. Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, DC, area, and attendance is mandatory.

3. Data and Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L. 103–62, or ''GPRA'') requires all Federal agencies to:

- Develop strategic plans that specify what they will accomplish over a 3 to 5-year period;
- Set performance targets annually related to their strategic plan; and
- Report annually on the degree to which the previous year's targets were met.

The law further requires agencies to link their performance to their budgets. Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures.

To meet these requirements, SAMHSA must collect performance data (*i.e.*, ''GPRA data'') from grantees. You are required to report these GPRA data to SAMHSA on a timely basis so that performance results are available to support budgetary decisions.

In particular, you will be required to provide data on a core set of required measures, depending on the SAMHSA Center that is funding the grant. In your application, you must demonstrate your ability to collect and report on these measures, and you must provide some baseline data.

Appendix A provides the performance indicators for SAMHSA's Infrastructure grantees. For complete information on the core measures relating to these indicators and the methodology for data collection and reporting, please consult the following Web sites:

- Center for Mental Health Services-funded grants: *http://www.samhsa.gov/aps/CMHS/GPRA*;

• Center for Substance Abuse Prevention-funded grants: *http://www.samhsa.gov/aps/CSAP/GPRA*;

• Center for Substance Abuse Treatment-funded-grants: *http://www.samhsa.gov/aps/CSAT/GPRA*;

This information will be provided in the hard copy application kits distributed by SAMHSA's Clearinghouses, as well.

In some instances, you may be required to participate in cross-site evaluations and comply with additional data collection requirements; if so, this will be specified in the NOFA. Before grant award, a final agreement regarding data collection will be reached. The terms and conditions of the grant award will specify the data to be submitted and the schedule for submission. Grantees will be required to adhere to these terms and conditions of award.

4. Evaluation

Grantees must evaluate their projects, and applicants are required to describe their evaluation plans in their applications. The evaluation should be designed to provide regular feedback to the project to improve services. Therefore, the evaluation must include the required performance measures described above. The evaluation must include both process and outcome components. Process and outcome evaluations must measure change relating to project goals and objectives over time compared to baseline information. Control or comparison groups are not required. You must consider your evaluation plan when preparing the project budget.

Process components should address issues such as:

• How closely did implementation match the plan?

• What types of deviation from the plan occurred?

• What led to the deviations?

• What impact did the deviations have on the intervention and evaluation?

• Who provided (program, staff) what services (modality, type, intensity, duration), to whom (individual characteristics), in what context (system, community), and at what cost (facilities, personnel, dollars)?

Outcome components should address issues such as:

• What was the effect of infrastructure development on service capacity and other system outcomes?

• What program/contextual factors were associated with outcomes?

• What individual factors were associated with outcomes?

• How durable were the effects?

If the project includes an implementation pilot involving services delivery, the evaluation should include client and system outcomes.

No more than 20% of the total grant award may be used for evaluation and data collection. The evaluation and data collection may be considered ''Infrastructure'' and/or ''Implementation Pilots'' expenditures, depending on their purpose.

II. Award Information

A. Award Amount

The NOFA will specify the expected award amount for each funding opportunity. Regardless of the amount specified in the NOFA, actual award amounts will depend on the availability of funds.

Two types of Infrastructure Grants will be made:

Category 1—Small Infrastructure Grants. The Category 1 grants will be limited in scope as specified in the NOFA. For example, allowable activities might be limited to workforce development, data infrastructure, or strategic planning. Implementation pilots are not allowed in Category 1 awards. Category 1 awards are expected to be for a period of 1–3 years in amounts ranging from $250,000–$500,000 per year.

Category 2—Comprehensive Infrastructure Grants. The scope of the Category 2 grants will be much larger. While applicants are not required to include all of the allowable activities in their proposed projects, the proposed projects must encompass multiple domains (*e.g.*, needs assessment, strategic and financial planning, organizational/structural change, and network development). Category 2 awards may use a maximum of 15 percent of the total grant award for implementation pilots. Category 2 awards are expected to be for a period of 3–5 years in amounts ranging from $750,000–$3 million per year.

Applications with proposed budgets that exceed the allowable amount as specified in the NOFA in any year of the proposed project will be screened out and will not be reviewed.

Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

B. Funding Mechanism

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (*see* the Glossary in Appendix C for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are domestic public and private *nonprofit* entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program precludes grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

B. Cost-Sharing

Cost-sharing is not required in this program, and applications will not be screened out on the basis of cost-sharing. However, you may include cash or in-kind contributions in your proposal as evidence of commitment to the proposed project. Reviewers may consider this information in evaluating the quality of the application.

C. Other

SAMHSA applicants must comply with certain program requirements, including:

• Provisions relating to participant protection and the protection of human subjects specified in Section VIII–A of this document;

• Budgetary limitations as specified in Sections I, II, and IV–E of this document; and

• Documentation of nonprofit status as required in the PHS 5161–1.

You also must comply with any additional program requirements specified in the NOFA, such as the required signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

Applications that do not comply with the eligibility and specific program requirements for the funding opportunity for which the application is submitted will be screened out and will not be reviewed.

IV. Application and Submission Information

(To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix B of this document.)

A. Address To Request Application Package

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

• For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686.

• For mental health grants, call the National Mental Health Information Center at 1–800–789–CMHS (2647).

You also may download the required documents from the SAMHSA Web site at *http://www.samhsa.gov.* Click on ''grant opportunities.''

Additional materials available on this Web site include:

• A technical assistance manual for potential applicants;

• Standard terms and conditions for SAMHSA grants;

• Guidelines and policies that relate to SAMHSA grants (*e.g.*, guidelines on cultural competence, consumer and family participation, and evaluation); and

• Enhanced instructions for completing the PHS 5161–1 application.

B. Content and Form of Application Submission

1. Required Documents

SAMHSA application kits include the following documents:

• PHS 5161–1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. You must use the PHS 5161–1 unless otherwise specified in the NOFA. Applications that are not submitted on the required application form will be screened out and will not be reviewed.

• Program Announcement (PA)—Includes instructions for the grant application. This document is the PA.

• Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA. The NOFAs will be published in the **Federal Register**, as well as on the Federal grants Web site (*http://www.grants.gov*).

You must use all of the above documents in completing your application.

2. Order of Sections

Applications must be complete and contain all information needed for review. In order for your application to be complete, it must include the following sections in the order listed. Applications that do not contain these sections will be screened out and will not be reviewed.

• *Face Page*—Use Standard Form (SF) 424, which is part of the PHS 5161–1. [**Note:** Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at *http://www.dunandbradstreet.com* or call 1–866–705–5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.]

• *Abstract*—Your total abstract should not be longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.

• *Table of Contents*—Include page numbers for each of the major sections of your application and for each appendix.

• *Budget Form*—Use SF 424A, which is part of the 5161–1. Fill out Sections B, C, and E of the SF 424A.

• *Project Narrative and Supporting Documentation*—The Project Narrative describes your project. It consists of Sections A through D. These sections in total may not be longer than 25 pages. More detailed instructions for completing each section of the Project Narrative are provided in ''Section V—Application Review Information'' of this document.

The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections E through G. There are no page limits for these sections, except for Section F, Biographical Sketches/Job Descriptions.

• *Section E*—Budget Justification, Existing Resources, Other Support. You must provide a narrative justification of the items included in your proposed budget, as well as a description of existing resources and other support you expect to receive for the proposed project. Be sure to show that no more than 20% of the total grant award will be used for data collection and evaluation. If you are proposing a services implementation pilot (only allowed for Category 2 applicants), show that no more than 15% of the total grant award will be used for the pilot.

• *Section F*—Biographical Sketches and Job Descriptions.

• Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a letter of commitment from the individual with a current biographical sketch.

• Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.

• Sample sketches and job descriptions are listed on page 22, Item 6 in the Program Narrative section of the PHS 5161–1.

• *Section G*—Confidentiality and SAMHSA Participant Protection/Human Subjects. Instructions for completing Section G of your application are provided below in Section VIII–A of this document.

• *Appendices 1 through 5*—Use only the appendices listed below. Do not use more than 30 pages (excluding data collection instruments and interview protocols) for the appendices. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.

• *Appendix 1:* Letters of Support;

• *Appendix 2:* Data Collection Instruments/Interview Protocols;

• *Appendix 3:* Sample Consent Forms;

• *Appendix 4:* Letter to the SSA (if applicable; see Section VIII–C of this document); and

• *Appendix 5:* A copy of the State Strategic Plan, a State needs assessment, or a letter from the State indicating that the proposed project addresses a State-identified priority.

• *Assurances*—Non-Construction Programs. Use Standard Form 424B found in PHS 5161–1.

• *Certifications*—Use the ''Certifications'' forms found in PHS 5161–1.

• *Disclosure of Lobbying Activities*—Use Standard Form LLL found in the PHS 5161–1. Federal law prohibits the use of appropriated funds for publicity or propaganda purposes, or for the preparation, distribution, or use of the information designed to support or defeat legislation pending before the Congress or State legislatures. This includes ''grass roots'' lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

• *Checklist*—Use the Checklist found in PHS 5161–1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

3. Application Formatting Requirements

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed.

• Text must be legible.
• Paper must be white and 8.5 by 11.0 in size.
• Pages must be typed single-spaced with one column per page.
• Page margins must be at least one inch.
• Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
• Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.
• The pages cannot have printing on both sides.
• Page limitations specified for the Project Narrative and Appendices cannot be exceeded.
• Information must be sufficient for review.

To facilitate review of your application, follow these additional guidelines:

• Applications should be prepared using black ink. This improves the quality of the copies of applications that are provided to reviewers.
• Use white paper only. Do not use colored, heavy, or light-weight paper or any material that cannot be photocopied using automatic photocopying machines. Odd-sized and oversized attachments, such as posters, will not be copied or sent to reviewers. Do not send videotapes, audiotapes, or CD–ROMs.
• Pages should be numbered consecutively from beginning to end so that information can be located easily during review of the application. For example, the cover page should be labeled ''page 1,'' the abstract page should be ''page 2,'' and the table of contents page should be ''page 3.'' Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue in the sequence

C. Submission Dates and Times

Deadlines for submission of applications for specific funding opportunities will be included in the NOFAs published in the **Federal Register** and posted on the Federal grants Web site (*http://www.grants.gov*).

Your application must be received by the application deadline. Applications sent through postal mail and received after this date must have a proof-of-mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing.

You will be notified by postal mail that your application has been received.

Applications not received by the application deadline or not postmarked by a week prior to the application deadline will be screened out and will not be reviewed.

D. Intergovernmental Review (E.O. 12372) Requirements

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. Instructions for this review are included in Section VIII–B of this document. Section VIII–C provides instructions for the Public Health System Impact Statement (PHSIS) and submission of comments from the Single State Agency (SSA).

E. Funding Limitations/Restrictions

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

• Institutions of Higher Education: OMB Circular A–21;
• State and Local Governments: OMB Circular A–87;
• Nonprofit Organizations: OMB Circular A–122; and
• Appendix E Hospitals: 45 CFR part 74.

In addition, SAMHSA Infrastructure Grant recipients must comply with the following funding restrictions:

• Infrastructure grant funds must be used for purposes supported by the program.
• If requested project funds exceed $750,000, a maximum of 15% of grant award funds may be used for implementation pilots. Direct services may be funded only in the context of an implementation pilot.
• No more than 20% of the grant award may be used for evaluation and data collection expenses. These expenses may be considered infrastructure or implementation pilot expenses, depending on the nature of the evaluation and data collection.
• Infrastructure funds may not be used to pay for the purchase or construction of any building or structure to house any part of the grant project. Applications may request up to $75,000 for renovations and alterations of existing facilities.

F. Other Submission Requirements

1. Where To Send Applications

Send applications to the following address: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857.

Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (301) 443–4266.

2. How To Send Applications

Mail an original application and 2 copies (including appendices) to the mailing address provided above. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

You must use a recognized commercial or governmental carrier. Hand carried applications will not be accepted. Faxed or e-mailed applications will not be accepted.

V. Application Review Information

A. Evaluation Criteria

Your application will be reviewed and scored against the requirements listed below for developing the Project Narrative (Sections A–D). These sections describe what you intend to do with your project.

• In developing the Project Narrative section of your application, use these instructions, which have been tailored to this program. These are to be used instead of the ''Program Narrative'' instructions found in the PHS 5161–1.
• Be sure to provide complete references for any literature cited in your Project Narrative. The reference list will not be counted toward the 25-page limit for these sections.
• You must use the four sections/headings listed below in developing your Project Narrative. Be sure to place the required information in the correct section, or it will not be considered. Your application will be scored according to how well you address the requirements for each section.
• The Supporting Documentation you provide in Sections E–G, Appendices 1–5, and the references list will be considered by reviewers in assessing your response, along with the material in the Project Narrative.
• The number of points after each heading below is the maximum number

of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within each section.

Section A: Statement of Need (10 Points)

- Define the target population (including demographics) and proposed catchment area.
- Document the need for an enhanced infrastructure to increase the capacity to implement, sustain, and improve effective substance abuse prevention and/or treatment and/or mental health services for the proposed target population in the proposed catchment area. Documentation of need may come from local data or trend analyses, State data (*e.g.*, from State Needs Assessments), and/or national data (*e.g.*, from SAMHSA's National Household Survey on Drug Abuse and Health or from National Center for Health Statistics/Centers for Disease Control reports). For data sources that are not well known, provide sufficient information on how the data were collected so reviewers can assess the reliability and validity of the data.
- Describe the service gaps, barriers, and other problems related to the need for infrastructure development. Describe the stakeholders and resources in the target area that can help implement the needed infrastructure development.
- Non-tribal applicants must show that identified needs are consistent with priorities of the State. Include, in Appendix 5, a copy of the State Strategic Plan, a State needs assessment, or a letter from the State indicating that the proposed project addresses a State-identified priority. Tribal applicants must provide similar documentation relating to tribal priorities.

Section B: Proposed Approach (35 Points)

- Clearly state the purpose of the proposed project, with goals and objectives. Describe how achievement of goals will increase system capacity to support effective substance abuse and/or mental health services.
- Describe the proposed project. Provide evidence that the proposed activities meet the infrastructure needs and show how your proposed infrastructure development strategy will meet the goals and objectives.
- Provide a logic model that demonstrates the linkage between the identified need, the proposed approach, and outcomes.
- If you plan to include an advisory body in your project, describe its membership, roles and functions, and frequency of meetings.
- Describe any other organizations that will participate and their roles and responsibilities. Demonstrate their commitment to the project. Include letters of commitment/coordination/support from these community organizations in Appendix 1 of the application. Identify any cash or in-kind contributions that will be made to the project.
- Describe how the proposed project will address issues of age, race/ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population.
- Describe the potential barriers to successful conduct of the proposed project and how you will overcome them.
- Describe how your activities will improve substance abuse prevention and/or treatment and/or mental health services.

Section C: Staff, Management, and Relevant Experience (25 Points)

- Provide a time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**Note**: The time line should be part of the Project Narrative. It should not be placed in an appendix.]
- Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.
- Provide a list of staff who will participate in the project, showing the role of each and their level of effort and qualifications. Include the Project Director, other key personnel such as the evaluator and treatment/prevention personnel.
- Describe the resources available for the proposed project (*e.g.*, facilities, equipment). If an implementation pilot is proposed that includes direct services, provide evidence that services will be provided in a location that is adequate, accessible, ADA compliant, and amenable to the target population.

Section D: Evaluation and Data (30 Points)

- Describe the process and outcome evaluation. Include specific performance measures and target outcomes related to the goals and objectives identified for the project in Section B of your Project Narrative.
- Document your ability to collect and report required performance data. (*See* Appendix A for required performance indicators.) Identify and justify any additional performance data to be collected.
- Describe plans for data collection, management, analysis, interpretation and reporting. Describe the existing approach to the collection of performance and other data, along with any necessary modifications. Be sure to include data collection instruments/interview protocols in Appendix 2.
- Describe how collection, analysis and reporting of performance data will be integrated into the evaluation activities.

Note: Although the budget for the proposed project is not a review criterion, the Review Group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

B. Review and Selection Process

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over $100,000, applications must also be reviewed by the appropriate National Advisory Council.

C. Award Criteria

Decisions to fund a grant are based on:

- The strengths and weaknesses of the application as identified by the Peer Review Committee and, when appropriate, approved by the appropriate National Advisory Council;
- Availability of funds; and
- Equitable allocation of grants among the principal geographic regions of the United States. SAMHSA does not intend to award more than 2 grants per State for each funding opportunity.

VI. Award Administration Information

A. Award Notices

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

B. Administrative and National Policy Requirements

• You must comply with all terms and conditions of the grant award. SAMHSA's standard terms and conditions are available on the SAMHSA Web site *(http://www.samhsa.gov)*.

• Depending on the nature of the specific funding opportunity and/or the proposed project as identified during review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

• Actions required to be in compliance with human subjects requirements;

• Requirements relating to additional data collection and reporting;

• Requirements relating to participation in a cross-site evaluation; or

• Requirements to address problems identified in review of the application.

• You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.

• In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services ''Survey on Ensuring Equal Opportunity for Applicants.'' This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

C. Reporting Requirements

1. Progress and Financial Reports

• Grantees must provide annual and final progress reports. The final progress report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing plans developed during the grant period.

• Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that infrastructure development and enhancement efforts can be sustained, your financial reports must explain plans to ensure the sustainability of efforts initiated under this grant. Initial plans for sustainability should be described in year 1 of the grant. In each subsequent year, you should describe the status of the project, successes achieved and obstacles encountered in that year.

• SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

2. Government Performance and Results Act

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. The performance requirements for SAMHSA's Infrastructure Grants are described in Section I–B under ''Data and Performance Measurement'' and listed in Appendix A of this document.

3. Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and SAMHSA's Publications Clearance Officer (301–443–8596) of any materials based on the SAMHSA-funded project that are accepted for publication.

In addition, SAMHSA requests that grantees:

• Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.

• Include acknowledgment of the SAMHSA grant program as the source of funding for the project.

• Include a disclaimer stating that the views and opinions contained in the publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/mental health services community.

VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Stephen Hudak, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration/OPS, 5600 Fishers Lane, Rockwall II 6th Floor, Rockville, MD 20857, (301) 443–9666, *shudak@samhsa.gov.*

VIII. Other Information

A. SAMHSA Confidentiality and Participant Protection Requirements and Protection of Human Subjects Regulations

You must describe your procedures relating to Confidentiality, Participant Protection and the Protection of Human Subjects Regulations in Section G of your application, using the guidelines provided below. Problems with confidentiality, participant protection, and protection of human subjects identified during peer review of your application may result in the delay of funding.

Confidentiality and Participant Protection: All applicants *must* address each of the following elements relating to confidentiality and participant protection. You must document how you will address these requirements or why they do not apply.

1. Protect Clients and Staff From Potential Risks

• Identify and describe any foreseeable physical, medical, psychological, social, legal, or other risks or adverse affects.

• Discuss risks that are due either to participation in the project itself or to the evaluation activities.

• Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.

• Identify plans to provide help if there are adverse effects to participants.

• Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. Fair Selection of Participants

• Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other groups.

• Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, or others who are likely to be vulnerable to HIV/AIDS.

• Explain the reasons for *including or excluding* participants.

• Explain how you will recruit and select participants. Identify who will select participants.

3. Absence of Coercion

• Explain if participation in the project is voluntary or required. Identify possible reasons why it is required, for example, court orders requiring people to participate in a program.

• If you plan to pay participants, state how participants will be awarded money or gifts.

• State how volunteer participants will be told that they may receive services even if they do not participate in the project.

4. Data Collection

• Identify from whom you will collect data (*e.g.*, from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (*e.g.*, school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.

• Identify what type of specimens (*e.g.*, urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.

• Provide in Appendix 2, ''Data Collection Instruments/Interview Protocols,'' copies of *all* available data collection instruments and interview protocols that you plan to use.

5. Privacy and Confidentiality

• Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.

• Describe:

• How you will use data collection instruments.

• Where data will be stored.

• Who will or will not have access to information.

• How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records, or storing identifiers separately from data.

Note: If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part II.

6. Adequate Consent Procedures

• List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used and how you will keep the data private.

• State:

• Whether or not their participation is voluntary.

• Their right to leave the project at any time without problems.

• Possible risks from participation in the project.

• Plans to protect clients from these risks.

• Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

Note: If the project poses potential physical, medical, psychological, legal, social or other risks, you must get *written* informed consent.

• Indicate if you will get informed consent from participants or from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?

• Include sample consent forms in your Appendix 3, ''Sample Consent Forms.'' If needed, give English translations.

Note: Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

• Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data.

• Additionally, if other consents (*e.g.*, consents to release information to others or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. Risk/Benefit Discussion

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations

Depending on the evaluation and data collection requirements of the particular funding opportunity for which you are applying or the evaluation design you propose in your application, you may have to comply with the Protection of Human Subjects Regulations (45 CFR 46). The NOFA will indicate whether all applicants for a particular funding opportunity must comply with the Protection of Human Subject Regulations.

Applicants must be aware that even if the Protection of Human Subjects Regulations do not apply to all projects funded under a given funding opportunity, the specific evaluation design proposed by the applicant may require compliance with these regulations.

Applicants whose projects must comply with the Protection of Human Subjects Regulations must describe the process for obtaining Institutional Review Board (IRB) approval fully in their applications. While IRB approval is not required at the time of grant award, these applicants will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and that IRB approval has been received prior to enrolling any clients in the proposed project.

Additional information about Protection of Human Subjects Regulations can be obtained on the web at *http://ohrp.osophs.dhhs.gov.* You may also contact OHRP by e-mail (*ohrp@osophs.dhhs.gov*) or by phone (301–496–7005).

B. Intergovernmental Review (E.O. 12372) Instructions

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR Part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at *http://www.whitehouse.gov/omb/grants/spoc.html.*

• Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.

• If your State participates, contact your SPOC as early as possible to alert

him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.

• For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.

• The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland, 20857, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from the NOFA].

C. Public Health System Impact Statement (PHSIS)

The Public Health System Impact Statement or PHSIS (Approved by OMB under control no. 0920–0428; see burden statement below) is intended to keep State and local health officials informed of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to the following Public Health System Reporting Requirements.

Community-based, non-governmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. This PHSIS consists of the following information:

• A copy of the face page of the application (SF 424); and

• A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at *http://www.samhsa.gov.* If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA *must* include a copy of a letter transmitting the PHSIS to the SSA in Appendix 4, ''Letter to the SSA.'' The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland, 20857, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

• Applicants may request that the SSA send them a copy of any State comments.

• The applicant must notify the SSA within 30 days of receipt of an award.

[Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. 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 number for this project is 0920–0428. Send comments regarding this burden to CDC Clearance Officer, 1600 Clifton Road, MS D–24, Atlanta, GA 30333, ATTN: PRA (0920–0428).]

Appendix A—SAMHSA Infrastructure Indicators

The purpose of infrastructure programs is to develop or enhance infrastructure in order to improve services. The primary domain to be measured is systems change (specific to the type of change proposed.) If the grant includes a services pilot, additional domains include persons served, cost per person, and other individual outcomes. This list of indicators and related measures will be updated periodically. The Notice of Funding Availability (NOFA) will specify which indicators are required for a particular funding opportunity. Applicants must provide expected baseline data for *asterisked items in the grant application. Grantees must collect and report data at the interval (*e.g.*, quarterly, annually) specified in the NOFA. Specific instructions for data collection will be provided on SAMHSA's Web site and in application kits. Some NOFAs may specify indicators and measures not on this list or may request grantees to identify measures appropriate to their specific project.

ACCOUNTABILITY

Percent of grantees reporting valid data.

CAPACITY

* Number of persons served (Includes screening and assessment).

CMHS and CST grantees: Percent of providers providing services within approved costs (Only for programs conducting a service pilot. Cost bands to be proposed in application; to be approved by SAMHSA prior to award. A cost measure for substance abuse prevention is under development.)

* Number, type, and capacity of services/product available.

* Percent of persons needing services/product who receive them.

EFFECTIVENESS

Participation of persons served and family members in planning, policy, and service delivery.

Number of service/systems improvements implemented; maintained post-funding.

* Percent of programs reporting positive system outcomes (and individual outcomes, if conducting a service pilot)

Only if service pilot—CSAP grantees: Difference between 30 day substance use of population served by program and comparable local and national rates. CSAT grantees: Number of people who show no past month substance use 6 months post treatment admission.

Grantees also will be required to report on several outcomes from the following list, as specified in the NOFA:

Individual outcomes: Participants (adults or children) disapproving of substance use; perceiving personal health risks associated with substance abuse; increasing age of first use; reporting abstinence at discharge; decreasing substance abuse risk factors related to spread of HIV/AIDS, including risky sexual behavior and sharing needles; improving employment/school attendance; having no criminal justice involvement; having stable living situation; reporting (consumer/family) improvement in behavioral/emotional symptoms.

System outcomes: Percent of referrals from juvenile/adult justice systems to systems of care; decreased days in inpatient/residential facilities; readmission rates; past 30 day utilization of inpatient, outpatient facilities; inpatient, outpatient, or emergency room treatment for physical complaint, mental or emotional difficulties, or alcohol or substance abuse; seclusion/restraint deaths or injuries; number of communities with defined systems/continuum of care; number of persons contacted through outreach who enroll in services; percent of providers, administrators trained who report adopting approved service methods; percent of participants in sponsored events who have used information to change their practices; number of science based programs implemented. Completion and documentation of one or more of the following, depending upon the scope of the project: Needs assessment; revised financing plan for coordinating funding streams; organizational/structural change or quality improvements; coordination and network improvements; workforce improvements; data infrastructure/performance measurement improvements.

Appendix B—Checklist for Application Formatting Requirements

Your application must adhere to these formatting requirements. Failure to do so will result in your application being screened out and returned to you without review. In addition to these formatting requirements, there may be programmatic requirements specified in the NOFA. Please check the NOFA before preparing your application.

• Use the PHS 5161–1 application.

• Include the 10 application components required for SAMHSA applications (*i.e.*, Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist.)

• Provide legible text.

• Use white paper, 8.5″ by 11.0″ in size.

• Type single-spaced text with one column per page.

• Use margins that are at least 1 inch.

• Use type size in the Project Narrative that does not exceed an average of 15 characters per inch when measured with a ruler. Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.

• Do not use photo reduction or condensation of type closer than 15 characters per inch or 6 lines per inch.

• Print on one side of the paper only; do not print on both sides.

• Do not exceed page limitations specified for the Project Narrative (25 pages) and Appendices (30 pages).

• Provide sufficient information for review.

• Applications must be received by the application deadline. Applications received after this date must have a proof of mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing. Applications not received by the application deadline or postmarked a week prior to the application deadline will not be reviewed.

• Applications that do not comply with the following requirements and any additional program requirements specified in the NOFA, or are otherwise unresponsive to PA guidelines will be screened out and returned to the applicant without review:

• Provisions relating to participant protection and the protection of human subjects specified in Section VIII–A of this document.

• Budgetary limitations as specified in Sections I, II and IV–E of this document.

• Documentation of nonprofit status as required in the PHS 5161–1.

To facilitate review of your application, follow these additional guidelines. Failure to follow these guidelines will not result in your application being screened out. However, following these guidelines will help reviewers to consider your application.

• Please use black ink and number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

• Send the original application and two copies to the mailing address in the PA. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROMs.

Appendix C—Glossary

Best Practice: Best practices are practices that incorporate the best objective information currently available from recognized experts regarding effectiveness and acceptability.

Cooperative Agreement: A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

Cost-Sharing or Matching: Cost-sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost-sharing or matching is not required, and applications will not be screened out on the basis of cost-sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by reviewers in evaluating the quality of the application.

Grant: A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

In-Kind Contribution: In-kind contributions toward a grant project are non-cash contributions (*e.g.*, facilities, space, services) that are derived from non-Federal sources, such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

Practice: A practice is any activity, or collective set of activities, intended to improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

Practice Support System: This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-delivery phase, such as (a) community collaboration and consensus building, (b) training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

Stakeholder: A stakeholder is an individual, organization, constituent group, or other entity that has an interest in and will be affected by a proposed grant project.

Target population catchment area: The target population catchment area is the geographic area from which the target population to be served by a program will be drawn.

Wraparound Service: Wraparound services are non-clinical supportive services—such as child care, vocational, educational, and transportation services—that are designed to improve the individual's access to and retention in the proposed project.

Dated: August 13, 2003.

Anna Marsh,

Acting Executive Officer.

[FR Doc. 03–21117 Filed 8–20–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Proposed Changes in Announcement of SAMHSA Discretionary Grant Funding Opportunities

Authority: Sections 509, 516, and 520A of the Public Health Service Act.

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of proposed standard best practices planning and implementation grant announcement.

SUMMARY: Beginning in Fiscal Year (FY) 2004, the Substance Abuse and Mental Health Services Administration (SAMHSA) plans to change its approach to announcing and soliciting applications for its discretionary grant programs. The following announcement is a proposed standard announcement for SAMHSA's Best Practices Planning and Implementation (BPPI) Grants. *It is not an actual grant solicitation.*

When published in final, the standard SAMHSA BPPI Grant announcement will be used by applicants in conjunction with specific Notices of Funding Availability (NOFAs) to prepare applications for certain SAMHSA grants. SAMHSA is providing this draft announcement for public review and comment in order to ensure that the field is aware of the planned

change and has an opportunity to identify areas where the announcement is unclear and needs improvement.

DATES: Submit written comments on this proposal by October 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding SAMHSA's proposed standard BPPI Grant announcement to: Office of Policy, Planning and Budget, SAMHSA, Attn: Jennifer Fiedelholtz by fax (301–594–6159) or e-mail (*samhsa_standard_grants@samhsa.gov*). Please include a phone number in your e-mail, so that SAMHSA staff may contact you if there are questions about your comments.

FOR FURTHER INFORMATION CONTACT: Jennifer Fiedelholtz of the Office of Policy, Planning and Budget, SAMHSA, by fax (301–594–6159) or e-mail (*samhsa_standard_grants@samhsa.gov*). If you would like a SAMHSA staff person to call you about your questions, please state this in an email or fax request and provide a telephone number where you can be reached between 8:30 and 5 p.m. Eastern Standard Time.

SUPPLEMENTARY INFORMATION: Starting in FY 2004, SAMHSA plans to change its approach to announcing and soliciting applications for its discretionary grants. SAMHSA plans to issue the following BPPI Grant announcement as one of four standard grant announcements that will describe the general program design and provide application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The standard announcements will be used in conjunction with brief Notices of Funding Availability (NOFAs) that will announce the availability of funds for specific grant funding opportunities within each of the standard grant programs (*e.g.*, Homeless Treatment grants, Statewide Family Network grants, or HIV/AIDS and Substance Abuse Prevention Planning Grants).

A complete description of the proposed process, the other three proposed standard announcements and a sample NOFA are contained in separate notices in this issue of the **Federal Register**.

SAMHSA welcomes public comment on all aspects of the following announcement. In particular, SAMHSA welcomes comment on the following issues:

1. Is the difference between the standard announcement and a NOFA clear?

2. Are the programmatic requirements for SAMHSA's BPPI Grants clear?

3. Are the goals/objectives for SAMHSA's BPPI Grants clear?

4. If you are a potential applicant for a SAMHSA BPPI Grant, do you believe you will be able to use the standard BPPI Grant announcement with the NOFA to prepare your application? Will the ability to anticipate programmatic requirements through reviewing the standard grant announcements ahead of time improve your ability to prepare a solid application? Is the additional benefit ''worth'' the ''cost'' of having to use two different documents to prepare your application?

Text of Proposed Standard Announcement

Department of Health and Human Services

Substance Abuse and Mental Health Services Administration

Best Practices Planning and Implementation Grants BPPI 04 (Initial Announcement)

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*)

Authority: Sections 509, 516 and/or 520A of the Public Health Service Act, as amended and subject to the availability of funds (unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*)

Key Dates

Application Deadline	This Program Announcement provides instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the **Federal Register** and on *http://www.grants.gov.*
Intergovernmental Review (E.O. 12372)	Letters from State Single Point of Contact (SPOC) are due 60 days after application deadline.
Public Health System Impact Statement (PHSIS)/Single State Agency Coordination.	Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due 60 days after application deadline.

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I. Funding Opportunity Description

A. Introduction

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Best Practices Planning and Implementation (BPPI) grants for substance abuse prevention, substance abuse treatment, and mental health services. These grants will help communities and providers identify substance abuse prevention, substance abuse treatment, and/or mental health practices, develop strategic plans for implementing/adapting those practices, and pilot-test the practices. The practices proposed by applicants for SAMHSA's BPPI grants must incorporate the best objective information available from recognized experts regarding effectiveness and acceptability. Often, these practices will have strong evidence of effectiveness.

However, because the evidence base is limited in some areas, SAMHSA may fund some practices for which the evidence of effectiveness is based on formal consensus among recognized experts in the field and/or evaluation studies that have not been published in the peer reviewed literature.

SAMHSA also funds grants under three other standard grant announcements:

- *Services Grants* provide funding to implement substance abuse and mental health services.
- *Infrastructure Grants* support identification and implement systems changes but are not designed to fund services.
- *Service to Science Grants* document and evaluate innovative practices that address critical substance abuse and mental health service gaps but that have not yet been formally evaluated.

This announcement describes the general program design and provides application instructions for all SAMHSA BPPI Grants. The availability of funds for specific BPPI Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at *http://www.grants.gov*—the Federal grant announcement Web page.

Typically, funding for BPPI Grants will be targeted to specific populations and/or issue areas, which will be specified in the NOFAs. The NOFAs will also:

- Specify total funding available for the first year of the grants and the expected size and number of awards;
- Provide the application deadline;
- Note any specific program requirements for each funding opportunity; and
- Include any limitations or exceptions to the general provisions in this announcement (*e.g.*, eligibility, award size, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

B. Expectations

SAMHSA's BPPI program promotes the use of practices that incorporate the best objective information available from recognized experts regarding effectiveness and acceptability. SAMHSA refers to these as ''best practices.'' BPPI grants may address needs in the areas of substance abuse prevention, substance abuse treatment and/or mental health services. SAMHSA understands that the ''best practices'' proposed for BPPI grants may need to be adapted to certain populations. Therefore, SAMHSA's BPPI grants support adaptation and evaluation of best practices in addition to planning and implementation.

1. Documenting the Evidence-Base for Selected Practices

Applicants must show that their proposed practices meet the standard for effectiveness. The practices proposed by applicants for SAMHSA's BPPI grants must incorporate the best objective information available from recognized experts regarding effectiveness and acceptability. Often, these practices will have strong evidence of effectiveness. However, applicants may propose practices with a sound, but limited, evidence base.

Applicants proposing to implement practices included in the following sources meet the standard of effectiveness for SAMHSA's BPPI Grants, and will not be required to provide further documentation of the practice's effectiveness:

- SAMHSA's National Registry of Effective Programs (NREP) (see Appendix D);
- Center for Mental Health Services (CMHS) Evidence Based Practice Tool Kits (see Appendix E);
- List of Evidence-Based Substance Abuse Treatment Practices (see Appendix F); and
- Additional practices identified in the NOFA for a specific funding opportunity.

Applicants for Phase II awards that have already received Phase I awards also have met the standard for effectiveness.

Applicants proposing practices that have *not* been identified by SAMHSA as meeting the required effectiveness standard must show that their proposed practice incorporates the best objective information available from recognized experts regarding effectiveness and acceptability. Such applicants must provide a narrative justification that describes the evidence base for the practice and summarizes the evidence for effectiveness. The evidence may come from a variety of sources, including the published research literature, formal consensus among recognized experts, and other studies that have not been published in the peer-reviewed research literature.

2. Program Design

SAMHSA will fund BPPI grants in two phases. Phase I is a planning and consensus-building phase that supports grantees for up to 18 months. Phase II is a pilot, adaptation, implementation, and evaluation phase that supports grantees for up to 3 years.

Phase I: Planning and Consensus Building

The goal of Phase I is to achieve consensus among community stakeholders to adopt a best practice and engage in strategic planning for its implementation. Phase I grants may include, but are not limited to, the following types of activities:

- Build and maintain a coalition of stakeholders to fund, oversee, use, and provide a sustainable best practice.
- Train and educate key stakeholders about the best practice.
- Consult experts about the practice.
- Consult leaders from other communities about their experiences in implementing the practice.
- Reimburse stakeholders for their transportation or child care costs.
- Engage professionals to help build consensus and plan strategy.
- Adapt the best practice to community needs without sacrificing its effectiveness.
- Identify and obtain the commitment of permanent sources to fund the best practice.
- Design the evaluation of the best practice.
- Evaluate the process of consensus building among stakeholders (required).

Phase II: Pilot Test, Adaptation, Implementation, and Evaluation

The goals of Phase II grants are to pilot test and evaluate the best practices before full implementation, modify strategic/financial plans, and prepare for full-scale implementation. The following are examples of activities that can be funded during Phase II:

- Pilot test the practice on a sample of service recipients and evaluate the pilot test.
- Modify the best practice based on consultation with stakeholders and practice experts, other community experiences, and pilot test results.
- Revise the manual or documentation that describes in detail how the best practice was modified.
- Maintain the coalition of stakeholders to oversee Phase II activities.
- Secure consultants to make changes required to implement and finance the best practice.
- Make organizational changes (*e.g.*, hiring staff) necessary to implement the best practice.
- Provide necessary education, training, and technical assistance for staff.

Up to 25% of the Phase II grant award may be used to evaluate the pilot test of the best practice. During the course of a Phase II award, SAMHSA will provide

funding for direct services as part of the pilot test.

3. Performance Requirements

All grantees will be required to meet the following evaluation and performance requirements. Applicants are not required to receive a Phase I award before applying for a Phase II award. However, all Phase II applicants must meet the Phase I performance requirements (*i.e.*, documentation that consensus has been achieved and that a strategic plan is in place) before applying for a Phase II award.

Phase I: Planning and Consensus Building

By the end of Phase I, grantees will be required to provide documentation that consensus has been achieved for adopting a best practice. That documentation must include:

- A report that summarizes the evaluation of the consensus building process.
- A description of how key stakeholders were included in the consensus building.
- Letters of support or other demonstration of stakeholders' commitment to adopt the practice.
- A strategic plan for implementing the best practice that includes a financing plan, signed by the funding source(s) that will provide the resources necessary to address barriers and implement a sustainable best practice. [**Note:** If it is not possible for a grantee to complete a strategic plan, grantees will be required to provide an analysis of progress made and barriers to completing the strategic plan instead.]

Phase II: Pilot Test, Adaptation, Implementation, and Evaluation

By the end of Phase II, grantees must provide the following information:

- Pilot test results.
- A manual describing the modified practice in detail for replication of the practice.
- Documentation that staff are trained in the practice and of a mechanism for training new staff.
- Process evaluation results that describe how the practice was operationalized, including changes in the organizational infrastructure, permanent funding sources, and staff consultation and training activities.
- Outcome evaluation results that describe:
- Demographic characteristics of the clients served;
- Service utilization
- Practice outcomes
- Client satisfaction
- Fidelity of the modified practice with the best practice
- Sustainability of the best practice.

4. Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L. 103–62, or ''GPRA'') requires all Federal agencies to:

- Develop strategic plans that specify what they will accomplish over a 3 to 5-year period;
- Set performance targets annually related to their strategic plan; and
- Report annually on the degree to which the previous year's targets were met.

The law further requires agencies to link their performance to their budgets. Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures.

To meet these requirements, SAMHSA must collect performance data (*i.e.*, ''GPRA data'') from grantees. You are required to report these GPRA data to SAMHSA on a timely basis so that performance results are available to support budgetary decisions.

In particular, you will be required to provide data on a core set of required measures, depending on the SAMHSA Center that is funding the grant. In your application, you must demonstrate your ability to collect and report on these measures, and you must provide some baseline data.

Appendix A provides the performance indicators for SAMHSA's BPPI grantees. For complete information on the core measures relating to these indicators and the methodology for data collection and reporting, please consult the following web sites:

- Center for Mental Health Services-funded grants: *http://www.samhsa.gov/aps/CMHS/GPRA.*
- Center for Substance Abuse Prevention-funded grants: *http://www.samhsa.gov/aps/CSAP/GPRA.*
- Center for Substance Abuse Treatment-funded-grants: *http://www.samhsa.gov/aps/CSAT/GPRA.*

This information will be provided in the hard copy application kits distributed by SAMHSA's Clearinghouses, as well.

In some instances, grantees may be required to participate in cross-site evaluations and comply with additional data collection requirements. The NOFA will indicate whether participation in a cross-site evaluation is required and will identify any additional data collection requirements.

Applicants may propose to collect additional information (*i.e.*, beyond the required performance data) regarding both the nature and success of their process and outcomes. If grant funding is requested to support the additional data collected, this must be clearly justified in the application. Prior to grant award, a final agreement regarding data collection will be reached. The terms and conditions of award will specify the data to be submitted and the schedule for submission. Grantees will be required to adhere to these terms and conditions of award.

5. Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, DC, area, and attendance is mandatory.

II. Award Information

A. Award Amount

The NOFA will specify the expected award amount for each funding opportunity. Regardless of the amount specified, the actual award amount will depend on the availability of funds.

Awards for SAMHSA's BPPI grants will be made in two phases:

Phase I—Phase I awards are expected to range from $150,000–$200,000 in total costs (direct and indirect) for a project period of up to 18 months.

Phase II—Phase II awards will range from $300,000–$500,000 per year in total costs (direct and indirect) for a project period of up to 3 years.

Applications with proposed budgets that exceed the allowable amount as specified in the NOFA in any year of the proposed project will be screened out and will not be reviewed. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

B. Funding Mechanism

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (see the Glossary in Appendix C for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are domestic public and private *nonprofit* entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program precludes grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

B. Cost-Sharing

Cost-sharing is not required in this program, and applications will not be screened out on the basis of cost-sharing. However, you may include cash or in-kind contributions in your proposal as evidence of commitment to the proposed project. Reviewers may consider this information in evaluating the quality of the application.

C. Other

SAMHSA applicants must comply with certain program requirements, including:

- Provisions relating to participant protection and the protection of human subjects specified in Section VIII–A of this document;
- Budgetary limitations as specified in Sections I, II, and IV–E of this document; and
- Documentation of nonprofit status as required in the PHS 5161–1.

You also must comply with any additional program requirements specified in the NOFA, such as the required signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

Applications that do not comply with the eligibility and specific program requirements for the funding opportunity for which the application is submitted will be screened out and will not be reviewed.

IV. Application and Submission Information

(To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix B of this document.)

A. Address To Request Application Package

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

- For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686.
- For mental health grants, call the National Mental Health Information Center at 1–800–789–CMHS (2647).

You also may download the required documents from the SAMHSA Web site at *http://www.samhsa.gov*. Click on ''grant opportunities.''

Additional materials available on this Web site include:

- A technical assistance manual for potential applicants;
- Standard terms and conditions for SAMHSA grants;
- Guidelines and policies that relate to SAMHSA grants (*e.g.*, guidelines on cultural competence, consumer and family participation, and evaluation); and
- Enhanced instructions for completing the PHS 5161–1 application.

B. Content and Form of Application Submission

1. Required Documents

SAMHSA application kits include the following documents:

- PHS 5161–1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. Applicants must use the PHS 5161–1 for their application, unless otherwise specified in the NOFA. Applications that are not submitted on the required application form (*i.e.*, the PHS 5161–1 in most situations) will be screened out and will not be reviewed.
- Program Announcement (PA)—Includes instructions for the grant application. This document is the PA.
- Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA.

The NOFAs will be published in the **Federal Register** as well as on the Federal grants Web site (*http://www.grants.gov*).

You must use all of the above documents in completing your application.

2. Order of Sections

Applications must be complete and contain all information needed for review. In order for your application to be complete, it must include the following sections in the order listed. Applications that do not contain these sections will be screened out and will not be reviewed.

- *Face Page*—Use Standard Form (SF) 424, which is part of the PHS 5161–1. [**Note:** Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at *http://www.dunandbradstreet.com* or call 1–866–705–5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.]
- *Abstract*—Your total abstract should be no longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.
- *Table of Contents*—Include page numbers for each of the major sections of your application and for each appendix.
- *Budget Form*—Use SF 424A, which is part of the PHS 5161–1. Fill out Sections B, C, and E of the SF 424A.
- *Project Narrative and Supporting Documentation*—The Project Narrative describes your project. It consists of Sections A through E. Section A may not be longer than 3 pages in length. Sections B–E together may not be longer than 25 pages. More detailed instructions for completing each section of the Project Narrative are provided in ''Section V—Application Review Information'' of this document.

The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections F through H. There are no page limits for these sections, except for Section G, the Biographical Sketches/Job Descriptions.

- *Section F*—Budget Justification, Existing Resources, Other Support. You must provide a narrative justification of the items included in your proposed budget, as well as a description of existing resources and other support you expect to receive for the proposed project. If you are applying for a Phase II award, show that no more than 25% of the total grant award will be used for evaluation of the pilot test of the best practice.
- *Section G*—Biographical Sketches and Job Descriptions.
- Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a letter of commitment from the individual with a current biographical sketch.

• Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.

• Sample sketches and job descriptions are listed on page 22, Item 6 in the Program Narrative section of the PHS 5161–1.

• *Section H*—Confidentiality and SAMHSA Participant Protection/Human Subjects. Instructions for completing Section H of your application are provided below in Section VIII–A of this document.

• *Appendices 1 through 5*—Use only the appendices listed below. Do not use more than 30 pages (excluding instruments) for the appendices. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.

• *Appendix 1:* Letters of Support.

• *Appendix 2:* Data Collection Instruments/Interview Protocols.

• *Appendix 3:* Sample Consent Forms.

• *Appendix 4:* Letter to the SSA (if applicable; see Section VIII–C of this document).

• *Appendix 5:* A copy of the State Strategic Plan, a State needs assessment, or a letter from the State indicating that the proposed project addresses a State-identified priority.

• *Appendix 6:* Evidence of Intent to Adopt (Phase II only).

• *Assurances*—Non-Construction Programs. Use Standard Form 424B found in PHS 5161–1.

• *Certifications*—Use the ''Certifications'' forms found in PHS 5161–1.

• *Disclosure of Lobbying Activities*—Use Standard Form LLL found in PHS 5161–1. Federal law prohibits the use of appropriated funds for publicity or propaganda purposes, or for the preparation, distribution, or use of information designed to support or defeat legislation pending before the Congress or State legislatures. This includes ''grass roots'' lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

• *Checklist*—Use the Checklist found in PHS 5161–1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

3. Application Formatting Requirements

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed.

• Text must be legible.

• Paper must be white and 8.5″ by 11.0″ in size.

• Pages must be typed single-spaced with one column per page.

• Page margins must be at least one inch.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.

• The pages cannot have printing on both sides.

• Page limitations specified for the Project Narrative and Appendices cannot be exceeded.

• Information must be sufficient for review.

To facilitate review of your application, follow these additional guidelines:

• Applications should be prepared using black ink. This improves the quality of the copies of applications that are provided to reviewers.

• Use white paper only. Do not use colored, heavy, or light-weight paper or any material that cannot be photocopied using automatic photocopying machines. Odd-sized and oversized attachments, such as posters, will not be copied or sent to reviewers. Do not send videotapes, audiotapes, or CD–ROMs.

• Pages should be numbered consecutively from beginning to end so that information can be easily located during review of the application. For example, the cover page should be labeled ''page 1,'' the abstract page should be ''page 2,'' and the table of contents page should be ''page 3.'' Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue in the sequence.

C. Submission Dates and Times

Deadlines for submission of applications for specific funding opportunities will be published in NOFAs in the **Federal Register** and on the Federal grants Web site (*http://www.grants.gov*).

Your application must be received by the application deadline. Applications received after this date must have a proof-of-mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing.

You will be notified by postal mail that your application has been received.

Applications not received by the application deadline or not postmarked by a week prior to the application deadline will be screened out and will not be reviewed.

D. Intergovernmental Review (E.O. 12372) Requirements

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. Instructions for this review are included in Section VIII–B of this document. Section VIII–C provides instructions for the Public Health System Impact Statement (PHSIS) and submission of comments from the Single State Agency (SSA).

E. Funding Limitations/Restrictions

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

• Institutions of Higher Education: OMB Circular A–21.

• State and Local Governments: OMB Circular A–87.

• Nonprofit Organizations: OMB Circular A–122.

• Appendix E Hospitals: 45 CFR part 74.

In addition, SAMHSA BPPI Grant recipients must comply with the following funding restrictions:

• No more than 25% of Phase II funding may be used to evaluate the pilot test.

BPPI grant funds may not be used to:

• Pay for any lease beyond the project period.

• Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).

• Pay for the purchase or construction of any building or structure to house any part of the program. (Applicants may request no more than $75,000 for renovations and alterations of existing facilities, if appropriate and necessary to the project.)

• Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)

• Pay for housing other than residential mental health and/or substance abuse treatment.

• Provide inpatient treatment or hospital-based detoxification services.

• Pay for incentives to induce clients to enter treatment. However, a grantee or treatment provider may provide up to $20 or equivalent (coupons, bus tokens, gifts, childcare, and vouchers) to clients as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.

• Implement syringe exchange programs, such as the purchase and distribution of syringes and/or needles.

• Pay for pharmacologies for HIV antiretroviral therapy, sexually transmitted diseases (STDs)/sexually transmitted illness (STI), TB, and hepatitis B and C, or for psychotropic drugs.

F. Other Submission Requirements

1. Where To Send Applications

Send applications to the following address: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland, 20857.

Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (301) 443–4266.

2. How To Send Applications

Mail an original application and 2 copies (including appendices) to the mailing address provided above. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

You must use a recognized commercial or governmental carrier. Hand carried applications will not be accepted. Faxed or e-mailed applications will not be accepted.

V. Application Review Information

A. Evaluation Criteria

Your application will be reviewed and scored against the requirements listed below for developing the Project Narrative (Sections A–E). These sections describe what you intend to do with your project.

• In developing the Project Narrative section of your application, use these instructions, which have been tailored to this program. These are to be used instead of the ''Program Narrative'' instructions found in the PHS 5161–1.

• Be sure to provide references for any literature cited in your application. The reference list will not be counted toward the page limit for these sections. The Project Narrative may be no longer than 28 pages (3 pages for Section A and 25 pages total for Sections B–E).

• You must use the five sections/headings listed below in developing your Project Narrative. Be sure to place the required information in the correct section, or it will not be considered. Your application will be scored according to how well you address the requirements for each section of the Project Narrative.

• The Supporting Documentation you provide in Sections F–H, Appendices 1–5, and the References list will be considered by reviewers in assessing your response, along with the material in the Project Narrative.

• The number of points after each heading is the maximum number of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within the criterion.

For both Phase I and Phase II of SAMHSA's BPPI Grants there will be two levels of review.

• *Level One Review* will consider how well the applicant addresses the requirements in Section A—Evidence of Effectiveness. If the practice proposed in the application does not meet the required standard for effectiveness as described below, the application will not move on to Level Two review and will not be considered for funding.

• *Level Two Review* will consider how well the applicant addresses the requirements in Section B (Statement of Need), Section C (Proposed Approach), Section D (Staff, Management and Relevant Experience), and Section E (Evaluation and Data). The applicant's score on Sections B–E combined will be used to determine the applicant's priority score.

1. Phase I Criteria

Level One Review

Section A: Evidence of Effectiveness

Put all information to be considered in Level One in Section A: Evidence of Effectiveness. Section A may not be longer than 3 pages. During Level One review, reviewers will decide whether the applicant's proposed practice meets the required standard for effectiveness. Reviewers will assess Level One review on a pass/fail basis. Applications that do not pass Level One review will not move on to Level Two review.

Applicants proposing to implement practices included in the following sources are considered by SAMHSA to have met the effectiveness standard for SAMHSA's BPPI Grants. Such applicants are not required to provide further documentation of effectiveness of the services/practices. Such applicants must name the practice and indicate which of the following is the source(s) for the proposed practice:

• SAMHSA's National Registry of Effective Programs (NREP) (see Appendix D to this document).

• Center for Mental Health Services (CMHS) Evidence Based Practice Tool Kits (*see* Appendix E to this document).

• Effective Substance Abuse Treatment Practices (see Appendix F to this document).

• The NOFA for a specific funding opportunity (provide the name and funding opportunity number from the NOFA).

Applicants who select practices that are not identified in any of the sources listed above must provide a narrative justification that shows that the proposed practice includes the best objective information available from recognized experts regarding effectiveness and acceptability. The narrative must address the following:

• Describe the proposed practice.

• Indicate whether the evidence base for the proposed practice includes scientific studies published in the peer-reviewed literature, other studies not published in the peer-reviewed literature, and/or from formal consensus processes involving recognized experts in the field.

• *If the evidence base includes scientific studies published in the peer-reviewed literature or other studies that have not been published, describe:*

—The extent to which the practice has been evaluated and the quality of the studies (*e.g.*, whether they are descriptive, quasi-experimental studies, or experimental studies)

—The extent to which evaluation of the practice has demonstrated positive outcomes, and the extent to which positive outcomes have been demonstrated for different populations

—The extent to which evaluation of the practice has been studied

—The extent to which evaluation of the practice has been replicated

—The extent to which the practice has been documented (*e.g.*, through guidelines, tool kits, treatment protocols, and/or manuals)

—The extent to which fidelity measures have been developed (*e.g.*, no measures developed, key components identified, or fidelity measures developed)

• *If the evidence includes formal consensus involving recognized experts, describe:*

—The experts involved in the consensus development on the proposed services/practice (*e.g.*, members of an expert panel formally convened by NIH, the Institute of Medicine or other nationally recognized organization, or members of an informal group of experts, such as faculty at a leading research institution)
—The nature of the consensus and how it was reached the process used to reach consensus
—The extent to which the consensus has been documented (*e.g.*, in a consensus panel report, meeting minutes, or an accepted standard practice in the field)
—Any empirical evidence, formally published or not, supporting the effectiveness of the proposed practice
—Rationale for concluding that further empirical evidence does not exist to support the effectiveness of the proposed practice, if appropriate

In assessing applicants' narratives for Section A/Level One review, reviewers will consider whether the evidence presented in support of the proposed practice is, in their expert and professional opinion, commensurate with the best information available regarding effectiveness and acceptability.

Applicants should be aware that passing Level One review does not ensure that the application will be approved for funding, even if the proposed project includes a service/practice that is considered by SAMHSA to have met the standard of effectiveness.

Level Two Review

All information to be considered in Level Two review must be placed in Sections B through E, as described below. Only applications that pass Level One review will undergo Level Two review.

Section B: Need (10 Points)

• Describe the environment (organization, community, city, or State) where the project will be implemented.
• Describe the target population.
• Describe the problem the project will address. Documentation of the problem may come from local data or trend analyses, State data, and/or national data. For data sources that are not well known, provide sufficient information on how the data were collected so that its reliability and validity can be assessed.
• Non-tribal applicants must show that identified needs are consistent with the priorities of the State. Include, in Appendix 5, a copy of the State Strategic Plan, a State needs assessment, or a letter from the State indicating that the proposed project addresses a State-identified priority. Tribal applicants must provide similar documentation relating to tribal priorities.
• Describe the best practice selected and how it will impact the problem.

Section C: Proposed Approach (40 Points)

• Describe the goals of the project, including consensus building and strategic planning.
• Describe the strategies or models used to build consensus. Describe how key stakeholders will be educated about the best practice.
• Describe the process for developing a strategic plan to implement the best practice.
• Describe the key stakeholders and how they represent the community.
• Describe the involvement of key stakeholders in the proposed project, including roles and responsibilities of each stakeholder. Clearly demonstrate each stakeholder's commitment to the consensus building and strategic planning processes. Attach letters of support and other documents showing stakeholder commitment in Appendix 1: Letters of Support. Identify any cash or in-kind contributions that will be made to the project.
• Describe the involvement of representatives of the target population in the conceptualization and planning of the consensus building process.
• Describe how the proposed project will address issues of age, race/ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population.
• Describe potential barriers to achieving consensus among stakeholders. What resources and plans will you use to overcome these barriers?
• Identify potential funding source(s) that will help implement the best practice. Describe how the funder(s) will join in the consensus building and strategic planning.

Section D: Management Plan and Staffing (35 Points)

• Provide a time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**Note:** The timeline should be part of the Project Narrative. It should not be placed in an appendix.]
• Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally competent services.
• Provide a list of staff members who will conduct the project. Describe the role, effort and qualifications of each. Include the Project Director and other key personnel, including evaluators and database management personnel.
• If you plan to have an advisory body, describe its composition, roles, and frequency of meetings.
• Describe the resources available for the proposed project (*e.g.*, facilities, equipment), and provide evidence that services will be provided in a location that is adequate, accessible, Americans with Disabilities Act (ADA) compliant, and amenable to the target population.

Section E: Evaluation Design and Analysis (15 Points)

• Describe the design for evaluating the consensus building and strategic planning processes. Include a detailed discussion of how all variables (*e.g.*, community representation and stakeholder support) will be defined and measured. Explain how the evaluation plan will ensure that the decision to adopt is an accurate reflection of the stakeholders' intent.
• Document your ability to collect and report on the required performance measures for SAMHSA's BPPI Grants. Specify and justify any additional outcome measures you plan to use for your grant project. (See Appendix A for required indicators.)
• Describe the process for providing regular feedback from evaluation activities to the Project Director and participants.
• Describe plans for data collection, management, analysis, interpretation and reporting. Describe the current approach to collection of relevant data, along with any necessary modifications.
• Be sure to include data collection instruments/interview protocols in Appendix 2.

2. Phase II Criteria

Level One Review

Phase II applicants who were not Phase I grantees will go through a Level One review to determine if the selected practice meets SAMHSA's criteria as a best practice before they are reviewed for technical merit. This review process is identical to the Level One Review described for Phase I applicants. You must provide all information for Level One Review in Section A of the Project Narrative.

Phase II applicants who were Phase I grantees will undergo Level Two review only. If so, you should state in Section A that you were a Phase I grantee and provide the grant number.

Level Two Review

All information to be considered in Level Two review must be placed in

Sections B through E, as described below. Only applications that pass Level One review will undergo Level Two review.

Section B: Need and Readiness (30 Points)

- Describe the target population and setting. If applicant was a Phase I grantee, describe and explain any changes in the target population or setting.
- Provide baseline data as required in Appendix A of this document.
- Describe briefly the best practice approved under Level One Review.
- Provide evidence that the community of stakeholders achieved a ''decision to adopt'' the practice. Attach a copy of the Phase I process evaluation or other evidence including contracts, memoranda of agreement, administrative memos, or other documents signed by key stakeholders that show their firm commitment to support the practice. Attach these supporting documents in Appendix 6: Evidence of Intent to Adopt.
- Provide and describe the financing plan. Include anticipated costs and sources of revenue that will maintain the practice. Attach the financing plan, signed by the funding source(s), stating their intent to fund in Appendix 6: Evidence of Intent to Adopt.

Section C: Proposed Approach (25 Points)

- Provide a strategic plan (including key action steps and a timeline) that addresses each of the following elements, as appropriate: pilot testing the best practice, evaluating the pilot test, modifying the best practice based on the pilot test, developing training materials, hiring/training staff, and securing funding to sustain services beyond the project period.
- Describe the involvement of key stakeholders in the proposed project, including roles and responsibilities of each stakeholder. Demonstrate each stakeholder's commitment to the proposed project. Attach letters of support and similar documents showing stakeholder commitment in Appendix 1: Letters of Support. Identify any cash or in-kind contributions that will be made to the project.
- Describe how the proposed project will address issues of age, race/ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population.
- Describe potential barriers to the successful conduct of the proposed project. What resources and plans will you use to overcome these barriers?
- Describe oversight or feedback mechanisms to ensure that the implemented practice is consistent with the best practice model.

Section D: Management Plan and Staffing (25 Points)

- Provide a time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**Note:** The timeline should be part of the Project Narrative. It should not be placed in an appendix.]
- Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.
- Provide a list of staff members who will conduct the project, showing the role of each and their level of effort and qualifications. Include the Project Director and other key personnel, including evaluators and database managers.
- Describe the resources available for the proposed project (*e.g.*, facilities, equipment), and provide evidence that services will be provided in a location that is adequate, accessible, Americans with Disabilities Act (ADA) compliant, and is amenable to the target population.

Section E: Evaluation Design and Analysis (20 Points)

- Document your ability to collect and report on the required performance measures for Phase II Local Best Practices Grants. Specify and justify any additional measures you plan to use for your grant project. (See Appendix A for required indicators.)
- Provide a logic model for the evaluation of the pilot test of the best practice as well as other implementation activities (*e.g.*, training, securing financing).
- Provide a plan for evaluating the pilot test of the best practice and other implementation activities that includes both process and client outcome measures. Describe the recruitment plan and sample size for your project. Describe any literature or pilot testing done to verify the validity and reliability of the instruments to be used. Attach instrumentation in Appendix 2: Data Collection Instruments.
- Describe how the adaptations of the best practice will be documented. Demonstrate its fidelity to the best practice model. If no fidelity scale exists for the practice, describe how you will develop one.
- Describe the process for providing regular feedback from evaluation activities to the Project Director and participants.
- Describe the database management system that will be developed.

Note: Although the budget for the proposed project is not a review criterion, the Review Group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

B. Review and Selection Process

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over $100,000, applications must also be reviewed by the appropriate National Advisory Council.

C. Award Criteria

Decisions to fund a grant are based on:

- The strengths and weaknesses of the application as identified by the Peer Review Committee and, when appropriate, approved by the appropriate National Advisory Council;
- Availability of funds; and
- Equitable allocation of grants among the principal geographic regions of the United States. SAMHSA does not intend to award more than 2 grants per State for each funding opportunity.

VI. Award Administration Information

A. Award Notices

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

B. Administrative and National Policy Requirements

- You must comply with all terms and conditions of the grant award. SAMHSA's standard terms and conditions are available on the SAMHSA Web site (*http://www.samhsa.gov*).
- Depending on the nature of the specific funding opportunity and/or the proposed project as identified during

review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

- Actions required to be in compliance with human subjects requirements;
- Requirements relating to additional data collection and reporting;
- Requirements relating to participation in a cross-site evaluation; or
- Requirements to address problems identified in review of the application.
- You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.
- In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services ''Survey on Ensuring Equal Opportunity for Applicants.'' This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

C. Reporting

1. Progress and Financial Reports

- Grantees must provide annual and final progress reports. The final progress report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing plans developed during the grant period.
- Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that its best practices efforts can be sustained, your financial reports must explain plans to ensure the sustainability of efforts initiated under this grant. Initial plans for sustainability should be described in year 1 of the grant. In each subsequent year, you should describe the status of the project, successes achieved and obstacles encountered in that year.
- SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

2. Government Performance and Results Act

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. The performance requirements for SAMHSA's BPPI Grants are described in Section I-B under ''Performance Measurement'' and listed in Appendix A of this document.

3. Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and SAMHSA's Publications Clearance Officer (301–443–8596) of any materials based on the SAMHSA-funded project that are accepted for publication.

In addition, SAMHSA requests that grantees:

- Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.
- Include acknowledgment of the SAMHSA grant program as the source of funding for the project.
- Include a disclaimer stating that the views and opinions contained in the publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/ mental health services community.

VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Stephen Hudak, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration/ OPS, 5600 Fishers Lane, Rockwall II 6th Floor, Rockville, MD 20857, (301) 443–9666, *shudak@samhsa.gov.*

VIII. Other Information

A. SAMHSA Confidentiality and Participant Protection Requirements and Protection of Human Subjects Regulations

You must describe your procedures relating to Confidentiality, Participant Protection and the Protection of Human Subjects Regulations in Section G of your application, using the guidelines provided below. Problems with confidentiality, participant protection, and protection of human subjects identified during peer review of your application may result in the delay of funding.

Confidentiality and Participant Protection: All applicants *must* address each of the following elements relating to confidentiality and participant protection. You must document how you will address these requirements or why they do not apply.

1. Protect Clients and Staff From Potential Risks

- Identify and describe any foreseeable physical, medical, psychological, social, legal, or other risks or adverse affects.
- Discuss risks that are due either to participation in the project itself or to the evaluation activities.
- Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.
- Identify plans to provide help if there are adverse effects to participants.
- Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. Fair Selection of Participants

- Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other groups.
- Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, or others who are likely to be vulnerable to HIV/AIDS.
- Explain the reasons for *including or excluding* participants.
- Explain how you will recruit and select participants. Identify who will select participants.

3. Absence of Coercion

- Explain if participation in the project is voluntary or required. Identify

possible reasons why it is required, for example, court orders requiring people to participate in a program.

• If you plan to pay participants, state how participants will be awarded money or gifts.

• State how volunteer participants will be told that they may receive services even if they do not participate in the project.

4. Data Collection

• Identify from whom you will collect data (*e.g.,* from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (*e.g.,* school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.

• Identify what type of specimens (*e.g.,* urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.

• Provide in Appendix 2, ''Data Collection Instruments/Interview Protocols,'' copies of *all* available data collection instruments and interview protocols that you plan to use.

5. Privacy and Confidentiality

• Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.

• Describe:

• How you will use data collection instruments.

• Where data will be stored.

• Who will or will not have access to information.

• How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records, or storing identifiers separately from data.

Note: If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part II.

6. Adequate Consent Procedures

• List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used and how you will keep the data private.

• State:

• Whether or not their participation is voluntary.

• Their right to leave the project at any time without problems.

• Possible risks from participation in the project.

• Plans to protect clients from these risks.

• Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

Note: If the project poses potential physical, medical, psychological, legal, social or other risks, you must get *written* informed consent.

• Indicate if you will get informed consent from participants or from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?

• Include sample consent forms in your Appendix 3, ''Sample Consent Forms.'' If needed, give English translations.

Note: Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

• Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data.

• Additionally, if other consents (*e.g.,* consents to release information to others or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. Risk/Benefit Discussion

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations: All applicants proposing a pilot test of the best practice as part of a Phase II project must comply with the Protection of Human Subjects Regulations (45 CFR part 46).

Even if you are not proposing a Phase II pilot test of the best practice, the Protection of Human Subjects Regulations could apply depending on the evaluation you propose.

If you are a Phase II applicant proposing a pilot test or your project otherwise falls under the Protection of Human Subjects Regulations, you must describe the process for obtaining Institutional Review Board (IRB) approval in your application. While IRB approval is not required at the time of grant award, you will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and the IRB approval has been received before enrolling clients in the proposed project.

Additional information about Protection of Human Subjects Regulations can be obtained on the web at *http://ohrp.osophs.dhhs.gov.* You may also contact OHRP by e-mail (*ohrp@osophs.dhhs.gov*) or by phone (301–496–7005).

B. Intergovernmental Review (E.O. 12372) Instructions

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at *http://www.whitehouse.gov/omb/grants/spoc.html.*

• Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.

• If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.

• For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.

• The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline: Substance Abuse and Mental Health Services Administration Office of Program Services, Review Branch 5600 Fishers Lane, Room 17–89, Rockville, Maryland, 20857, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from the NOFA].

C. Public Health System Impact Statement (PHSIS)

The Public Health System Impact Statement or PHSIS (Approved by OMB

under control no. 0920–0428; see burden statement below) is intended to keep State and local health officials informed of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to the following Public Health System Reporting Requirements.

Community-based, non-governmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. This PHSIS consists of the following information:

• A copy of the face page of the application (SF 424); and

• A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at *http://www.samhsa.gov.* If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA *must* include a copy of a letter transmitting the PHSIS to the SSA in Appendix 4, ''Letter to the SSA.'' The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland, 20857, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

• Applicants may request that the SSA send them a copy of any State comments.

• The applicant must notify the SSA within 30 days of receipt of an award.

[Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. 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 number for this project is 0920–0428. Send comments regarding this burden to CDC Clearance Officer, 1600 Clifton Road, MS D–24, Atlanta, GA 30333, ATTN: PRA (0920–0428).]

Appendix A—SAMHSA BPPI Indicators

The purpose of the Best Practices Planning and Implementation grant program is to help communities plan for, adapt, pilot test, and evaluate best practices. Domains to be measured are the quality of the process and outcome evaluation, and individual/systems outcomes pertinent to the service improvement. This list of indicators and related measures will be updated periodically. The Notice of Funding Availability (NOFA) will specify which indicators are required for a particular funding opportunity. Applicants must provide expected baseline data for *asterisked items in the grant application. Grantees must collect and report data at the interval (*e.g.*, quarterly, annually) specified in the NOFA. Specific instructions for data collection will be provided on SAMHSA's Web site and in application kits. Some NOFAs may specify indicators and measures not on this list or may request grantees to identify measures appropriate to their specific project.

ACCOUNTABILITY

Percent of grantees reporting valid data. (Phase 1, 2)

CAPACITY

* Number of persons served (Includes screening and assessment) (Phase 1, 2)

CMHS and CSAT grantees: Percent of providers providing services within approved costs (Costs to be proposed in application; to be approved by SAMHSA prior to award. A cost measure for substance abuse prevention is under development.) (Phase 1, 2)

* Number, type, and capacity of services/product available (Phase 1, 2)

* Percent of persons needing services/product who receive them (Phase 1, 2)

EFFECTIVENESS

Participation of persons served and family members in planning, policy, and service delivery (Phase 2)

Number of service/systems improvements implemented; maintained post-funding (Phase 2)

* Percent of programs reporting positive individual and systems outcomes (Phase 2)

CSAP grantees: Difference between 30 day substance use of population served by program and comparable local and national rates. CSAT grantees: Number of people who show no past month substance use 6 months post treatment admission. (Phase 2)

Grantees also will be required to report on several outcomes from the following list, as specified in the NOFA:

Individual outcomes: Participants (adults or children) disapproving of substance use; perceiving personal health risks associated with substance abuse; increasing age of first use; reporting abstinence at discharge; decreasing substance abuse risk factors related to spread of HIV/AIDS, including risky sexual behavior and sharing needles; improving employment/school attendance; having no criminal justice involvement; having stable living situation; reporting (consumer/family) improvement in behavioral/emotional symptoms. (Phase 2)

System outcomes: Percent of referrals from juvenile/adult justice systems to systems of care; decreased days in inpatient/residential facilities; readmission rates; past 30 day utilization of inpatient, outpatient facilities; inpatient, outpatient, or emergency room treatment for physical complaint, mental or emotional difficulties, or alcohol or substance abuse; seclusion/restraint deaths or injuries; number of communities with defined systems/continuum of care; number of persons contacted through outreach who enroll in services; percent of providers, administrators trained who report adopting approved service methods; percent of participants in sponsored events who have used information to change their practices; number of science-based programs implemented. Completion and documentation of one or more of the following, depending upon the scope of the project: Needs assessment; revised financing plan for coordinating funding streams; organizational/structural change or quality improvements; coordination and network improvements; workforce improvements; data infrastructure/performance measurement improvements. (Phase 2)

Appendix B—Checklist for Application Formatting Requirements

Your application must adhere to these formatting requirements. Failure to do so will result in your application being screened out and returned to you without review. In addition to these formatting requirements, there may be programmatic requirements specified in the NOFA. Please check the NOFA before preparing your application.

• Use the PHS 5161–1 application.

• Include the 10 application components required for SAMHSA applications (*i.e.*, Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist.)

• Provide legible text.

• Use white paper, 8.5″ by 11.0″ in size.

• Type single-spaced text with one column per page.

• Use margins that are at least 1 inch.

• Use type size in the Project Narrative that does not exceed an average of 15 characters per inch when measured with a ruler. Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.

• Do not use photo reduction or condensation of type closer than 15 characters per inch or 6 lines per inch.

• Print only on one side of the paper only; do not print on both sides.

• Do not exceed page limitations specified for the Project Narrative (3 pages for Section

A and 25 pages total for Sections B–E) and Appendices (30 pages).

• Provide sufficient information for review.

• Applications must be received by the application deadline. Applications received after this date must have a proof of mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing. Applications not received by the application deadline or not postmarked by a week prior to the application deadline will not be reviewed.

• Applications that do not comply with the following program requirements, any additional program requirements specified in the NOFA, or are otherwise unresponsive to PA guidelines will be screened out:

• Provisions relating to participant protection and the protection of human subjects specified in Section VIII–A of this document;

• Budgetary limitations as specified in Sections I, II and IV–E of this document;

• Documentation of nonprofit status as required in the PHS 5161–1;

To facilitate review of your application, follow these additional guidelines. Failure to follow these guidelines will not result in your application being screened out. However, following these guidelines will help reviewers to consider your application.

• Please use black ink and number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

• Send the original application and two copies to the mailing address in the PA. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROM.

Appendix C: Glossary

Best Practice: Best practices are practices that incorporate the best objective information currently available from recognized experts regarding effectiveness and acceptability.

Cooperative Agreement: A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

Cost-Sharing or Matching: Cost-sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost-sharing or matching is not required, and applications will not be screened out on the basis of cost-sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by reviewers in evaluating the quality of the application.

Grant: A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

In-Kind Contribution: In-kind contributions toward a grant project are non-cash contributions (*e.g.*, facilities, space, services) that are derived from non-Federal sources, such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

Practice: A practice is any activity, or collective set of activities, intended to improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

Practice Support System: This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-delivery phase, such as (a) community collaboration and consensus building, (b) training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

Stakeholder: A stakeholder is an individual, organization, constituent group, or other entity that has an interest in and will be affected by a proposed grant project.

Target population catchment area: The target population catchment area is the geographic area from which the target population to be served by a program will be drawn.

Wraparound Service: Wraparound services are non-clinical supportive services—such as child care, vocational, educational, and transportation services—that are designed to improve the individual's access to and retention in the proposed project.

Appendix D: National Registry of Effective Programs

To help SAMHSA's constituents learn more about science-based programs, SAMHSA's Center for Substance Abuse Prevention (CSAP) created a National Registry of Effective Programs (NREP) to review and identify effective programs. NREP seeks candidates from the practice community and the scientific literature. While the initial focus of NREP was substance abuse prevention programming, NREP has expanded its scope and now includes prevention and treatment of substance abuse and of co-occurring substance abuse and mental disorders, and psychopharmacological programs and workplace programs.

NREP includes three categories of programs: Effective Programs, Promising Programs, and Model Programs. Programs defined as Effective have the option of becoming Model Programs if their developers choose to take part in SAMHSA dissemination efforts. The conditions for making that choice, together with definitions of the three major criteria, are as follows.

Promising Programs have been implemented and evaluated sufficiently and are scientifically defensible. They have positive outcomes in preventing substance abuse and related behaviors. However, they have not yet been shown to have sufficient rigor and/or consistently positive outcomes required for Effective Program status. Nonetheless, Promising Programs are eligible to be elevated to Effective/Model status after review of additional documentation regarding program effectiveness. Originated from a range of settings and spanning target populations, Promising Programs can guide prevention, treatment, and rehabilitation.

Effective Programs are well-implemented, well-evaluated programs that produce consistently positive pattern of results (across domains and/or replications). Developers of Effective Programs have yet themselves.

Model Programs are also well-implemented, well-evaluated programs, meaning they have been reviewed by NREP according to rigorous standards of research. Their developers have agreed with SAMHSA to provide materials, training, and technical assistance for nationwide implementation. That helps ensure the program is carefully implemented and likely to succeed.

Programs that have met the NREP standards for each category can be identified by accessing the NREP Model Programs Web site at *http://www.modelprograms.samhsa.gov.*

Appendix E: Center for Mental Health Services Evidence-Based Practice Toolkits

SAMHSA's Center for Mental Health Services and the Robert Wood Johnson Foundation initiated the Evidence-Based Practices Project to: (1) Help more consumers and families find effective services, (2) help providers of mental health services develop effective services, and (3) help administrators support and maintain these services. The project is now also funded and endorsed by numerous national, State, local, private and

public organizations, including the Johnson & Johnson Charitable Trust, MacArthur Foundation, and the West Family Foundation.

The project has been developed through the cooperation of many Federal and State mental health organizations, advocacy groups, mental health providers, researchers, consumers and family members. A Web site (*http://www.mentalhealthpractices.org*) was created as part of Phase I of the project, which included the identification of the first cluster of evidence-based practices and the design of implementation resource kits to help people understand and use these practices successfully.

Basic information about the first six evidence-based practices is available on the Web site. The six practices are:

1. Illness Management and Recovery
2. Family Psychoeducation
3. Medication Management Approaches in Psychiatry
4. Assertive Community Treatment
5. Supported Employment
6. Integrated Dual Disorders Treatment

Each of the resource kit contains information and materials written by and for the following groups:

—Consumers
—Families and Other Supporters
—Practitioners and Clinical Supervisors
—Mental Health Program Leaders
—Public Mental Health Authorities

Material on the Web site can be printed or downloaded with Acrobat Reader, and references are provided where additional information can be obtained.

Once published, the full kits will be available from National Mental Health Information Center at *http://www.health.org* or 1–800–789–CMHS (2647).

Appendix F: Effective Substance Abuse Treatment Practices

To assist potential applicants, SAMHSA's Center for Substance Abuse Treatment (CSAT) has identified the following listing of current publications on effective treatment practices for use by treatment professionals in treating individuals with substance abuse disorders. These publications are available from the National Clearinghouse for Alcohol and Drug Information (NCADI); Tele: 1–800–729–6686 or *http://www.health.org* and *http://www.samhsa.gov/centers/csat2002/publications.html.*

CSAT Treatment Improvement Protocols (TIPs) are consensus-based guidelines developed by clinical, research, and administrative experts in the field.

- Integrating Substance Abuse Treatment and Vocational Services. TIP 38 (2000) NCADI #BKD381
- Substance Abuse Treatment for Persons with Child Abuse and Neglect Issues. TIP 36 (2000) NCADI #BKD343
- Substance Abuse Treatment for Persons with HIV/AIDS. TIP 37 (2000) NCADI # BKD359
- Brief Interventions and Brief Therapies for Substance Abuse. TIP 34 (1999) NCADI # BKD341
- Enhancing Motivation for Change in Substance Abuse Treatment. TIP 35 (1999) NCADI # BKD342
- Screening and Assessing Adolescents for Substance Use Disorders. TIP 31 (1999) NCADI # BKD306
- Treatment for Stimulant Use Disorders. TIP 33 (1999) NCADI # BKD289
- Treatment of Adolescents with Substance Use Disorders. TIP 32 (1999) NCADI # BKD307
- Comprehensive Case Management for Substance Abuse Treatment. TIP 27 (1998) NCADI # BKD251
- Continuity of Offender Treatment for Substance Use Disorders From Institution to Community. TIP 30 (1998) NCADI # BKD304
- Naltrexone and Alcoholism Treatment. TIP 28 (1998) NCADI # BKD268
- Substance Abuse Among Older Adults. TIP 26 (1998) NCADI # BKD250
- Substance Use Disorder Treatment for People With Physical and Cognitive Disabilities. TIP 29 (1998) NCADI # BKD288
- A Guide to Substance Abuse Services for Primary Care Clinicians. TIP 24 (1997) NCADI # BKD234
- Substance Abuse Treatment and Domestic Violence. TIP 25 (1997) NCADI # BKD239
- Treatment Drug Courts: Integrating Substance Abuse Treatment With Legal Case Processing. TIP 23 (1996) NCADI # BKD205
- Alcohol and Other Drug Screening of Hospitalized Trauma Patients. TIP 16 (1995) NCADI # BKD164
- Combining Alcohol and Other Drug Abuse Treatment With Diversion for Juveniles in the Justice System. TIP 21 (1995) NCADI # BKD169
- Detoxification From Alcohol and Other Drugs. TIP 19 (1995) NCADI # BKD172
- LAAM in the Treatment of Opiate Addiction. TIP 22 (1995) NCADI # BKD170
- Matching Treatment to Patient Needs in Opioid Substitution Therapy. TIP 20 (1995) NCADI # BKD168
- Planning for Alcohol and Other Drug Abuse Treatment for Adults in the Criminal Justice System. TIP 17 (1995) NCADI # BKD165
- Assessment and Treatment of Cocaine-Abusing Methadone-Maintained Patients. TIP 10 (1994) NCADI # BKD157
- Assessment and Treatment of Patients With Coexisting Mental Illness and Alcohol and Other Drug Abuse. TIP 9 (1994) NCADI # BKD134
- Intensive Outpatient Treatment for Alcohol and Other Drug Abuse. TIP 8 (1994) NCADI # BKD139

Other Effective Practice Publications

CSAT Publications—

- Anger Management for Substance Abuse and Mental Health Clients: A Cognitive Behavioral Therapy Manual (2002) NCADI # BKD444
- Anger Management for Substance Abuse and Mental Health Clients: Participant Workbook (2002) NCADI # BKD445
- Multidimensional Family Therapy for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 5 (2002) NCADI # BKD388
- Navigating the Pathways: Lessons and Promising Practices in Linking Alcohol and Drug Services with Child Welfare. TAP 27 (2002) NCADI # BKD436
- The Motivational Enhancement Therapy and Cognitive Behavioral Therapy Supplement: 7 Sessions of Cognitive Behavioral Therapy for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 2 (2002) NCADI # BKD385
- Family Support Network for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 3 (2001) NCADI # BKD386
- Identifying Substance Abuse Among TANF-Eligible Families. TAP 26 (2001) NCADI # BKD410
- Motivational Enhancement Therapy and Cognitive Behavioral Therapy for Adolescent Cannabis Users: 5 Sessions. CYT Cannabis Youth Treatment Series Vol. 1 (2001) NCADI # BKD384
- The Adolescent Community Reinforcement Approach for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 4 (2001) NCADI # BKD387
- Substance Abuse Treatment for Women Offenders: Guide to Promising Practices. TAP 23 (1999) NCADI # BKD310
- Addiction Counseling Competencies: The Knowledge, Skills, and Attitudes of Professional Practice. TAP 21 (1998) NCADI # BKD246
- Bringing Excellence to Substance Abuse Services in Rural and Frontier America. TAP 20 (1997) NCADI # BKD220
- Counselor's Manual for Relapse Prevention with Chemically Dependent Criminal Offenders. TAP 19 (1996) NCADI # BKD723
- Draft Buprenorphine Curriculum for Physicians (Note: the Curriculum is in DRAFT form and is currently being updated) *http://www.buprenorphine.samhsa.gov*
- CSAT Guidelines for the Accreditation of Opioid Treatment Programs *http://www.samhsa.gov/centers/csat/content/dpt/accreditation.htm*
- Model Policy Guidelines for Opioid Addiction Treatment in the Medical Office *http://www.samhsa.gov/centers/csat/content/dpt/model_policy.htm*

NIDA Manuals—Available through NCADI

- Brief Strategic Family Therapy. Manual 5 (2003) NCADI # BKD481
- Drug Counseling for Cocaine Addiction: The Collaborative Cocaine Treatment Study Model. Manual 4 (2002) NCADI # BKD465
- The NIDA Community-Based Outreach Model: A Manual to Reduce Risk HIV and Other Blood-Borne Infections in Drug Users. (2000) NCADI # BKD366
- An Individual Counseling Approach to Treat Cocaine Addiction: The Collaborative Cocaine Treatment Study Model. Manual 3 (1999) NCADI # BKD337
- Cognitive-Behavioral Approach: Treating Cocaine Addiction. Manual 1 (1998) NCADI # BKD254
- Community Reinforcement Plus Vouchers Approach: Treating Cocaine Addiction. Manual 2 (1998) NCADI # BKD255

NIAAA Publications—* These publications are available in PDF format or can be ordered on-line at *http://www.niaaa.nih.gov/publications/guides.htm.* An order form for the Project MATCH series is available on-line at *http://www.niaaa.nih.gov/publications/*

match.htm. All publications listed can be ordered through the NIAAA Publications Distribution Center, P.O. Box 10686, Rockville, MD 20849–0686.

- * Alcohol Problems in Intimate Relationships: Identification and Intervention. A Guide for Marriage and Family Therapists (2003) NIH Pub. No. 03–5284
- * Helping Patients with Alcohol Problems: A Health Practitioner's Guide. (2003) NIH Pub. No. 03–3769
- Cognitive-Behavioral Coping Skills Therapy Manual. Project MATCH Series, Vol. 3 (1995) NIH Pub. No. 94–3724
- Twelve Step Facilitation Therapy Manual. Project MATCH Series, Vol. 1 (1995) NIH Pub. No. 94–3722
- Motivational Enhancement Therapy Manual. Project MATCH Series, Vol. 2 (1994) NIH Pub. No. 94–3723

Dated: August 13, 2003.

Anna Marsh,

Acting Executive Officer.

[FR Doc. 03–21118 Filed 8–20–03; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Proposed Changes in Announcement of SAMHSA Discretionary Grant Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of proposed standard service-to-science grant announcement.

SUMMARY: Beginning in Fiscal Year (FY) 2004, the Substance Abuse and Mental Health Services Administration (SAMHSA) plans to change its approach to announcing and soliciting applications for its discretionary grant programs. The following announcement is a proposed standard announcement for SAMHSA's Service-to-Science Grants. *It is not an actual grant solicitation.*

Authority: Sections 509, 516, and 520A of the Public Health Service Act.

When published in final, the standard SAMHSA Service-to-Science Grant announcement will be used by applicants in conjunction with specific Notices of Funding Availability (NOFAs) to prepare applications for certain SAMHSA grants. SAMHSA is providing this draft announcement for public review and comment in order to ensure that the field is aware of the planned change and has an opportunity to identify areas where the announcement is unclear and needs improvement.

DATES: Submit written comments on this proposal by October 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding SAMHSA's proposed standard Service-to-Science Grant announcement to: Office of Policy, Planning and Budget, SAMHSA, Attn: Jennifer Fiedelholtz by fax (301–594–6159) or e-mail (*samhsa_standard_grants@samhsa.gov*). Please include a phone number in your e-mail, so that SAMHSA staff may contact you if there are questions about your comments.

FOR FURTHER INFORMATION CONTACT: Jennifer Fiedelholtz of the Office of Policy, Planning and Budget, SAMHSA, by fax (301–594–6159) or e-mail (*samhsa_standard_grants@samhsa.gov*). If you would like a SAMHSA staff person to call you about your questions, please state this in an e-mail or fax request and provide a telephone number where you can be reached between 8:30 and 5 p.m. Eastern Standard Time.

SUPPLEMENTARY INFORMATION: Starting in FY 2004, SAMHSA plans to change its approach to announcing and soliciting applications for its discretionary grants. SAMHSA plans to issue the following Service-to-Science Grant announcement as one of four standard grant announcements that will describe the general program design and provide application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The standard announcements will be used in conjunction with brief Notices of Funding Availability (NOFAs) that will announce the availability of funds for specific grant funding opportunities within each of the standard grant programs (*e.g.*, Homeless Treatment grants, Statewide Family Network grants, or HIV/AIDS and Substance Abuse Prevention Planning Grants).

A complete description of the proposed process, the other three proposed standard announcements and a sample NOFA are contained in separate notices in this issue of the **Federal Register**.

SAMHSA welcomes public comment on all aspects of the following announcement. In particular, SAMHSA welcomes comment on the following issues:

1. Is the difference between the standard announcement and a NOFA clear?

2. Are the programmatic requirements for SAMHSA's Service-to-Science Grants clear?

3. Are the goals/objectives for SAMHSA's Service-to-Science Grants clear?

4. If you are a potential applicant for a SAMHSA Service-to-Science Grant, do you believe you will be able to use the standard Service-to-Science Grant announcement with the NOFA to prepare your application? Will the ability to anticipate programmatic requirements through reviewing the standard grant announcements ahead of time improve your ability to prepare a solid application? Is the additional benefit ''worth'' the ''cost'' of having to use two different documents to prepare your application?

Text of Proposed Standard Announcement

Department of Health and Human Services

Substance Abuse and Mental Health Services Administration

Service-to-Science Grants—STS 04 (Initial Announcement)

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*)

Authority: Sections 509, 516 and/or 520A of the Public Health Service Act, as amended and subject to the availability of funds (unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*)

KEY DATES

Application Deadline	This Program Announcement provides instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the **Federal Register** and on *http://www.grants.gov.*
Intergovernmental Review (E.O. 12372)	Letters from State Single Point of Contact (SPOC) are due 60 days after application deadline.

KEY DATES—Continued

Public Health System Impact Statement (PHSIS)/ Single State Agency Coordination.	Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due 60 days after application deadline.

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I. Funding Opportunity Description

A. Introduction

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Service-to-Science grants. These grants will document and evaluate innovative practices that address critical substance abuse and mental health service gaps but have not yet been formally evaluated. Applicants who seek to stabilize, document, and evaluate promising practices for mental health and/or substance abuse treatment, prevention, and support services should apply for awards under this announcement.

SAMHSA also funds grants under three other standard grant announcements:

- *Services Grants* provide funding to implement substance abuse and mental health services.
- *Infrastructure Grants* identify and implement systems changes but are not designed to fund services.
- *Best Practices Planning and Implementation Grants* help communities and providers identify practices to effectively meet local needs, develop strategic plans for implementing/adapting those practices and pilot-test practices prior to full-scale implementation.

This announcement describes the general program design and provides application instructions for all SAMHSA Service-to-Science Grants. The availability of funds for specific Service-to-Science Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at *http://www.grants.gov*—the Federal grant announcement Web page.

Typically, funding for Service-to-Science Grants will be targeted to specific populations and/or issue areas, which will be specified in the NOFAs. The NOFAs will also:

- Specify total funding available for the first year of the grants and the expected size and number of awards;
- Provide the application deadline;
- Note any specific program requirements for each funding opportunity; and
- Include any limitations or exceptions to the general provisions in this announcement (*e.g.*, eligibility, award size, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

B. Expectations

While there is a well-established evidence base for many behavioral health practices, critical service gaps exist for which there is no formal evidence base. Stakeholders have developed many innovative practices to fill these gaps, but they may lack the expertise and/or resources to formally document and evaluate their practices. Consequently, it is not clear whether these innovative practices are effective, and they are not disseminated widely. SAMHSA seeks to encourage continued development of evidence-based practices to fill service gaps by documenting and evaluating promising stakeholder-initiated practices. This program will help organizations that have identified promising new practices to evaluate and package those innovations for review and inclusion in the National Registry of Effective Programs (NREP) as well as for further research.

1. Program Design

SAMHSA will fund Service-to-Science grants in two phases. You may apply for Phase I and II combined or for Phase II alone. Applications for Phase I alone will not be accepted.

Phase I provides support for up to 2 years to stabilize and document an existing practice that fills an identified gap. During Phase I, you may:

- Further develop or refine the promising practice;
- Develop training and practice manuals;
- Train persons who are implementing the practice;
- More systematically implement the practice;
- Develop measurement instruments; and
- Ensure that the intended target population is being reached by the practice.

The desired endpoint of Phase I is readiness to conduct a high-quality, systematic evaluation.

Phase II provides support for 1–3 years to evaluate the success of the practice. The purpose of Phase II is to conduct a high-quality, systematic evaluation to document short-term outcomes and demonstrate that the practice is worthy of an experimental study. On the basis of the evaluation, you may need to further refine the practice and further refine the practice manual. The evaluation may use a pre-post approach, an open trial model, other quasi or non-experimental model, or an experimental model.

The desired endpoint for Phase II is readiness to submit the practice for inclusion in SAMHSA's NREP and/or to submit applications to various research institutions for additional research.

SAMHSA's Service-to-Science grants will provide support to stabilize practices so that they may be

documented and evaluated. However, these grants are not intended to support development of entirely new practices. The practices must be in place and operational prior to application, and you must have at least anecdotal evidence that the practice is effective.

You may apply for a combination of Phases I and II in a single grant application if you have identified a priority gap for which a fully developed and documented practice currently does not exist.

- During Phase I, you will further develop and document the practice.
- During Phase II, you will evaluate the practice.

At the conclusion of Phase I, SAMHSA staff will review your progress to determine whether Phase II is warranted. This decision will be based on review of the documentation required by the end of Phase I, as described under the Performance Expectations section below. You must provide compelling evidence that the practice has been sufficiently developed and documented to be evaluated and has produced positive results.

For practices that are already fully developed, implemented, stabilized, and documented but that have not yet been formally evaluated, you may apply for Phase II only. Applications for Phase I alone will not be accepted.

Depending on your readiness, you may receive a combination of Phases I and II for a period of up to, but not more than, 5 years. You may apply for a shorter grant period than the maximum, and SAMHSA may award a grant for a shorter time period than you request.

2. Establishing Need

Service-to-Science grants are intended to develop solutions to widespread needs. This grant program is not intended to address a local community's need for funds to solve a local problem. Therefore, you must demonstrate that the broader substance abuse and/or mental health field—not just your local community—has a need for the practice. You must also show that no well-documented solution to the problem exists, and that your local community can support an evaluation that will increase the knowledge base of the field.

3. Allowable Activities

Phase I: Practice Development and Documentation

In Phase I, you will further develop and document the practice. The types of activities that may be needed and that are allowable include, but are not limited to, the following:

- Strategic planning
- Convening stakeholder meetings
- Training of practitioners
- Efforts to overcome policy and funding barriers to practice stability
- Development of an action plan for systematizing and stabilizing the practice
- Development of a practice support system
- Developing needed partnerships for ongoing implementation
- Logic model development
- Documentation of core elements of the practice
- Practice manual development
- Measurement instrument development/selection
- Participant recruitment
- Development of quality assurance and accountability mechanisms
- Implementation and refinement of the practice
- Implementation process evaluation
- Management information system development
- Collection of pilot outcome data

Phase II: Practice Evaluation

During Phase II, SAMHSA will (if necessary) continue to fund implementation of the practice being evaluated. Other types of allowable activities include, but are not limited to, the following:

- Convening relevant stakeholder meetings
- Alignment of management information systems with data collection needs
- Training evaluators
- Measurement instrument development/selection
- Data collection
- Database management
- Data and cost analysis
- Dissemination of results
- Refinement of logic model and practice manual based on evaluation results

4. Performance Expectations

All grantees will be expected to meet the following performance requirements by the end of their grant projects.

Phase I

By the end of Phase I, documentation for the practice must include:

- A logic model depicting the theory underlying the practice.
- A manual describing the practice in detail that would allow others to replicate the practice.
- Documentation of how critical stakeholders were included in the development of the practice.
- A detailed description of the population that the practice is designed to serve, and demographic characteristics of the people served by the practice over the past year.
- Documentation that the number of people being served by the practice has been stabilized.
- Documentation of the number and percentage of staff trained in the practice, and a mechanism for ongoing training for any new staff.
- A process evaluation demonstrating that the practice is in full operation and that a routine service delivery process is in place.
- Pilot outcome results. (Note: Collection of these data need not include an extensive set of outcomes systematically collected on all participants, but quantitative project data should provide some indication that key outcomes are being achieved.)

Phase II

By the end of Phase II, the evaluation of the practice must have demonstrated that:

- Key outcome measures have been clearly identified and defined.
- Participant data collection systems are in place that include:
  - Demographic characteristics;
  - Practice outcomes;
  - Service utilization;
  - Service delivery costs; and
  - Satisfaction with services.
- Demographic characteristics of participants, as well as the types of services that participants have received, are consistent with expectations based on the logic model for the practice.
- Service delivery patterns are stable.
- A fidelity scale has been developed for assessing the integrity of the practice, and the practice has been implemented with fidelity according to the scale.
- Systematically collected short-term outcome measures indicate meaningful results.
- Consumers, family members, and other critical stakeholders are satisfied with the practice.

In addition, at the end of Phase II, grantees must:

- Demonstrate how consumers, family members, and other critical stakeholders participated in the evaluation of the practice.
- Demonstrate how the practice will be sustained over the 5 years following the end of the grant period.
- As appropriate, submit the practice to the SAMHSA National Registry of Effective Programs (NREP).
- Demonstrate the willingness of those who initiated the practice to participate in rigorous research over the next 5 years (*e.g.*, through submission of grant applications to the National Institutes of Health, private foundations, or other research funding sources;

through formal agreements between practice initiators and researchers; etc.)

5. Data and Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L.103–62, or ''GPRA'') requires all Federal agencies to:

- Develop strategic plans that specify what they will accomplish over a 3 to 5-year period;
- Set performance targets annually related to their strategic plan; and
- Report annually on the degree to which the previous year's targets were met.

The law further requires agencies to link their performance to their budgets. Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures.

To meet these requirements, SAMHSA must collect performance data (*i.e.*, ''GPRA data'') from grantees. You are required to report these GPRA data to SAMHSA on a timely basis so that performance results are available to support budgetary decisions.

In particular, you will be required to provide data on a core set of required measures, depending on the SAMHSA Center that is funding the grant. In your application, you must demonstrate your ability to collect and report on these measures, and you must provide some baseline data.

Appendix A provides the performance indicators for SAMHSA's Service-to-Science grantees. For complete information on the core measures relating to these indicators and the methodology for data collection and reporting, please consult the following Web sites:

- Center for Mental Health Services-funded grants: *http://www.samhsa.gov/aps/CMHS/GPRA*
- Center for Substance Abuse Prevention-funded grants: *http://www.samhsa.gov/aps/CSAP/GPRA*
- Center for Substance Abuse Treatment-funded grants: *http://www.samhsa.gov/aps/CSAT/GPRA*.

This information will be provided in the hard copy application kits distributed by SAMHSA's Clearinghouses, as well.

In some instances, you may be required to participate in cross-site evaluations and comply with additional data collection requirements; if so, this will be specified in the NOFA. Before grant award, a final agreement regarding data collection will be reached. The terms and conditions of the grant award will specify the data to be submitted and the schedule for submission. Grantees will be required to adhere to these terms and conditions of award.

6. Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, DC, area, and attendance is mandatory.

II. Award Information

A. Award Amount

The NOFA will specify the expected award amount for each funding opportunity. Regardless of the amount specified in the NOFA, the actual award amount will depend on the availability of funds.

You may apply for either a combined Phase I & II grant or for a Phase II only grant.

- Awards for Phase I of the combined grants are for up to $150,000 per year for up to 2 years.
- Awards for Phase II are $300,000–$500,000 per year for 1–3 years.
- Awards for combined Phase I and II grants may not exceed 5 years.

Phase II funding will be approved only if you provide compelling evidence that the practice has been sufficiently developed and documented to be evaluated and has produced positive results.

Applications with proposed budgets that exceed the allowable amount as specified in the NOFA in any year of the proposed project will be screened out and will not be reviewed. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

Summary Table:

Phase	Activity focus	Years of support	Application requirement	Funding level
I	Practice Development and Documentation.	0–2	Optional	Up to $150,000 per year.
II	Practice Evaluation	1–3	Required	$300,000–500,000 per year.
Total		1–5		

B. Funding Mechanism

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (see the Glossary in Appendix C for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are domestic public and private *nonprofit* entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program precludes grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

Though not required, SAMHSA encourages community-based providers and independent researchers to partner when applying for Service-to-Science grants. Such partnerships will use the expertise of each partner to ensure sound service delivery, high-quality evaluation, independent results, and relevance of the evaluation design to service delivery outcomes.

B. Cost-Sharing

Cost-sharing is not required in this program, and applications will not be screened out on the basis of cost-sharing. However, you may include cash or in-kind contributions in your proposal as evidence of commitment to the proposed project. Reviewers may

consider this information in evaluating the quality of the application.

C. Other

SAMHSA applicants must comply with certain program requirements, including:

- Provisions relating to participant protection and the protection of human subjects specified in Section VIII–A of this document;
- Budgetary limitations as specified in Sections I, II, and IV–E of this document; and
- Documentation of nonprofit status as required in the PHS 5161–1.

You also must comply with any additional program requirements specified in the NOFA, such as the required signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

Applications that do not comply with the eligibility and specific program requirements for the funding opportunity for which the application is submitted will be screened out and will not be reviewed.

IV. Application and Submission Information

(To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix B of this document.)

A. Address To Request Application Package

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

- For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686.
- For mental health grants, call the National Mental Health Information Center at 1–800–789–CMHS (2647).

You also may download the required documents from the SAMHSA Web site at *http://www.samhsa.gov.* Click on ''grant opportunities.''

Additional materials available on this Web site include:

- A technical assistance manual for potential applicants;
- Standard terms and conditions for SAMHSA grants;
- Guidelines and policies that relate to SAMHSA grants (*e.g.*, guidelines on cultural competence, consumer and family participation, and evaluation); and
- Enhanced instructions for completing the PHS 5161–1 application.

B. Content and Form of Application Submission

1. Required Documents

SAMHSA application kits include the following documents:

- PHS 5161–1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. You must use the PHS 5161–1 unless otherwise specified in the NOFA. Applications that are not submitted on the required application form will be screened out and will not be reviewed.
- Program Announcement (PA)—Includes instructions for the grant application. This document is the PA.
- Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA. The NOFAs will be published in the **Federal Register** as well as on the Federal grants Web site (*http://www.grants.gov*).

You must use all of the above documents in completing your application.

2. Order of Sections

Applications must be complete and contain all information needed for review. In order for your application to be complete, it must include the following sections in the order listed. Applications that do not contain these sections will be screened out and will not be reviewed.

- *Face Page*—Use Standard Form (SF) 424, which is part of the PHS 5161–1. [Note: Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at *http://www.dunandbradstreet.com* or call 1–866–705–5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.]
- *Abstract*—Your total abstract should be no longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.
- *Table of Contents*—Include page numbers for each of the major sections of your application and for each appendix.
- *Budget Form*—Use SF 424A, which is part of the PHS 5161–1. Fill out Sections B, C, and E of the SF 424A.
- *Project Narrative and Supporting Documentation*—The Project Narrative describes your project. It consists of Sections A through D. These sections in total may be no longer than 25 pages. More detailed instructions for completing each section of the Project Narrative are provided in ''Section V—Application Review Information'' of this document.

The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections E through G. There are no page limits for these sections, except for Section F, the Biographical Sketches/Job Descriptions.

- *Section E*—Budget Justification, Existing Resources, Other Support. You must provide a narrative justification of the items included in your proposed budget, as well as a description of existing resources and other support you expect to receive for the proposed project.
- *Section F*—Biographical Sketches and Job Descriptions.
- Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a letter of commitment from the individual with a current biographical sketch.
- Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.
- Sample sketches and job descriptions are listed on page 22, Item 6 in the Program Narrative section of the PHS 5161–1.
- *Section G*—Confidentiality and SAMHSA Participant Protection/Human Subjects. Instructions for completing Section G of your application are provided in Section VIII–A of this document.
- *Appendices 1 through 5*—Use only the appendices listed below. Do not use more than 30 pages total for Appendices 1, 4, and 5. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.
- *Appendix 1:* Letters of Support
- *Appendix 2:* Documentation of the Practice (*Phase II only* applicants)
- *Appendix 3:* Data Collection Instruments/Interview Protocols
- *Appendix 4:* Sample Consent Forms

• *Appendix 5:* Letter to the SSA (if applicable; see Section VIII–C of this document)

• *Assurances*—Non-Construction Programs. Use Standard Form 424B found in PHS 5161–1.

• *Certifications*—Use the ''Certifications'' forms found in PHS 5161–1.

• *Disclosure of Lobbying Activities*—Use form SF LLL found in the PHS 5161–1. Federal law prohibits the use of appropriated funds for publicity or propaganda purposes, or for the preparation, distribution, or use of the information designed to support or defeat legislation pending before the Congress or State legislatures. This includes ''grass roots'' lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

• *Checklist*—Use the Checklist found in PHS 5161–1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

3. Application Formatting Requirements

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed.

• Text must be legible.

• Paper must be white and 8.5″ by 11.0″ in size.

• Pages must be typed single-spaced with one column per page.

• Page margins must be at least one inch.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.

• The pages cannot have printing on both sides.

• Page limitations specified for the Project Narrative and Appendices cannot be exceeded.

• Information must be sufficient for review.

To facilitate review of your application, follow these additional guidelines:

• Applications should be prepared using black ink. This improves the quality of the copies of applications that are provided to reviewers.

• Use white paper only. Do not use colored, heavy, or light-weight paper or any material that cannot be photocopied using automatic photocopying machines. Odd-sized and oversized attachments, such as posters, will not be copied or sent to reviewers. Do not send videotapes, audiotapes, or CD–ROMs.

• Pages should be numbered consecutively from beginning to end so that information can be located easily during review of the application. For example, the cover page should be labeled ''page 1,'' the abstract page should be ''page 2,'' and the table of contents page should be ''page 3.'' Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue in the sequence.

C. Submission Dates and Times

Deadlines for submission of applications for specific funding opportunities will be published in NOFAs in the **Federal Register** and on the Federal grants Web site (*http://www.grants.gov*).

Your application must be received by the application deadline. Applications received after this date must have a proof-of-mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing.

You will be notified by postal mail that your application has been received.

Applications not received by the application deadline or not postmarked by a week prior to the application deadline will be screened out and will not be reviewed.

D. Intergovernmental Review (E.O. 12372) Requirements

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. Instructions for this review are included in Section VIII–B of this document. Section VIII–C provides instructions for the Public Health System Impact Statement (PHSIS) and submission of comments from the Single State Agency (SSA).

E. Funding Limitations/Restrictions

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

• Institutions of Higher Education: OMB Circular A–21

• State and Local Governments: OMB Circular A–87

• Nonprofit Organizations: OMB Circular A–122

• Appendix E Hospitals: 45 CFR part 74

In addition, SAMHSA Service-to-Science grant funds may not be used to:

• Pay for any lease beyond the project period.

• Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).

• Pay for the purchase or construction of any building or structure to house any part of the program. (Applicants may request up to $75,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project.)

• Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)

• Pay for housing other than residential mental health and/or substance abuse treatment.

• Provide inpatient treatment or hospital-based detoxification services.

• Pay for incentives to induce clients to enter treatment. However, a grantee or treatment provider may provide up to $20 or equivalent (coupons, bus tokens, gifts, childcare, and vouchers) to clients as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.

• Implement syringe exchange programs, such as the purchase and distribution of syringes and/or needles.

• Pay for pharmacologies for HIV antiretroviral therapy, sexually transmitted diseases (STDs)/sexually transmitted illnesses (STI), TB, and hepatitis B and C, or for psychotropic drugs.

F. Other Submission Requirements

1. Where To Send Applications

Send applications to the following address: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857.

Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (301) 443–4266.

2. How To Send Applications

Mail an original application and 2 copies (including appendices) to the

mailing address provided above. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

You must use a recognized commercial or governmental carrier. Hand carried applications will not be accepted. Faxed or e-mailed applications will not be accepted.

V. Application Review Information

A. Evaluation Criteria

Your application will be reviewed and scored against the requirements listed below for developing the Project Narrative (Sections A–D). These sections describe what you intend to do with your project.

- In developing the Project Narrative section of your application, use these instructions, which have been tailored to this program. These are to be used instead of the ''Program Narrative'' instructions found in the PHS 5161–1.
- Be sure to provide complete references for any literature cited in your Project Narrative. The reference list will not be counted toward the 25-page limit for these sections.
- You must use the four sections/headings listed below in developing your Project Narrative. Be sure to place the required information in the correct section, or it will not be considered. Your application will be scored according to how well you address the requirements for each section.
- The Supporting Documentation you provide in Sections E–G, Appendices 1 through 5, and the Reference list will be considered by reviewers in assessing your response, along with the material in the Project Narrative.
- The number of points after each heading below is the maximum number of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within each section.

Section A: Need (20 points)

- Describe the problem the project will address. Describe the national significance of the problem. Documentation of need may come from a variety of qualitative and quantitative sources in the professional literature. The quantitative data could also come from national data available regarding mental health and substance use needs, gaps, and priorities. For example:
- Applications focusing on substance abuse might draw from SAMHSA's National Household Survey on Drug Use and Health (NHSDUH); Drug Abuse Warning Network (DAWN); and Drug and Alcohol Services Information System (DASIS), which includes the Treatment Episode Data Set (TEDS).
- Applications focusing on mental health might draw on data available from the National Association of State Mental Health Program Directors (NASMHPD), SAMHSA (*http://www.samhsa.gov/cmhs/MentalHealthStatistics*), or other sources.

Qualitative sources may also include conclusions of conferences and events of national significance.

- Describe the target population for the practice.
- Review the literature that demonstrates a need to develop or adapt an effective practice for the target population. Demonstrate through the literature review that current evidence-based approaches to the problem do not exist or have not been evaluated for the specific target populations, or that approaches of greater clinical or cost effectiveness are needed.
- Demonstrate that the need in the community in which the project will be carried out is of sufficient magnitude that an adequate evaluation of the practice can be conducted. To the extent possible, use locally generated data or State data such as that available through State needs assessments.

Section B: Proposed Approach (30 points)

- Describe the practice proposed for evaluation.
- Describe how the proposed practice will respond to the needs described in Section A of your Project Narrative.
- Discuss the potential effectiveness of the practice proposed for evaluation. Why has this practice been selected? Present the theoretical underpinnings, core principles, and major assumptions of the proposed practice. Outline the key operational elements of the practice and summarize any relevant literature.
- Identify any necessary collaborators on the project, including their roles and responsibilities. Demonstrate their commitment to the project. Include letters of support in Appendix 1: Letters of Support. Identify any cash or in-kind contributions to the project.
- If applying for combined Phase I and II, describe the extent to which the practice has been previously developed, implemented, stabilized, and documented. Include a description of the support system needed for full implementation of the proposed practice—*e.g.*, community collaboration and consensus building, training and overall readiness of those implementing the practice, and involvement of families and consumers in the project.
- If applying for Phase II only, show that the practice is ready for systematic evaluation by providing, in Appendix 2, the documentation for the practice described in the Performance Measurement section of this PA for Phase I, including all of the following:
- A logic model depicting the theory underlying the practice.
- A manual describing the practice in detail that would allow others to replicate the practice.
- Documentation of how critical stakeholders were included in the development of the practice.
- A detailed description of the population that the practice is designed to serve, and demographic characteristics of the people served by the practice over the past year.
- Demonstration of stability in the number of people being served by the practice.
- Documentation that staff are trained in the practice (via the number and percentage of staff trained), and a mechanism for ongoing training for any new staff.
- Evidence demonstrating that the practice is in full operation and that a routine service delivery process is in place.
- Pilot outcome results. (**Note:** Collection of these data need not include an extensive set of outcomes systematically collected on all participants, but quantitative project data should provide some indication that key outcomes are being achieved.)
- Present the goals and measurable objectives of the project. Describe why the practice can better be evaluated for effectiveness following completion of the grant activities. For applications that include Phase I, include in your description how achievement of your goals will fulfill the Performance Expectations cited above and in Section I–B of this document.
- Describe the action steps to accomplish the goals and objectives. Demonstrate that the action steps will lead to successful accomplishment of the goals and objectives.
- Describe the potential barriers to successful conduct of the proposed project and how you will overcome them.
- Describe how the project will address issues of age, race/ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population.

Section C: Evaluation Design and Analysis (30 points)

• Describe in detail your evaluation design for determining the effectiveness of the practice. For applications that include Phase I, describe your process evaluation to determine that the practice is in full operation, as well as how you will track the number and percentage of staff fully trained in the practice.

• Describe the evaluation protocol you intend to use. Include in Appendix 3 evaluation instruments to be used. Describe any literature or pilot testing done to verify the validity and reliability of the instruments to be used or how you plan to develop the instruments during the grant period.

• Describe how you will develop and manage a database management system to record participant demographic characteristics, practice outcomes, service utilization, practice costs, and satisfaction of stakeholders with the practice.

• Describe how the integrity of the practice will be assessed using a fidelity scale. If no fidelity scale currently exists for the practice, describe the process by which you will develop one during the grant period.

• Document your ability to collect and report on the required program measures for SAMHSA Service-to-Science Grants. Specify and justify the outcome measures you plan to use for your grant project. Identify any required program measures that you believe are inappropriate for your project and provide a rationale for excluding them. (See Appendix A for required program measures.)

• Describe how you will analyze the data collected. Include any analyses that will be done to determine the effectiveness of the practice for diverse subgroups, as well as the satisfaction of various stakeholder groups with the practice.

• Describe how you will document the role of critical stakeholders in the development and/or evaluation of the practice.

Section D: Management Plan and Staffing (20 points)

• Provide a time line for the project (chart or graph) showing key activities, milestones, and responsible staff.

• Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.

• Provide a list of staff members who will conduct the project, showing the role of each and their level of effort and qualifications. The Project Director and other key personnel, including evaluators and database management personnel, must be included.

• If you plan to include an advisory body in your project, describe the composition, roles/functions, and frequency of meetings of the proposed advisory body.

• Describe the resources available for the proposed project (*e.g.*, facilities, equipment), and provide evidence that resources are adequate for conducting a high-quality evaluation of the identified practice.

Note: Although the budget for the proposed project is not a review criterion, the review group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

B. Review and Selection Process

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over $100,000, applications must also be reviewed by the appropriate National Advisory Council.

C. Award Criteria

Decisions to fund a grant are based on:

• The strengths and weaknesses of the application as identified by the peer review committee and approved by the appropriate National Advisory Council; and

• Availability of funds.

VI. Award Administration Information

A. Award Notices

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

B. Administrative and National Policy Requirements

• You must comply with terms and conditions of the grant award. Standard SAMHSA terms and conditions are available on SAMHSA's Web site (*http://www.samhsa.gov*).

• Depending on the nature of the specific funding opportunity and/or the proposed project as identified during review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

• Actions required to be in compliance with human subjects requirements;

• Requirements relating to additional data collection and reporting;

• Requirements relating to participation in a cross-site evaluation; or

• Requirements to address problems identified in review of the application.

• You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.

• In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services ''Survey on Ensuring Equal Opportunity for Applicants.'' This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

C. Reporting

1. Progress and Financial Reports

• Grantees must provide annual and final progress reports. The final progress report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing plans developed during the grant period.

• Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that treatment or prevention service efforts are sustained, your financial reports should explain plans to ensure the sustainability of

efforts initiated under this grant. Initial plans for sustainability should be described in year 1 of the grant. In each subsequent year, you should describe the status of the project, successes achieved and obstacles encountered in that year.

• SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

2. Government Performance and Results Act (GPRA)

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. The performance requirements for SAMHSA's Service-to-Science Grants are described in Section I–B under ''Data and Performance Measurement'' and listed in Appendix A of this document.

3. Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and SAMHSA's Publications Clearance Officer (301–443–8596) of any materials based on the SAMHSA-funded project that are accepted for publication.

In addition, SAMHSA requests that grantees:

• Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.

• Include acknowledgment of the SAMHSA grant program as the source of funding for the project.

• Include a disclaimer stating that the views and opinions contained in the publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/ mental health services community.

VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Stephen Hudak, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration/ OPS, 5600 Fishers Lane, Rockwall II 6th Floor, Rockville, MD 20857, (301) 443–9666, *shudak@samhsa.gov.*

VIII. Other Information

A. Human Subjects Protection

You must describe your procedures relating to Confidentiality and the Protection of Human Subjects Regulations in Section G of your application, using the guidelines provided below. Problems with confidentiality and protection of human subjects identified during peer review of your application may result in the delay of funding.

Confidentiality and Participant Protection: All applicants *must* address each of the following elements relating to confidentiality and participant protection. You must document how you will address these requirements or why they do not apply.

1. Protect Clients and Staff from Potential Risks

• Identify and describe any foreseeable physical, medical, psychological, social, legal, or other risks or adverse affects.

• Discuss risks that are due either to participation in the project itself or to the evaluation activities.

• Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.

• Identify plans to provide help if there are adverse effects to participants.

• Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. Fair Selection of Participants

• Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other groups.

• Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, or others who are likely to be vulnerable to HIV/AIDS.

• Explain the reasons for *including or excluding* participants.

• Explain how you will recruit and select participants. Identify who will select participants.

3. Absence of Coercion

• Explain if participation in the project is voluntary or required. Identify possible reasons why it is required, for example, court orders requiring people to participate in a program.

• If you plan to pay participants, state how participants will be awarded money or gifts.

• State how volunteer participants will be told that they may receive services even if they do not participate in the project.

4. Data Collection

• Identify from whom you will collect data (*e.g.*, from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (*e.g.*, school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.

• Identify what type of specimens (*e.g.*, urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.

• Provide in Appendix 3: Data Collection Instruments/Interview Protocols, copies of *all* available data collection instruments and interview protocols that you plan to use.

5. Privacy and Confidentiality

• Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.

• Describe:

• How you will use data collection instruments.

• Where data will be stored.

• Who will or will not have access to information.

• How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records, or storing identifiers separately from data.

Note: If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part II.

6. Adequate Consent Procedures

• List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used, and how you will keep the data private.

• State:

• Whether or not their participation is voluntary.

• Their right to leave the project at any time without problems.

• Possible risks from participation in the project.

• Plans to protect clients from these risks.

• Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

Note: If the project poses potential physical, medical, psychological, legal, social or other risks, you must get *written* informed consent.

• Indicate if you will get informed consent from participants or from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?

• Include sample consent forms in your Appendix 4: Sample Consent Forms. If consent forms are in languages other than English, provide English translations.

Note: Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

• Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data?

• Additionally, if other consents (*e.g.*, consents to release information to others or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. Risk/Benefit Discussion

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations

All applicants for Service-to-Science grants must comply with the Protection of Human Subjects Regulations (45 CFR part 46).

Applicants must describe the process for obtaining Institutional Review Board (IRB) approval fully in their applications. While IRB approval is not required at the time of grant award, you will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and that IRB approval has been received prior to enrolling any participants in the proposed project.

Additional information about Protection of Human Subjects Regulations can be obtained on the web at *http://ohrp.osophs.dhhs.gov.* You may also contact OHRP by e-mail (*ohrp@osophs.dhhs.gov*) or by phone (301–496–7005).

B. Intergovernmental Review (E.O. 12372) Instructions

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at *http://www.whitehouse.gov/omb/grants/spoc.html.*

• Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.

• If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.

• For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.

• The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland, 20857, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from the NOFA].

C. Public Health System Impact Statement (PHSIS)

The Public Health System Impact Statement or PHSIS (approved by OMB under control no. 0920–0428; see burden statement below) is intended to keep State and local health officials informed of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to the following Public Health System Reporting Requirements.

Community-based, non-governmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. This PHSIS consists of the following information:

• A copy of the face page of the application (SF 424); and

• A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at *http://www.samhsa.gov.* If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA *must* include a copy of a letter transmitting the PHSIS to the SSA in Appendix 5: Letter to the SSA. The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland, 20857, ATTN: SSA—Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

• Applicants may request that the SSA send them a copy of any State comments.

• The applicant must notify the SSA within 30 days of receipt of an award.

[Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. 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 number for this project is 0920–0428. Send comments regarding this burden to CDC Clearance

Officer, 1600 Clifton Road, MS D–24, Atlanta, GA 30333, ATTN: PRA (0920–0428)].

Appendix A—SAMHSA Service to Science Indicators

The purpose of ''service to science'' grant program is to document and evaluate innovative practices with potential for broad application. The domain measured to determine success of these programs is the quality of the documentation and evaluation of the practice. This assessment is conducted by SAMHSA based upon information submitted by the grantee. Individual/systems outcomes pertinent to the service improvement are part of the grantee's outcome evaluation. This list of indicators and related measures will be updated periodically. The Notice of Funding Availability (NOFA) will specify which indicators are required for a particular funding opportunity. Applicants must provide expected baseline data for *asterisked items in the grant application. Grantees must collect and report data at the interval (*e.g.*, quarterly, annually) specified in the NOFA. Specific instructions for data collection will be provided on SAMHSA's Web site and in application kits. Some NOFAs may specify indicators and measures not on this list or may request grantees to identify measures appropriate to their specific project.

ACCOUNTABILITY

Percent of grantees reporting valid data.

CAPACITY

* Number of persons served (*Includes screening and assessment*).

Percent of providers providing services within expected costs.

* Number, type, and capacity of services/product ready for designation as ''best practices''; number ready for further research.

* Percent of persons needing services/product who receive them.

EFFECTIVENESS

Participation of persons served and family members in planning, policy, and service delivery.

* Percent of programs reporting positive individual and system outcomes.

CSAP grantees: Difference between 30 day substance use of population served by program and comparable local and national rates. CSAT grantees: Number of people who show no past month substance use 6 months post treatment admission.

Grantees also will be required to report on several outcomes from the following list, as specified in the NOFA:

Individual outcomes: Participants (adults or children) disapproving of substance use; perceiving personal health risks associated with substance abuse; increasing age of first use; reporting abstinence at discharge; decreasing substance abuse risk factors related to spread of HIV/AIDS, including risky sexual behavior and sharing needles; improving employment/school attendance; having no criminal justice involvement; having stable living situation; reporting (consumer/family) improvement in behavioral/emotional symptoms.

System outcomes: Percent of referrals from juvenile/adult justice systems to systems of care; decreased days in inpatient/residential facilities; readmission rates; past 30 day utilization of inpatient, outpatient facilities; inpatient, outpatient, or emergency room treatment for physical complaint, mental or emotional difficulties, or alcohol or substance abuse; seclusion/restraint deaths or injuries; number of communities with defined systems/continuum of care; number of persons contacted through outreach who enroll in services; percent of providers, administrators trained who report adopting approved service methods; percent of participants in sponsored events who have used information to change their practices. Completion and documentation of one or more of the following, depending upon the scope of the project: Needs assessment; revised financing plan for coordinating funding streams; organizational/structural change or quality improvements; coordination and network improvements; workforce improvements; data infrastructure/performance measurement improvements

Appendix B—Checklist for Application Formatting Requirements

Your application must adhere to these formatting requirements. Failure to do so will result in your application being screened out and returned to you without review. In addition to these formatting requirements, there may be programmatic requirements specified in the NOFA. Please check the NOFA before preparing your application.

- Use the PHS 5161–1 application.
- Include the 10 application components required for SAMHSA applications (*i.e.*, Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist.)
- Provide legible text.
- Use white paper, 8.5″ by 11.0″ in size.
- Type single-spaced text with one column per page.
- Use margins that are at least 1 inch.
- Use type size in the Project Narrative that does not exceed an average of 15 characters per inch when measured with a ruler. Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.
- Do not use photo reduction or condensation of type closer than 15 characters per inch or 6 lines per inch.
- Do not exceed page limitations specified for the Project Narrative (25 pages) and Appendices (30 pages).
- Provide sufficient information for review.
- Applications must be received by the application deadline. Applications received after this date must have a proof of mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing. Applications not received by the application deadline or postmarked a week prior to the application deadline will not be reviewed.
- Applications that do not comply with the following requirements and any additional program requirements specified in the NOFA, or are otherwise unresponsive to PA guidelines will be screened out and returned to the applicant without review:
- Compliance with the Human Subjects Regulations.
- Budgetary limitations as specified in Section I, II, and IV-E of this document.
- Documentation of nonprofit status as required in the PHS 5161–1;

To facilitate review of your application, follow these additional guidelines. Failure to follow these guidelines will not result in your application being screened out. However, following these guidelines will help reviewers to consider your application.

- Please use black ink and number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.
- Send the original application and two copies to the mailing address in the PA. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROMs.

Appendix C—Glossary

Best Practice: Best practices are practices that incorporate the best objective information currently available from recognized experts regarding effectiveness and acceptability.

Cooperative Agreement: A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

Cost-Sharing or Matching: Cost-sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost-sharing or matching is not required, and applications will not be screened out on the basis of cost-sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by

reviewers in evaluating the quality of the application.

Grant: A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

In-Kind Contribution: In-kind contributions toward a grant project are non-cash contributions (*e.g.*, facilities, space, services) that are derived from non-Federal sources, such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

Practice: A practice is any activity, or collective set of activities, intended to improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

Practice Support System: This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-delivery phase, such as (a) community collaboration and consensus building, (b) training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

Stakeholder: A stakeholder is an individual, organization, constituent group, or other entity that has an interest in and will be affected by a proposed grant project.

Target population catchment area: The target population catchment area is the geographic area from which the target population to be served by a program will be drawn.

Wraparound Service: Wraparound services are non-clinical supportive services—such as child care, vocational, educational, and transportation services—that are designed to improve the individual's access to and retention in the proposed project.

Dated: August 13, 2003.

Anna Marsh,

Acting Executive Officer.

[FR Doc. 03–21119 Filed 8–20–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Proposed Changes in Announcement of SAMHSA Discretionary Grant Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of Sample Notice of Funding Availability (NOFA) for a SAMHSA Services Grant Funding Opportunity.

SUMMARY: Beginning in Fiscal Year (FY) 2004, the Substance Abuse and Mental Health Services Administration (SAMHSA) plans to change its approach to announcing and soliciting applications for its discretionary grant programs. The following is a sample Notice of Funding Availability (NOFA) that would be used in conjunction with SAMHSA's standard Services Grant announcement. Although based on an actual SAMHSA grant program, this is a hypothetical NOFA. *It is not an actual grant solicitation.*

Authority: Sections 509, 516, and 520A of the Public Health Service Act.

When published in final, NOFAs similar to the following NOFA will be used by applicants in conjunction with the standard SAMHSA Services Grant announcement to prepare applications for certain SAMHSA grants. SAMHSA is providing this sample NOFA for public review and comment in order to ensure that the field is aware of the planned change and has an opportunity to identify areas where the standard announcements and NOFA are unclear and need improvement.

DATES: Submit written comments on this proposal by October 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding SAMHSA's sample NOFA to: Office of Policy, Planning and Budget, SAMHSA, Attn: Jennifer Fiedelholtz, by fax (301–594–6159) or e-mail (*samha_standard_grants@samhsa.gov).* Please include a phone number in your e-mail, so that SAMHSA staff may contact you if there are questions about your comments.

FOR FURTHER INFORMATION CONTACT: Jennifer Fiedelholtz of the Office of Policy, Planning and Budget, SAMHSA, by fax (301–594–6159) or e-mail (*samhsa_standard_grants@samhsa.gov).* If you would like a SAMHSA staff person to call you about your questions, please state this is an e-mail or fax request and provide a telephone number where you can be reached between 8:30 a.m. and 5 p.m. Eastern Standard Time.

SUPPLEMENTARY INFORMATION: Starting in FY 2004, SAMHSA plans to change its approach to announcing and soliciting applications for its discretionary grants. SAMHSA plans to issue NOFAs similar to the following sample NOFA to announce specific funding opportunities within four standard grant programs (Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants). The standard grant announcements will describe the general program design and provide application instructions for each type of grant. The NOFA's will:

- Identify any specific target population or issue for the specific grant funding opportunity,
- Identify which of the four standard announcements applicants must use to prepare their applications,
- Specify total funding available for the first year of the grants and the expected size and number of awards,
- Specify the application deadline,
- Note any specific program requirements for each funding opportunity, and
- Include any limitations or exceptions to the general provisions in the standard announcement.

A complete description of the proposed process and the four proposed standard announcements are contained in separate notices in this issue of the **Federal Register**.

SAMHSA welcomes public comment on all aspects of the sample NOFA. In particular, SAMHSA welcomes comment on the following issues:

1. Is the difference between the standard announcement and a NOFA clear?

2. Are the special programmatic requirements for the hypothetical funding opportunity clear?

3. If you are a potential applicant for a SAMHSA grant, do you believe you will be able to use the standard grant announcements with the NOFAs to prepare your application? Will the ability to anticipate programmatic requirements improve your ability to prepare a solid application? Is the additional benefit ''worth'' the ''cost'' of having to use two different documents to prepare your application?

Sample NOFA Text [**Note:** The following is not an actual funding opportunity. Certain information, such as size and number of awards, has been deliberately left out. This NOFA is provided as an opportunity for public comment on SAMHSA's proposed

approach to announcing and soliciting applications for discretionary grant funding opportunities in FY 2004.]: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT), announces the availability of FY [XXXX] funds for the grant program described below. A synopsis of this funding opportunity, as well as many other Federal Government funding opportunities, is also available at the Internet site: *http://www.fedgrants.gov.*

This notice is not a complete description of the program. Potential applicants must obtain a copy of SAMHSA's standard Services Grants Program Announcement (SVC–04 PA), and the PHS 5161–1 (Rev. 7/00) application form before preparing and submitting an application. The SVC–04 PA describes the general program design and provides instructions for applying for most SAMHSA Services Grants. Additional instructions and specific requirements for this funding opportunity are described below.

Funding Opportunity Title: Development of Comprehensive Drug/Alcohol and Mental Health Treatment Systems for Persons Who Are Homeless—Short Title: Treatment for Homeless.

Announcement Type: Initial.

Funding Opportunity Number: TI 04–XX.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.243.

Due Date for Applications: TBA.

Funding Instrument: Grant.

Funding Opportunity Description: SAMHSA's Services Grants provide funds to expand and strengthen effective, culturally appropriate substance abuse and mental health services at the State and local levels. Services grants must be used primarily to support service delivery. The services implemented through SAMHSA's Services Grants must incorporate the best objective information available from recognized experts regarding effectiveness and acceptability.

Treatment of Homeless is one of SAMHSA's Services Grants programs. The purpose of this funding opportunity is to enable communities to expand and strengthen their treatment services for homeless individuals with substance abuse disorders, mental illness, or with co-occurring substance abuse disorders and mental illness. ''Homeless'' persons are those who lack a fixed, regular, adequate nighttime residence, including persons whose primary nighttime residence is: a supervised public or private shelter designed to provide temporary living accommodations; a time-limited/nonpermanent transitional housing arrangement for individuals engaged in mental health and/or substance abuse treatment; or a public or private facility not designed for, or ordinarily used as, a regular sleeping accommodation. ''Homeless'' also includes ''doubled-up''—a residential status that places individuals at imminent risk for becoming homeless—defined as sharing another person's dwelling on a temporary basis where continued tenancy is contingent upon the hospitality of the primary leaseholder or owner and can be rescinded at any time without notice.

Exceptions to the SVC–04 PA and Other Special Requirements: Applicants for Treatment for Homeless grants *must address* the following requirement(s) in the Project Narrative of their application:

- In Section C of the Project Narrative, applicants must comprehensively describe how treatment services are linked with housing programs and other services for homeless persons, *e.g.,* primary health care.
- In Section C of the Project Narrative, applicants must describe how the proposed project will be coordinated with other existing SAMHSA-funded grant projects in the target area, if there are any. The application must clearly state that there are no existing SAMHSA-funded grant projects in the target area, if this is the case.
- All grantees are required to report on the following client outcomes for their grant-funded projects, and applicants must document their ability to collect and report on these client outcomes in Section E of the Project Narrative: participants reporting abstinence at discharge; participants improving employment/school attendance; participants having no criminal justice involvement; participants having stable living situations; and participants reporting (consumer/family) improvement in behavioral/emotional symptoms.

Estimated Funding Available/Number of Awards: It is expected that [$$] million will be available to fund [##] awards in FY [XXXX]. The awards will be up to [$$] in total costs (direct and indirect) per year. Applications with proposed budgets that exceed [$$] in any year will be returned without review.

Period of Support: Up to five years, with annual continuations depending on the availability of funds, grantee progress in meeting program goals and objectives, and timely submission of required data and reports.

Eligible Applicants: Eligibility is restricted by statute to community-based public and private non-profit entities. These include county governments, city or township governments, Native American tribal governments (Federally recognized), public housing authorities/Indian housing authorities, nonprofits other than institutions of higher education with 501(c)(3) IRS status, nonprofits other than institutions of higher education without 501(c)(3) IRS status, and private institutions of higher education. State-supported, non-governing, community-based entities such as colleges, universities, and hospitals whose State support is for education and/or treatment services are eligible if such services are provided only to the local community. States are not eligible to apply under this statute.

Additional information regarding eligibility (including experience, licensing, accreditation, and certification requirements), program requirements, and formatting requirements is provided in the SVC–04 PA. Applications that do not comply with these requirements will be screened out and will not be reviewed.

Is Cost Sharing or Matching Required: No.

How To Get Full Announcement and Application Materials: Complete application kits may be obtained from: the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686. When requesting an application kit, the applicant must specify the funding opportunity title and number for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, is included in the application kit. The PHS 5161–1 application form and the full text of the program announcement are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov.* (Click on 'Grant Opportunities'.)

When submitting an application, be sure to type ''TI 04–XX, Treatment for Homeless'' in Item Number 10 on the face page of the application form.

Intergovernmental Review: Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. Instructions for complying with E.O. 12372 are provided in the SVC–04 PA.

Public Health System Impact Statement: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials informed of proposed health services

grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to the Public Health System Reporting Requirements. Instructions for complying with the PHSIS are provided in the SVC–04 PA.

Application Review Information: In compliance with Sec. 506 of the Public Health Service Act, in making award decisions, SAMHSA will give preference to entities that provide *integrated* primary health, substance abuse, *and* mental health services to homeless individuals, and to entities that have experience in providing substance abuse *and* mental health services to homeless individuals. Additional information concerning evaluation criteria, the review and selection process, and award criteria is available in the SVC–04 PA.

Award Administration: Award information, including information about award notices, administrative requirements and reporting requirements is included in the SV–04 PA.

Contact for Additional Information: [NAME], [ADDRESS], [PHONE], [E-MAIL].

Dated: August 13, 2003.

Anna Marsh,

SAMHSA, Acting Executive Officer.

[FR Doc. 03–21120 Filed 8–20–03; 8:45 am]

BILLING CODE 4162–20–P

Federal Register

Thursday,
August 21, 2003

Part III

Department of Energy

10 CFR Part 600

Financial Assistance Regulations; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 600

RIN 1991–AB57

Financial Assistance Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending its Assistance Regulations by adding a new subpart, making minor amendments to existing subparts to reflect this change, and eliminating a section that contains internal procedures for DOE officials or requirements that are contained in other sections. The new subpart establishes administrative requirements for awards to for-profit organizations and eliminates the need to apply existing uniform administrative requirements, applicable to institutions of higher education, hospitals, and other nonprofit organizations, to awards with for-profit organizations.

EFFECTIVE DATE: This rule will become effective October 1, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Trudy Wood, Office of Procurement and Assistance Policy, Department of Energy, at (202) 586-5625.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Public Comments
III. Revisions Incorporated in This Final Rule
IV. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under the Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act
D. Review Under the National Environmental Policy Act
E. Review Under Executive Order 13132
F. Review Under Executive Order 12988
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under the Treasury and General Government Appropriations Act, 2001
J. Review Under Executive Order 13211
K. Review Under the Small Business Regulatory Enforcement Fairness Act
V. Approval of the Office of the Secretary of Energy

I. Background

Office of Management and Budget (OMB) Circular A–110 provides uniform requirements for the administration of grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations. OMB Circular A–110 also states that ''Federal agencies may apply the provisions of this Circular to commercial organizations. * * *'' Consistent with this guidance, when DOE implemented the rrequirments of Circular A–110 in its financial assistance regulations at 10 CFR part 600, subpart B, the Department, as a matter of discretion, also applied the provisions of the Circular to commerical organizations.

This rulemaking began with DOE publishing a notice in the **Federal Register** on May 8, 2001, 66 FR 23197, requesting comments on whether DOE should initiate a rulemaking to establish administrative requirements for financial assistance awards tailored specifically to for-profit organizations. Respondents strongly endorsed the concept of administrative requirements specifically tailored to for-profit organizations.

DOE published a Notice of Proposed Rulemaking (NOPR) in the **Federal Register** on August 26, 2002, 67 FR 54850. The NOPR proposed adding a new subpart D—Uniform Administrative Requirements for Grants and Cooperative Agreements With For-Profit Organizations. This subpart contained provisions similar to those in subpart B—Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, Other Nonprofit Organizations and Commercial Organizations, but the provisions had been tailored specifically for awards to for-profits organizations. The NOPR also proposed that for-profit organizations subject to subpart D be relieved of obligations that would otherwise apply under subpart B.

The following section presents a summary of the major comments grouped by subject, and the responses to the comments. Where appropriate, the responses explain how we have changed the proposed subpart D in the final rule.

I. Discussion of Public Comments

Comments on Audit Requirements

Comment: The proposed section 600.316 is helpful from the point of view of publicly held firms but may be an additional and unnecessary burden for non-publicly held companies. The benefit in terms of assurance of proper use of the public funds might not be produced in a way that is proportional to the cost and effort involved. The contracting officer should be empowered to require the recipient to have an independent auditor arrange for a precise checking of the financial details and non-financial activities needed to assure the proper use of the public funds. For example, if the recipient is working under a cost-share arrangement, where the contractor is furnishing service for which a price per hour or day has been agreed, an audit of costs and general accounting practices would return no value but an audit of whether the services had been provided as reported would be of high value. The requirement should be revised to allow this type of practice rather than a full scale audit.

Response: Proposed section 600.316 would not require a full scale audit. It would require a recipient that expends $500,000 or more in a year under Federal awards to have an audit made for that year by an independent auditor in accordance with the requirements in paragraph (b) of that section. These requirements are similar to the requirements of the Single Audit Act, as implemented by the Office of Management and Budget Circular A–133, ''Audits of States, Local Governments, and Non-profit Organizations.'' In addition, the recipient may elect to have the award separately audited if it is more economical, unless the award terms and conditions or Federal laws or regulations specify otherwise. For both cost shared and non-cost shared awards, the Government needs reasonable assurance that the recipient has an effective internal control structure (*e.g.,* control over and accountability for cash and property) and is complying with Federal laws and regulations and the terms and conditions of the award (*e.g.,* whether the services have been provided as reported).

Comment on Property Management Requirements

Comment: The requirements under proposed section 600.323, ''Property management system,'' appear to be the same as the property requirements for assistance agreements with institutions of higher education, hospitals, and other non-profit organizations. These requirements would involve special record keeping that is similar to the Federal Acquisition Regulation (FAR) property clauses. It is requested that these requirements be further aligned with the voluntary standard that commercial organizations already follow.

Response: The voluntary standard for customer property management systems, established by the International Organization for Standardization (commonly referred to as the ISO), merely provides that organizations: (1) Exercise care with customer property; (2) identify, verify, protect and safeguard customer property; and (3) if property is lost, damaged or found unsuitable for use, report to the customer and maintain records. To

ensure uniformity and consistency in the management of property under financial assistance awards, DOE believes more specificity is needed. Using the OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations'' as a guide, the Department developed and incorporated into proposed section 600.323 a streamlined set of requirements. We believe that this set of requirements is the minimum necessary to ensure the proper stewardship of property under financial assistance awards.

Comments on Intellectual Property Matters

Comment: Paragraph (c)(1) of proposed section 600.325 would provide that if a recipient is a large business, the agreement must include the clause giving ownership of inventions to DOE, unless there is an advance waiver. DOE should relieve the parties of the burden of justifying an advance waiver on a case-by-case basis, and provide to large business recipients treatment similar to that provided to small business, *i.e.,* title waived but Government purpose license retained.

Response: DOE operates under statutory mandates to obtain title to subject inventions, unless a patent waiver is granted (42 U.S.C. 2182; 42 U.S.C. 5908(c)). Patent waivers are to be granted only upon consideration of a number of factors specified by statute. While DOE has granted ''class waivers'' where appropriate for specific programs, DOE does not believe it has authority to grant a ''class waiver'' for all assistance programs, as requested by the commenter. Nevertheless, DOE is considering mechanisms for ''streamlining'' the patent waiver process to minimize time and paperwork burdens on DOE and recipients. In addition, DOE is considering issuance of class waivers of broader scope than previously granted. It should be noted that using the case-by-case patent waiver process may allow a recipient to obtain greater rights, *e.g.,* rights to subcontractor inventions, than would normally be available under the Patent Rights (Small Business Firms and Nonprofit Organization) clause.

Comment: Paragraph (c)(3) of proposed section 600.325 states that background patent and data provisions will not normally be required. Background patent and data provisions should be included only in circumstances where there is an extraordinary risk that the intended technological advance would not be commercialized, and only upon mutual agreement between recipient and the Contracting Officer.

Response: Proposed section 600.325, paragraph (c)(3) and the preamble of the proposed regulation stated that background rights to assure commercialization may be included, but only under special circumstances, for example, to provide heightened assurance of commercialization. It is expected that these ''special circumstances'' will be rare. Paragraph (c)(3) has been modified to expressly state that inclusion of background invention (and data) provisions to assure commercialization will be done only with the written concurrence of the DOE program official setting forth the need for heightened assurance of commercialization, and that the scope of any such background licensing provisions is subject to negotiation.

Comment: Paragraph (g) of proposed section 600.325 would make the inclusion of the ''Authorization and Consent'' clause an exception available only under fairly narrow circumstances. Inclusion of the ''Authorization and Consent'' clause should be reconsidered. The Contracting Officer should have increased flexibility to include the clause, or at the very least, the rule should be more specific regarding factors to be considered for inclusion of the ''Authorization and Consent'' clause (and the ancillary clauses such as ''Notice and Assistance'').

Response: The proposed rule stated that work performed by the recipient was not subject to authorization and consent to the use of a patented invention except in certain limited circumstances, such as a cooperative agreement for research related to homeland security or the clean up of a DOE facility. The intent was that DOE would assume no liability for patent infringement except in those special circumstances where DOE was a secondary beneficiary and could derive some use or benefit from the project. DOE generally awards cooperative agreements for such projects because DOE's substantial involvement in and contribution to the technical aspects of the effort are necessary to accomplish the objectives. The proposed rule invited the public to comment on whether an authorization and consent provision should be included routinely in assistance awards. As a result of our consideration of this comment, we have decided to be more specific regarding the use of this clause. The final rule includes a revised paragraph (g) to specify that the ''Authorization and Consent'' clause will not be included in grants, but will be included in all cooperative-agreements. DOE decided to include the ''Authorization and Consent'' clause in cooperative agreements because these awards are virtually always cost-shared, and inclusion of this clause serves as a necessary incentive to secure participant cost-sharing. A new parargraph (g)(3) has been added to this section. This paragraph establishes the policy and clauses for inclusion of ''ancillary'' matters such as patent indemnity and notice and assistance. These clauses, if included, must be consistent with those in 48 CFR part 927 for acquisition.

Comment: The ''Rights in Data—General'' clause in Appendix A to subpart D continues to give to the Government unlimited rights in ''data first produced in the performance of the agreement''. Further, paragraph (i), ''Additional data requirements'', of this clause exposes the recipient to a disclosure requirement for any data ''first produced or specifically used in the performance of the agreement''. DOE should have the right to receive only that data that the agreement specifies as the deliverable data, so that incidental developments such as basic proprietary process improvements, the development of which was not a requirement under the agreement, are not at risk.

Response: Both acquisitions, under the Federal Acquisition Regulation (FAR) and the Department of Energy Acquisition Regulation (DEAR), and financial assistance, under 10 CFR part 600, give DOE rights in data ''first produced'' under an award, *e.g.,* 10 CFR 600.136 gives DOE the right to ''obtain, reproduce, publish or otherwise use 'the data first produced' under an award to an educational and other nonprofit organization''. In addition DOE has statutory technical data dissemination obligations (*e.g.,* 42 U.S.C. 205(d); 42 U.S.C. 5817(e)). Data that is ''specifically used,'' but not first produced in performance of an agreement, may be protected by the recipient's invoking of the withholding or marking provisions of paragraph (g) ''Protection of limited rights data and restricted computer software'' of the Rights in Data—General clause. Any delivery to the Government of limited rights data or restricted computer software is subject to negotiation. The fact that the Government has unlimited rights to data first produced or specifically used, which does not qualify as limited or restricted, does not mean that all data must be delivered. The amount of data to be delivered is determined by the program official and is subject to negotiation.

Comment: The requirement in 10 CFR part 784 for substantial manufacture in the United States for a patent title waiver remains unchanged. DOE should consider loosening this restriction, since most large for-profit corporations today are global and have partnerships with many overseas suppliers.

Response: The requirement for substantial manufacture in the United States for assignees and exclusive licensees of a waived invention is embodied in a ''Preference for U.S. Industry'' clause implementing a statutory requirement applicable to funding agreements with small business and nonprofits (35 U.S.C. 204) and made applicable to for-profit large businesses by the FAR and DOE Patent Waiver regulations, 10 CFR part 784. That ''preference for U.S. Industry'' provision includes authority for a waiver, under certain circumstances. In addition, DOE generally requires a ''U.S. Competitiveness'' provision as an additional condition for a patent waiver. This ''U.S. Competitiveness'' provision is negotiable, depending on circumstances surrounding the particular technology involved and DOE programmatic concerns. Inclusion of the ''U.S. Competitiveness'' provision is a programmatic decision, and therefore may be deleted with the concurrence of the DOE program official. However, where commercialization of DOE supported technology is the goal, promoting a U.S. economic benefit is an essential consideration.

III. Revisions Incorporated in This Final Rule

In addition to the changes made in response to public comments, DOE made the following revisions:

1. In the proposed rule, section 600.311 encouraged recipients to use existing financial management systems established for doing business in the commercial marketplace to the extent that the systems comply with Generally Accepted Accounting Principles (GAAP) and the minimum standards in this section. In the final rule, we have deleted the words ''established for doing business in the commercial marketplace.'' Recipients are encouraged to use any existing systems (*i.e.,* systems used in the commercial marketplace or systems established for other government business) as long as the systems comply with GAAP and the standards in this section.

2. In the proposed rule, section 600.316 would require recipients that expend $500,000 or more in a year under Federal awards to have an audit made for that year by an independent auditor. We have added language to paragraph (a) of that section to clarify that if a recipient is performing under another Federal award that requires an audit by its Federal cognizant agency (*e.g.,* Defense Contract Audit Agency), the recipient must also use that agency to conduct the audit of the DOE award. The recipient and its Federal cognizant agency should develop a coordinated audit approach to ensure that the DOE award is included in the recipient's annual Federal audit.

3. In the proposed rule, section 600.325, paragraph (b) is entitled, ''Patent rights—small business concerns and nonprofit organizations.'' As this paragraph is within subpart D, which applies to for-profit organizations, the title may be misleading or confusing. The final rule deletes the references to nonprofit organizations in the title and first sentence of paragraph (b), but retains the reference in the title of the clause in Appendix A, because this clause implements the Bayh-Dole Act (35 U.S.C. 206) and will be used by both small businesses and nonprofit organizations.

4. In section 600.325, paragraph (c)(1) the words ''a large business'' have been changed to ''a for-profit organization other than a small business concern, as defined in 35 U.S.C. 201(h)'' to comfort with the language in the statute. In addition, the words ''pursuant to statute'' have been added to clarify that this is a statutory requirements.

5. In the proposed rule, appendix A to subpart D, ''Patent Rights (Small Business Firms and Nonprofit Organizations)'' clause, paragraph (g)(2) made a reference to, but did not identify, the ''DOE implementing regulations'' and did not clearly address subcontracting requirements and rights. The final rule clarifies paragraph (g)(2) by deleting the reference to ''DOE implementing regulations'' and inserting ''10 CFR 600.355(c).'' In addition, a new paragraph (g)(3) has been added to this clause to establish requirements for subawards, as follows: ''(3) In the case of subawards/contracts at any tier, DOE, the Recipient, and the subrecipeint/contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subrecipient/contractor and DOE with respect to those matters covered by the clause.''

6. In appendix A to subpart D, ''Rights in Data—Programs Covered Under Special Protected Data Statutes'' clause, paragraph (g)(1) has been modified to add the following phrase to the end of the first sentence: ''that would have been treated as a trade secret if developed at private expense.'' This change was made because the Energy Policy Act of 1992 limits such protection to data that would have been treated as trade secret if developed at private expense (42 U.S.C. 13293).

7. In the proposed rule, section 600.351(a)(4) allowed DOE to terminate a cooperative agreement for convenience of the government. While the Federal Acquisition Regulation includes a termination for convenience requirement, this is not a standard requirement in financial assistance. Neither OMB Circular A–110 nor A–102 includes a termination for convenience requirement. After further consideration, we have decided to delete paragraph (a)(4) in section 600.351 because DOE cooperative agreements are virtually always cost-shared, and applicants, lenders, and equity contributors may be reluctant to finance these projects if the award includes such a provision. We do not want to unnecessarily reduce the number of applicants applying for DOE assistance programs.

8. Minor editorial corrections were made to sections 600.302, 600.304, and 600.325.

IV. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be ''a significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Because DOE is not required by the Administrative procedure Act (5 U.S.C. 553) or any other law to propose financial assistance rules for public comment, DOE did not prepare a regulatory flexibility analysis for this rule.

C. Review Under the Paperwork Reduction Act

This regulatory action will not impose any new reporting or record keeping requirements under the Paperwork Reduction Act. Reporting and record keeping requirements in subpart D have

been previously cleared under Office of Management and Budget Paperwork Clearance Package Numbers 1910–0400 and 1910–0800 or are those promulgated by OMB Circular A–110, which the Office of Management and Budget proposed in August 1992 (57 FR 39018), asking for public comments, and finalized in November 1993 (58 FR 62992). No new collection of information is imposed by this final rule.

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule deals only with agency procedures, and, therefore, is covered under the Categorical Exclusion in paragraph A6 to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies are regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined today's final rule and has determined that it does not preempt State law and does 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. No further action is required by Execution Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulations: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulations; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General, Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to assess the effects of a Federal regulatory action on State, local, and tribal governments, and the private sector. The Department has determined that today's regulatory action does not impose a Federal mandate on State, local or tribal governments or on the private sector.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001, 44 U.S.C. 3516, note, provides for agencies to review most disseminations of information to the public under implementing guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice of final rulemaking under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, (66 FR 28355, May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Review Under the Small Business Regulatory Enforcement Fairness Act

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 801(2).

V. Approval of the Office of the Secretary of Energy

The Office of the Secretary has approved the issuance of this rule.

List of Subjects in 10 CFR Part 600

Administrative practice and procedure.

Richard H. Hopf,

Director, Office of Procurement and Assistance Management/Office of Management, Budget and Evaluation, Department of Energy.

Robert C. Braden,

Director, Office of Procurement and Assistance Management, National Nuclear Security Administration.

■ Part 600 of chapter II, title 10 of the Code of Federal Regulations, is amended as follows:

PART 600—FINANCIAL ASSISTANCE RULES

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq*; 31 U.S.C. 6301–6308; 50 U.S.C. 2401 *et seq.* unless otherwise noted.

■ 2. Section 600.3 is amended by revising the definition of ''nonprofit organization'' to read as follows:

§ 600.3 Definitions.

* * * * *

Nonprofit organization means any corporation, trust, foundation, or institution which is entitled to exemption under section 501(c)(3) of the Internal Revenue Code, or which is not organized for profit and no part of the net earnings of which inure to the benefit of any private shareholder or individual (except that the definition of ''nonprofit organization'' at 48 CFR 27.301 shall apply for patent matters set forth at §§ 600.136 and 600.325).

* * * * *

§ 600.4 [Amended]

■ 3. Section 600.4 is amended as follows:

■ a. Paragraph (a)(1), the last sentence is amended by removing ''or the patent requirements of § 600.27.''

■ b. Paragraph (c)(2)(i), the last sentence is removed.

■ c. Paragraph (c)(2)(ii), the last sentence is removed.

§ 600.15 [Amended]

■ 4. Section 600.15 is amended by removing paragraphs (b)(4) and (5).

§ 600.27 [Removed and Reserved]

■ 5. Section 600.27 is removed and reserved.

■ 6. The title of subpart B is revised to read as follows:

Subpart B—Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations

§ 600.100 [Amended]

■ 7. Section 600.100 is amended by removing ''and commercial'' in the first and second sentences.

§ 600.104 [Amended]

■ 8. Section 600.104 is amended by removing ''or commercial'' in the first sentence and by adding a sentence at the end of the paragraph to read as follows:

§ 600.104 Subawards.

* * * For-profit subrecipients are subject to the provisions of 10 CFR part 600, subpart D, Administrative Requirements for Grants and Cooperative Agreements with For-Profit Organizations.

■ 9. Section 600.126 is amended by removing paragraphs (d) and (e) and revising paragraph (c) to read as follows:

§ 600.126 Non-Federal audits.

* * * * *

(c) For-profit organizations that are subrecipients are subject to the audit requirements specified in 10 CFR 600.316.

§ 600.127 [Amended]

■ 10. Section 600.127 is amended in paragraph (c) by removing ''except for SBIR recipients as provided in § 600.18(d)(3).''

■ 11. Section 600.136 is amended as follows:

■ a. Paragraph (a), the first sentence is amended by removing ''that are institutions of higher education, hospitals, and other nonprofit organizations,''

■ b. Paragraph (b) is revised.

■ c. Paragraph (d)(3) is removed.

■ d. Paragraph (e), the first sentence is amended by removing ''For recipients that are institutions of higher education, hospitals, and other nonprofit organizations.''

■ The revision reads as follows:

§ 600.136 Intangible property.

* * * * *

(b) Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.''

* * * * *

§§ 600.180–600.181 [Removed and Reserved]

■ 12. Sections 600.180 and 600.181 are removed.

■ 13. Subpart D is added in part 600 to read as follows:

Subpart D—Uniform Administrative Requirements for Grants and Cooperative Agreemenets With For-Profit Organizations

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Subpart D—Administrative Requirements for Grants and Cooperative Agreements With For-Profit Organizations

General

§ 600.301 Purpose.

(a) This subpart prescribes administrative requirements for awards to for-profit organizations.

(b) Applicability to prime awards and subawards is as follows:

(1) *Prime awards:* DOE contracting officers must apply the provisions of this part to awards to for-profit organizations. Contracting officers must not impose requirements that are in addition to, or inconsistent with, the requirements provided in this part, except:

(i) In accordance with the deviation procedures or special award conditions in § 600.303 or § 600.304, respectively; or

(ii) As required by Federal statute, Executive order, or Federal regulation implementing a statute or Executive order.

(2) *Subawards.* (i) Any legal entity (including any State, local government, university or other nonprofit organization, as well as any for-profit entity) that receives an award from DOE must apply the provisions of this part to subawards with for-profit organizations.

(ii) For-profit organizations that receive prime awards covered by this part must apply to each subaward the administrative requirements that are applicable to the particular type of subrecipient (*e.g.,* 10 CFR part 600, subpart B, contains requirements for institutions of higher education, hospitals, or other nonprofit organizations and 10 CFR part 600, subpart C, specifies requirements for subrecipients that are States or local governments).

§ 600.302 Definitions.

In addition to the definitions used in subpart A of this part, the following are definitions of terms as used in this subpart:

Advance means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

Applied research means efforts that seek to determine and exploit the potential of scientific discoveries or improvements in technology, and is directed toward the development of new materials, devices, methods, and processes.

Basic research means efforts directed solely toward increasing knowledge or understanding in science and engineering.

Cash contributions means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

Closeout means the process by which DOE determines that all applicable administrative actions and all required work of the award have been completed by the recipient and DOE.

Cost sharing or matching means that portion of project or program costs not borne by the Federal Government.

Demonstration means a project designed to determine the technical feasibility and economic potential of a technology on either a pilot plant or a prototype scale.

Development means efforts to create or advance new technology or demonstrate the viability of applying existing technology to new products and processes.

Disallowed costs means those charges to an award that the DOE contracting officer determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

DOE means the Department of Energy, including the National Nuclear Security Administration (NNSA).

Equipment means tangible, nonexpendable personal property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

Excess property means property under the control of any DOE Headquarters or field office that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

Federal funds authorized: means the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior funding periods.

Federally owned property means property in the possession of, or directly acquired by, the Government and subsequently made available to the recipient.

Funding period means the period of time when Federal funding is available for obligation by the recipient.

Incremental funding means a method of funding a grant or cooperative agreement where the funds initially obligated to the award are less than the total amount of the award, and DOE anticipates making additional obligations of funds when appropriated funds become available.

Obligations means the amount of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

Outlays or expenditures means charges made to the project or program. They may be reported on cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied, and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees, and for other amounts becoming owed under programs for which no current services or performance are required.

Personal property means property of any kind except real property. It may be:

(1) Tangible, having physical existence (*i.e.,* equipment and supplies); or

(2) Intangible, having no physical existence, such as patents, copyrights, data, and software.

Prior approval means written or electronic approval by an authorized official evidencing prior consent.

Program income means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in program regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

Project costs means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

Property means real property and personal property (equipment, supplies, and intellectual property), unless otherwise stated.

Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

Small award means an award not exceeding the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently $100,000).

Small business concern means a small business as defined at section 2 of Pub. L. 85–536 (16 U.S.C. 632) and the implementing regulations of the Administrator of the Small Business Administration. The criteria and size standards for small business concerns are contained in 13 CFR part 121.

Subaward means financial assistance in the form of money, or property in lieu of money, provided under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by an legal agreement, even if the agreement is called a contract, but the term does not include procurement of goods and services or any form of assistance which is not included in the definition of ''award'' in this part.

Subrecipient means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds or property provided.

Supplies means tangible, expendable personal property that is charged directly to the award and that has a useful life of less than one year or an acquisition cost of less than $5,000 per unit.

Suspension means an action by DOE that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by DOE. Suspension of an award is a separate action from suspension of a recipient under 10 CFR part 1036.

Termination means the cancellation of an award, in whole or in part, under an agreement at any time prior to either:

(1) The date on which all work under an award is completed; or

(2) The date on which Federal sponsorship ends, as provided in the award document or any supplement or amendment thereto.

Third party in-kind contributions means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

Unobligated balance means the portion of the funds authorized by DOE that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

§ 600.303 Deviations.

(a) *Individual deviations.* Individual deviations affecting only one award are subject to the procedures stated in 10 CFR 600.4

(b) *Class deviations.* Class deviations affecting more than one financial assistance transaction are subject to the procedures states in 10 CFR 600.4.

§ 600.304 Special award conditions.

(a) Contracting officers may impose additional requirements as needed, over and above those provided in this subpart, if an applicant or recipient:

(1) Has a history of poor performance;

(2) Is not financially stable;

(3) Has a management system that does not meet the standards prescribed in this subpart;

(4) Has not conformed to the terms and conditions of a previous award; or

(5) Is not otherwise responsible.

(b) Before imposing additional requirements, DOE must notify the applicant or recipient in writing as to:

(1) The nature of the additional requirements;

(2) The reason why the additional requirements are being imposed;

(3) The nature of the corrective action needed;

(4) The time allowed for completing the corrective actions; and

(5) The method for requesting reconsideration of the additional requirements imposed.

(c) The contracting officer must remove any special conditions if the circumstances that prompted them have been corrected.

§ 600.305 Debarment and suspension.

Recipients must comply with the nonprocurement debarment and suspension common rule implemented in 10 CFR part 1036. This common rule restricts subawards and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

§ 600.306 Metric system of measurement.

(a) The Metric Conversion Act of 1975, as amended by the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 205) and implemented by Executive Order 12770, states that:

(1) The metric system is the preferred measurement system for U.S. trade and commerce.

(2) The metric system of measurement will be used, to the extent economically feasible, in Federal agencies' procurements, grants, and other business-related activities.

(3) Metric implementation is not required if such use is likely to cause significant inefficiencies or loss of markets to United States firms.

(b) Recipients are encouraged to use the metric system to the maximum extent practicable in measurement-sensitive activities and in measurement-sensitive outputs resulting from DOE funded programs.

Post-Award Requirements

Financial and Program Management

§ 600.310 Purpose of financial and program management.

Sections 600.311 through 600.318 prescribe standards for financial management systems; methods for making payments; and rules for cost sharing and matching, program income, revisions to budgets and program plans, audits, allowable costs, and fee and profit.

§ 600.311 Standards for financial management systems.

(a) Recipients are encouraged to use existing financial management systems to the extent that the systems comply with Generally Accepted Accounting Principles (GAAP) and the minimum standards in this section. At a minimum, a recipient's financial management system must provide:

(1) Effective control of all funds. Control systems must be adequate to ensure that costs charged to Federal funds and those counted as the recipient's cost share or match are consistent with requirements for cost reasonableness, allowability, and allocability in the applicable cost principles (*see* § 600.317) and in the terms and conditions of the award.

(2) Accurate, current and complete records that document, for each project funded wholly or in part with Federal funds, the source and application of the Federal funds and the recipient's required cost share or match. These records must:

(i) Contain information about receipts, authorizations, assets, expenditures, program income, and interest.

(ii) Be adequate to make comparisons of outlays with amounts budgeted for each award (as required for programmatic and financial reporting under § 600.341). Where appropriate, financial information should be related to performance and unit cost data.

(3) To the extent that advance payments are authorized under § 600.312, procedures that minimize the time elapsing between the transfer of funds to the recipient from the Government and the recipient's disbursement of the funds for program purposes.

(4) A system to support charges to Federal awards for salaries and wages, whether treated as direct or indirect costs. If employees work on multiple activities or cost objectives, a distribution of their salaries and wages must be supported by personnel activity reports which:

(i) Reflect an after the fact distribution of the actual activity of each employee.

(ii) Account for the total activity for which each employee is compensated.

(iii) Are prepared at least monthly, and coincide with one or more pay periods.

(b) If the Federal Government guarantees or insures the repayment of money borrowed by the recipient, DOE, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

(c) DOE may require adequate fidelity bond coverage if the recipient lacks sufficient coverage to protect the Federal Government's interest.

(d) If bonds are required in the situations described in paragraphs (b) and (c) of this section, the bonds must be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, ''Surety Companies Doing Business with the United States.''

§ 600.312 Payment.

(a) *Methods available.* Payment methods for awards with for-profit organizations are:

(1) *Reimbursement.* Under this method, the recipient requests reimbursement for costs incurred during a particular time period. In cases where the recipient submits requests for payment to the contracting officer, the DOE payment office reimburses the recipient by electronic funds transfer after approval of the request by the designated contracting officer.

(2) *Advance payments.* Under this method, DOE makes a payment to a recipient based upon projections of the recipient's cash needs. The payment generally is made upon the recipient's request, although predetermined payment schedules may be used when the timing of the recipient's needs to disburse funds can be predicted in advance with sufficient accuracy to ensure compliance with paragraph (b)(2)(iii) of this section.

(b) *Selecting a method.* (1) The preferred payment method is the reimbursement method, as described in paragraph (a)(1) of this section.

(2) Advance payments, as described in paragraph (a)(2) of this section, may be used in exceptional circumstances, subject to the following conditions:

(i) The contracting officer, in consultation with the program official, determines in writing that advance payments are necessary or will materially contribute to the probability of success of the project contemplated under the award (*e.g.,* as startup funds for a project performed by a newly formed company).

(ii) Cash advances must be limited to the minimum amounts needed to carry out the program.

(iii) Recipients and DOE must maintain procedures to ensure that the timing of cash advances is as close as is administratively feasible to the recipients' disbursements of the funds for program purposes, including direct program or project costs and the proportionate share of any allowable indirect costs.

(iv) Recipients must maintain advance payments of Federal funds in interest-bearing accounts, and remit annually the interest earned to the contracting officer for return to the Department of Treasury's miscellaneous receipts account, unless one of the following applies:

(A) The recipient receives less than $120,000 in Federal awards per year.

(B) The best reasonably available interest bearing account would not be expected to earn interest in excess of $250 per year on Federal cash balances.

(C) The depository would require an average or minimum balance so high that establishing an interest bearing account would not be feasible, given the expected Federal and non-Federal cash resources.

(c) *Frequency of payments.* For either reimbursements or advance payments, recipients may submit requests for payment monthly, or more often if authorized by the contracting officer.

(d) *Forms for requesting payment.* DOE may authorize recipients to use the SF–270, ''Request for Advance or Reimbursement;'' the SF–271, ''Outlay Report and Request for Reimbursement for Construction Programs;'' or prescribe other forms or formats as necessary.

(e) *Timeliness of payments.* Payments normally will be made within 30 calendar days of the receipt of a recipient's request for reimbursement or advance by the office designated to receive the request, unless the billing is improper.

(f) *Precedence of other available funds.* Recipients must disburse funds available from program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on such funds before requesting additional cash payments.

(g) *Withholding of payments.* Unless otherwise required by statute, contracting officers may not withhold payments for proper charges made by recipients during the project period for reasons other than the following:

(1) A recipient failed to comply with project objectives, the terms and conditions of the award, or Federal reporting requirements, in which case the contracting officer may suspend payments in accordance with § 600.352.

(2) The recipient is delinquent on a debt to the United States (*see* definitions of ''debt'' and ''delinquent debt'' in 32 CFR 22.105). In that case, the contracting officer may, upon reasonable notice, withhold payments to the recipient until the debt owed is resolved.

§ 600.313 Cost sharing or matching.

(a) *Acceptable contributions.* All contributions, including cash contributions and third party in-kind contributions, must be accepted as part of the recipient's cost sharing or matching if such contributions meet all of the following criteria:

(1) They are verifiable from the recipient's records.

(2) They are not included as contributions for any other federally-assisted project or program.

(3) They are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) They are allowable under § 600.317.

(5) They are not paid by the Federal Government under another award unless authorized by Federal statute to be used for cost sharing or matching.

(6) They are provided for in the approved budget.

(7) They conform to other provisions of this part, as applicable.

(b) *Valuing and documenting contributions.*

(1) *Valuing recipient's property or services of recipient's employees.* Values are established in accordance with the applicable cost principles in § 600.317,

which means that amounts chargeable to the project are determined on the basis of costs incurred. For real property or equipment used on the project, the cost principles authorize depreciation or use charges. The full value of the item may be applied when the item will be consumed in the performance of the award or fully depreciated by the end of the award. In cases where the full value of a donated capital asset is to be applied as cost sharing or matching, that full value must be the lesser or the following:

(i) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation; or

(ii) The current fair market value. If there is sufficient justification, the contracting officer may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project. The contracting officer may accept the use of any reasonable basis for determining the fair market value of the property.

(2) *Valuing services of others' employees.* If an employer other than the recipient furnishes the services of an employee, those services are valued at the employee's regular rate of pay plus an amount of fringe benefits and overhead (at an overhead rate appropriate for the location where the services are performed), provided these services are in the same skill for which the employee is normally paid.

(3) *Valuing volunteer services.* Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services must be consistent with those paid for similar work in the recipient's organization. In those markets in which the required skills are not found in the recipient organization, rates must be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(4) *Valuing property donated by third parties.*

(i) Donated supplies may include such items as office supplies or laboratory supplies. Value assessed to donated supplies included in the cost sharing or matching share must be reasonable and must not exceed the fair market value of the property at the time of the donation.

(ii) Normally only depreciation or use charges for equipment and buildings may be applied. However, the fair rental charges for land and the full value of equipment or other capital assets may be allowed, when they will be consumed in the performance of the award or fully depreciated by the end of the award, provided that the contracting officer has approved the charges. When use charges are applied, values must be determined in accordance with the usual accounting policies of the recipient, with the following qualifications:

(A) The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(B) The value of loaned equipment must not exceed its fair rental value.

(5) *Documentation.* The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties:

(i) Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(ii) The basis for determining the valuation for personal services and property must be documented.

§ 600.314 Program income.

(a) DOE must apply the standards in this section to the disposition of program income from projects financed in whole or in part with Federal funds.

(b) Unless program regulations or the terms and conditions of the award provide otherwise, recipients, without any further accounting to DOE, may retain program income earned:

(1) From license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award.

(2) After the end of the project period.

(c) Unless program regulations or the terms and conditions of the award provide otherwise, costs incident to the generation of program income for which there is some obligation to the Government may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(d) Other than any program income excluded pursuant to paragraph (b) and (c) of this section, program income earned during the project period must be retained by the recipient and used in one or more of the following ways, as specified in program regulations or the terms and conditions of the award:

(1) Added to funds committed to the project by DOE and recipient and used to further eligible project or program objectives.

(2) Used to finance the non-Federal share of the project or program.

(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

(e) If the program regulation or terms and conditions of an award authorize the disposition of program income as described in paragraph (d)(1) or (d)(2) of this section, and stipulate a limit on the amounts that may be used in those ways, program income in excess of the stipulated limits must be used in accordance with paragraph (d)(3) of this section.

(f) In the event that the program regulation or terms and conditions of the award do not specify how program income is to be used, paragraph (d)(3) of this section applies automatically to all projects or programs except research. For awards that support basic or applied research, paragraph (d)(1) of this section applies automatically unless the terms and conditions specify another alternative or the recipient is subject to special award conditions, as indicated in § 600.304.

(g) Proceeds from the sale of property that is acquired, rather than fabricated, under an award are not program income and must be handled in accordance with the requirements of §§ 600.320 through 600.325 of this part.

§ 600.315 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. It includes the sum of the Federal and non-Federal shares when there are cost sharing requirements. The budget plan must be related to performance for program evaluation purposes, whenever appropriate.

(b) The recipient must obtain the contracting officer's prior approval if a revision is necessary for either of the following two reasons:

(1) A change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) A need for additional Federal funding.

(c) The recipient must obtain the contracting officer's prior approval if a revision is necessary for any of the following six reasons, unless the requirement for prior approval is specifically waived in the program regulation or terms and conditions of the award:

(1) A change in the approved project director, principal investigator, or other

key person specified in the application or award document.

(2) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(3) The inclusion of any additional costs that require prior approval in accordance with the applicable costs principles for Federal funds and the requirements applicable to the recipient's cost share or match, as provided in § 600.313 and § 600.317, respectively.

(4) The inclusion of pre-award costs for periods greater than the 90 calendar days immediately preceding the effective date of the award.

(5) A ''no-cost'' extension of the project period.

(6) Any subaward, transfer, or contracting out of substantive program performance under an award, unless described in the application and funded in the approved awards.

(d) If specifically required in the program regulation or the terms and conditions of the award, the recipient must obtain the contracting officer's prior approval for the following revisions:

(1) The transfer of funds among direct cost categories, functions, and activities for awards in which the Federal share of the project exceeds $100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by DOE.

(2) For awards that provide support for both construction and nonconstruction work, any fund or budget transfers between the two types of work supported.

(e) Within 30 calendar days from the date of receipt of the recipient's request for budget revisions, the contracting officer must review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the contracting officer must inform the recipient in writing of the date when the recipient may expect the decision.

§ 600.316 Audits.

(a) Any recipient that expends $500,000 or more in a year under Federal awards must have an audit made for that year by an independent auditor, in accordance with paragraph (b) of this section. If a recipient is currently performing under a Federal award that requires an audit by its Federal cognizant agency, that auditor must perform the independent audit. The audit generally should be made a part of the regularly scheduled, annual audit of the recipient's financial statements. However, it may be more economical in some cases to have Federal awards separately audited, and a recipient may elect to do so, unless that option is precluded by award terms and conditions or by Federal laws or regulations applicable to the program(s) under which the awards were made.

(b) The auditor must determine and report on whether:

(1) The recipient has an internal control structure that provides reasonable assurance that it is managing Federal awards in compliance with Federal laws and regulations and the terms and conditions of the awards.

(2) Based on a sampling of Federal award expenditures, the recipient has complied with laws, regulations, and award terms that may have a direct and material effect on Federal awards.

(c) The recipient must make the auditor's report available to the DOE contracting officers whose awards are affected.

(d) Before requesting an audit in addition to the independent audit, the contracting officer must:

(1) Consider whether the independent audit satisfies his or her requirements;

(2) Limit the scope of such additional audit to areas not adequately addressed by the independent audit; and

(3) If DOE is not the Federal agency with the predominant fiscal interest in the recipient, coordinate with the agency that has the predominant fiscal interest.

(e) The recipient and its Federal cognizant agency for audit should develop a coordinated audit approach to minimize duplication of audit work.

(f) Audit costs (including a reasonable allocation of the costs of the audit of the recipient's financial statement, based on the relative benefit to the Government and the recipient) are allowable costs of DOE awards.

§ 600.317 Allowable costs.

(a) DOE determines allowability of costs in accordance with the cost principles applicable to the type of entity incurring the cost as follows:

(1) *For-profit organizations.* Allowability of costs incurred by for-profit organizations and those nonprofit organizations listed in Attachment C to OMB Circular A–122 is determined in accordance with the for-profit costs principles in 48 CFR part 31 in the Federal Acquisition Regulation, except that patent prosecution costs are not allowable unless specifically authorized in the award document.

(2) *Other types of organizations.* Allowability of costs incurred by other types of organizations that may be subrecipients under a prime award to a for-profit organization is determined as follows:

(i) *Institutions of higher education.* Allowability is determined in accordance with OMB Circular A–21, ''Cost Principles for Educational Institutions.''

(ii) *Other nonprofit organizations.* Allowability is determined in accordance with OMB Circular A–122, ''Cost Principles for Nonprofit Organizations.''

(iii) *Hospitals.* Allowability is determined in accordance with the provisions of 45 CFR part 74, Appendix E, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.''

(iv) *Governmental organizations.* Allowability for State, local, or federally recognized Indian tribal government is determined in accordance with OMB Circular A–87, ''Cost Principles for State and Local Governments.''

(b) *Pre-award costs.* If a recipient incurs pre-award costs without the prior approval of the contracting officer, DOE may pay those costs incurred within the ninety calendar day period immediately preceding the effective date of the award, if such costs are:

(1) Necessary for the effective and economical conduct of the project;

(2) Otherwise allowable in accordance with the applicable cost principles; and

(3) Less than the total value of the award.

§ 600.318 Fee and profit.

(a) Grants and cooperative agreements may not provide for the payment of fee or profit to recipients or subrecipients, except for awards made pursuant to the Small Business Innovation Research or Small Business Technology Transfer Research programs.

(b) A recipient or subrecipient may pay a fee or profit to a contractor providing goods or services under a contract.

Property Standards

§ 600.320 Purpose of property standards.

Sections 600.321 through 600.325 set forth uniform standards for management, use, and disposition of property. DOE encourages recipients to use existing property-management systems to the extent that the systems meet these minimum requirements.

§ 600.321 Real property and equipment.

(a) *Prior approvals for acquisition with Federal funds.* Recipients may purchase real property or equipment in whole or in part with Federal funds

under an award only with the prior approval of the contracting officer.

(b) *Title.* Unless a statute specifically authorizes and the award specifies that title to property vests unconditionally in the recipient, title to real property or equipment vests in the recipient subject to the conditions that the recipient:

(1) Use the real property or equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project;

(2) Not encumber the property without approval of the contracting officer; and

(3) Use and dispose of the property in accordance with paragraphs (d) and (e) of this section.

(c) *Federal interest in real property or equipment offered as cost-share.* A recipient may offer the full value of real property or equipment that is purchased with recipient's funds or that is donated by a third party to meet a portion of any required cost sharing or matching, subject to the requirements in § 600.313. If a resulting award includes such property as a portion of the recipient's cost share, the Government has a financial interest in the property, (*i.e.,* a share of the property value equal to the Federal participation in the project). The property is considered as if it had been acquired in part with Federal funds, and is subject to the provisions of paragraphs (b)(1), (b)(2), and (b)(3) of this section and to the provisions of § 600.323.

(d) *Insurance.* Recipients must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with DOE funds as provided to property owned by the recipient.

(e) *Use.* If real property or equipment is acquired in whole or in part with Federal funds under an award and the award does not specify that title vests unconditionally in the recipient, the real property or equipment is subject to the following:

(1) During the time that the real property or equipment is used on the project or program for which it was acquired, the recipient must make it available for use on other projects or programs, if such other use does not interfere with the work on the project or program for which the real property or equipment was originally acquired. Use of the real property or equipment on other projects is subject to the following order of priority:

(i) Activities sponsored by DOE grants, cooperative agreements, or other assistance awards;

(ii) Activities sponsored by other Federal agencies' grants, cooperative agreements, or other assistance awards;

(iii) Activities under Federal procurement contracts or activities not sponsored by any Federal agency. If so used, use charges must be assessed to those activities. For real property or equipment, the use charges must be at rates equivalent to those for which comparable real property or equipment may be leased.

(2) After Federal funding for the project ceases or if the real property or equipment is no longer needed for the purposes of the project, the recipient may use the real property or equipment for other projects, insofar as:

(i) There are Federally sponsored projects for which the real property or equipment may be used. If the only use for the real property or equipment is for projects that have no Federal sponsorship, the receipt must proceed with disposition of the real property or equipment, in accordance with paragraph (f) of this section.

(ii) The recipient obtains written approval from the contracting officer to do so. The contracting officer must ensure that there is a formal change of accountability for the real property or equipment to a currently funded, Federal award.

(iii) The recipient's use of the real property or equipment for other projects is in the same order of priority as described in paragraph (e)(1) of this section.

(f) *Disposition.*

(1) If an item of real property or equipment is no longer needed for Federally sponsored projects, the recipient has the following options:

(i) If the property is equipment with a current per unit fair market value of less than $5,000, it may be retained, sold, or otherwise disposed of with no further obligation to DOE.

(ii) If the property that is no longer needed is equipment (rather than real property), the recipient may wish to replace it with an item that is needed currently for the project by trading in or selling to offset the costs of the replacement equipment, subject to the approval of the contracting officer.

(iii) The recipient may elect to retain title, without further obligation to the Federal Government, by compensating the Federal Government for that percentage of the current fair market value of the real property or equipment that is attributable to the Federal participation in the project.

(iv) If the recipient does not elect to retain title to real property or equipment or does not request approval to use equipment as trade-in or offset for replacement equipment, the recipient must request disposition instructions from the responsible agency.

(2) If a recipient requests disposition instructions, the contracting officer must:

(i) For equipment (but not real property), consult with the DOE Project Director to determine whether the condition and nature of the equipment warrant excess screening within DOE. If screening is warranted, the equipment will be made available for reutilization within DOE through the Energy Asset Disposal System (EADS). If no DOE requirement is identified within a 30-day period, EADS automatically reports the availability of the equipment to the General Services Administration, to determine whether a requirement for the equipment exists in other Federal agencies.

(ii) For either real property or equipment, issue instructions to the recipient for disposition of the property no later than 120 calendar days after the recipient's request. The contracting officer's options for disposition are to direct the recipient to:

(A) Transfer title to the real property or equipment to the Federal Government or to an eligible third party provided that, in such cases, the recipient is entitled to compensation for its attributable percentage of the current fair market value of the real property or equipment, plus any reasonable shipping or interim storage costs incurred.

(B) Sell the real property or equipment and pay the Federal Government for that percentage of the current fair market value of the property that is attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sale proceeds). If the recipient is authorized or required to sell the real property or equipment, the recipient must use competitive procedures that result in the highest practicable return.

(3) If the responsible agency fails to issue disposition instructions within 120 calendar days of the recipient's request, the recipient must dispose of the real property or equipment through the option described in paragraph (f)(2)(ii)(B) of this section.

§ 600.322 Federally owned property.

(a) *Annual inventory.* The recipient must submit annually to the contracting officer an inventory listing of all Federally owned property in its custody, i.e., property furnished by the Federal Government, rather than acquired by the recipient with Federal funds under the award.

(b) *Insurance.* The recipient may not insure Federally owned property unless required by the terms and conditions of the award.

(c) *Use on other activities.* (1) Use of federally owned property on other activities is permissible, if authorized by the contracting officer responsible for administering the award to which the property currently is charged.

(2) Use on other activities must be in the following order of priority:

(i) Activities sponsored by DOE grants, cooperative agreements, or other assistance awards;

(ii) Activities sponsored by other Federal agencies' grants, cooperative agreements, or other assistance awards;

(iii) Activities under Federal procurement contracts or activities not sponsored by any Federal agency. If so used, use charges must be assessed to those activities. For real property or equipment, the use charges must be at rates equivalent to those for which comparable real property or equipment may be leased.

(d) *Disposition or property.* Upon completion of the award, the recipient must submit to the contracting officer a final inventory of Federal owned property. DOE may:

(1) Use the property to meet another Federal Government need (*e.g.,* by transferring accountability for the property to another Federal award to the same recipient, or by directing the recipient to transfer the property to a Federal agency that needs the property or to another recipient with a currently funded award).

(2) Declare the property to be excess property and either:

(i) Report the property to the General Services Administration through EADS, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)), as implemented by General Services Administration regulations at 41 CFR 101–47.202; or

(ii) Dispose of the property by alternative methods, if there is authority under law, such as 15 U.S.C. 3710(i).

§ 600.323 Property management system.

The recipient's property management system must include the following:

(a) Property records must be maintained, to include the following information for property that is Federally owned, equipment that is acquired in whole or in part with Federal funds, or property or equipment that is used as cost sharing or matching:

(1) A description of the property.

(2) Manufacturer's serial number, model number, Federal stock number, national stock number, or any other identification number.

(3) Source of the property, including the award number.

(4) Whether title vests in the recipient or the Federal Government.

(5) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(6) Information from which one can calculate the percentage of Federal participation in the cost of the property (not applicable to property furnished by the Federal Government).

(7) The location and condition of the property and the date the information was reported.

(8) Ultimate disposition data, including data of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal Government for its share.

(b) Federal owned equipment must be marked to indicate Federal ownership.

(c) A physical inventory must be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records must be investigated to determine the causes of the difference. The recipient must, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(d) A control system must be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of property must be investigated and fully documented. If the property is owned by the Federal Government, the recipient must promptly notify the Federal agency responsible for administering the property.

(e) Adequate maintenance procedures must be implemented to keep the property in good condition.

§ 600.324 Supplies.

(a) Title vests in the recipient upon acquisition of supplies acquired with Federal funds under an award.

(b) Upon termination or completion of the project or program, the recipient may retain any unused supplies. If the inventory of unused supplies exceeds $5,000 in total aggregate value and the items are not needed for any other Federally sponsored project or program, the recipient may retain the items for use on non-Federal sponsored activities or sell them, but must, in either case, compensate the Federal Government for its share.

§ 600.325 Intellectual property.

(a) *Scope.* This section sets forth the policies with regard to disposition of rights to data and to inventions conceived or first actually reduced to practice in the course of, or under, a grant or cooperative agreement with DOE.

(b) *Patents right—small business concerns.* In accordance with 35 U.S.C. 202, if the recipient is a small business concern and receives a grant, cooperative agreement, subaward, or contract for research, developmental, or demonstration activities, then, unless there are ''exceptional circumstances'' as described in 35 U.S.C. 202(e), the award must contain the standard clause in Appendix A to this subpart, entitled ''Patents Rights (Small Business Firms and Nonprofit Organizations'' which provides to the recipient the right to elect ownership of inventions made under the award.

(c) *Patent rights—other than small business concerns, e.g., large businesses.*

(1) *No Patent Waiver.* Except as provided by paragraph (c)(2) of this section, if the recipient is a for-profit organization other than a small business concern, as defined in 35 U.S.C. 201(h) and receives an award or a subaward for research, development, and demonstration activities, then, pursuant to statute, the award must contain the standard clause in Appendix A to this subpart, entitled ''Patent Rights (Large Business Firms)—No Waiver'' which provides that DOE owns the patent rights to inventions made under the award.

(2) *Patent Waiver Granted.* Paragraph (c)(1) of this section does not apply if:

(i) DOE grants a class waiver for a particular program under 10 CFR part 784;

(ii) The applicant requests and receives an advance patent waiver under 10 CFR part 784; or

(iii) A subaward is covered by a waiver granted under the prime award.

(3) *Special Provision.* Normally, an award will not include a background patent and data provision. However, under special circumstances, in order to provide heightened assurance of commercialization, a provision providing for a right to require licensing of third parties to background inventions, limited rights data and/or restricted computer software, may be included. Inclusion of a background patent and/or a data provision to assure commercialization will be done only with the written concurrence of the DOE program official setting forth the need for such assurance. An award may include the right to license the Government and third party contractors for special Government purposes when future availability of the technology would also benefit the government, *e.g.,*

clean-up of DOE facilities. The scope of any such background patent and/or data licensing provision is subject to negotiation.

(d) *Rights in data—general rule.*

(1) Subject to paragraphs (d)(2) and (3) of this section, and except as otherwise provided by paragraphs (e) and (f) of this section or other law, any award under this subpart must contain the standard clause in Appendix A to this subpart, entitled ''Rights in Data—General''.

(2) Normally, an award will not require the delivery of limited rights data or restricted computer software. However, if the contracting officer, in consultation with DOE patent counsel and the DOE program official, determines that delivery of limited rights data or restricted computer software is necessary, the contracting officer, after negotiation with the applicant, may insert in the award the standard clause as modified by Alternates I and/or II set forth in Appendix A to this subpart.

(3) If software is specified for delivery to DOE, or if other special circumstances exist, *e.g.,* DOE specifying ''open-source'' treatment of software, then the contracting officer, after negotiation with the recipient, may include in the award special provisions requiring the recipient to obtain written approval of the contracting officer prior to asserting copyright in the software, modifying the retained Government license, and/or otherwise altering the copyright provisions.

(e) *Rights in data—programs covered under special protected data statutes.*

(1) If a statute, other than those providing for the Small Business Innovation Research (SBIR) and Small Business Technology Transfer Research (STTR) programs, provides for a period of time, typically up to five years, during which data produced under an award for research, development, and demonstration may be protected from public disclosure, then the contracting officer must insert in the award the standard clause in Appendix A to this subpart entitled ''Rights in Data—Programs Covered Under Special Protected Data Statutes'' or, as determined in consultation with DOE patent counsel and the DOE program official, a modified version of such clause which may identify data or categories of data that the recipient must make available to the public.

(2) An award under paragraph (e)(1) of this section is subject to the provisions of paragraphs (d)(2) and (3) of this section.

(f) *Rights in data—SBIR/STTR programs.* (1) If an applicant receives an award under the SBIR or STTR program, then the contracting officer must insert in the award the standard data clause in the General Terms and Conditions for SBIR Grants, entitled ''Rights in Data—SBIR Program''.

(2) The data rights provisions for SBIR/STTR grants are contained in the award terms and conditions for SBIR grants located at *http://e-center.doe.gov* on the Professionals Homepage under Financial Assistance, Regulations and Guidance.

(g) *Authorization and consent.* (1) Work performed by a recipient under a grant is not subject to authorization and consent to the use of a patented invention, and the Government assumes no liability for patent infringement by the recipient under 28 U.S.C. 1498.

(2) Work performed by a recipient under a cooperative agreement is subject to authorization and consent to the use of a patented invention consistent with the principles set forth in 48 CFR 27.201–1.

(3) The contracting officer, in consultation with patent counsel, may also include clauses in the cooperative agreement addressing other patent matters related to authorization and consent, such as patent indemnification of the Government by recipient and notice and assistance regarding patent and copyright infringement. The policies and clauses for these other patent matters will be the same or consistent with those in 48 CFR part 927.

Procurement Standards

§ 600.330 Purpose of procurement standards.

Section 600.331 sets forth requirements necessary to ensure:

(a) Recipients' procurements that use Federal funds comply with applicable Federal statutes, regulations, and executive orders.

(b) Proper stewardship of Federal funds used in recipients' procurements.

§ 600.331 Requirements.

The following requirements pertain to recipients' procurements funded in whole or in part with Federal funds or with recipients' cost-share or match:

(a) *Reasonable cost.* Recipients' procurement procedures must use best commercial practices to ensure reasonable cost for procured goods and services. Recipients are encouraged to buy commercial items, if practicable.

(b) *Pre-award review of certain procurements.* If the contracting officer determines that there is a compelling need to perform a pre-award review of a specific transaction and the terms of the award identify the specific transaction and provide for such a review, then the recipient must obtain the contracting officer's approval prior to awarding the transaction and must provide the contracting officer the following documents to review:

(1) Request for proposals or invitation to bid, if any;

(2) Cost estimate;

(3) Proposal/bid;

(4) Proposed award document; and

(5) Summary of negotiations or justification for award.

(c) *Contract provisions.* (1) Contracts in excess of the simplified acquisition threshold must contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(2) All contracts in excess of the simplified acquisition threshold must contain suitable provisions for termination for default by the recipient and for termination due to circumstances beyond the control of the contractor.

(3) All negotiated contracts in excess of the simplified acquisition threshold must include a provision permitting access of DOE, the Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the contractor that are directly pertinent to a specific programs, for the purpose of making audits, examinations, excerpts, transcriptions, and copies of such documents.

(4) All contracts, including those for amounts less than the simplified acquisition threshold, awarded by recipients and their contractors must contain the procurement provisions of Appendix B to this subpart, as applicable.

(d) *Recipient responsibilities.* The recipient is the responsible authority, without recourse to DOE, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. The recipient should refer matters concerning violations of statutes to such Federal, State or local authority as may have proper jurisdiction.

Reports and Records

§ 600.340 Purpose of reports and records.

Sections 600.341 and 600.342 prescribe requirements for monitoring

and reporting financial and program performance and for records retention.

§ 600.341 Monitoring and reporting program and financial performance.

(a) The terms and conditions of the award prescribe the reporting requirements, the frequency, and the due dates for reports. At a minimum, requirements must include:

(1) Periodic progress reports (at least annually, but no more frequently than quarterly) addressing both program status and business status, as follows:

(i) The program portions of the reports must address progress toward achieving program performance goals and milestones, including current issues, problems, or developments.

(ii) The business portions of the reports must provide summarized details on the status of resources (Federal funds and non-Federal cost sharing or matching), including an accounting of expenditures for the period covered by the report. The report should compare the resource status with any payment and expenditure schedules or plans provided in the original award, explain any major deviations from those schedules, and discuss actions that will be taken to address the deviations.

(2) A final technical report if the award is for research and development.

(b) If the contracting officer previously authorized advance payments, pursuant to § 600.312(a)(2), he/she should consult with the DOE project director and consider whether program progress reported in the periodic progress report, in relation to reported expenditures, is sufficient to justify continued authorization of advance payments.

§ 600.342 Retention and access requirements for records.

(a) This section sets forth requirements for records retention and access to records for awards to recipients and subrecipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award must be retained for a period of three years from the date of submission of the final expenditure report. The only exceptions are the following.

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

(3) If records are transferred to or maintained by DOE, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocation plans, and related records must be retained in accordance with the requirements specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by the contracting officer.

(d) The contracting officer may request that recipients transfer certain records to DOE custody if he or she determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, a contracting officer may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) DOE, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but must last as long as records are retained.

(f) Unless required by statute, DOE must not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when DOE can demonstrate that such records would be kept confidential and would be exempt from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records belonged to DOE.

(g) Indirect cost proposals, cost allocation plans, and other cost accounting documents (such as documents related to computer usage chargeback rates), along with their supporting records, must be retained for a 3-year period, as follows:

(1) If the recipient or the subrecipient is required to submit an indirect-cost proposal, cost allocation plan, or other computation to the cognizant Federal agency for purposes of negotiating an indirect cost rate or other rates, the 3-year retention period starts on the date of the submission.

(2) If the recipient or the subrecipient is not required to submit the documents or supporting records for negotiating an indirect cost rate or other rates, the 3-year retention period for the documents and records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(h) If the information described in this section is maintained on a computer, recipients must retain the computer data on a reliable medium for the time periods prescribed. Recipients may transfer computer data in machine readable form from one reliable computer medium to another. Recipients' computer data retention and transfer procedures must maintain the integrity, reliability, and security of the original computer data. Recipients must also maintain an audit trail describing the data transfer. For the record retention time periods prescribed in this section, recipients must not destroy, discard, delete, or write over such computer data.

Termination and Enforcement

§ 600.350 Purpose of termination and enforcement.

Sections 600.351 through 600.353 set forth uniform procedures for suspension, termination, enforcement, and disputes.

§ 600.351 Termination.

(a) Awards may be terminated in whole or in part only in accordance with one of the following:

(1) By the contracting officer, if a recipient materially fails to comply with the terms and conditions of an award.

(2) By the contracting officer with the consent of the recipient, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) By the recipient upon sending to the contracting officer written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. The recipient must provide such notice at least 30 calendar days prior to the effective date of the termination. However, if the contracting officer determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, he or she may terminate the award in its entirety.

(b) If the recipient incurred allowable costs prior to the termination, the responsibilities of the recipient referred to in § 600.361(b), including those related to property, apply to the termination of the award, and provision must be made for continuing

responsibilities of the recipient after termination, as appropriate.

§ 600.352 Enforcement.

(a) *Remedies for noncompliance.* If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the contracting officer may, in addition to imposing any of the special conditions outlined in § 600.304, take one or more of the following actions, as appropriate:

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by the contracting officer.

(2) Disallow (that is, deny both the use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Apply other remedies that may be legally available.

(b) *Hearings and appeals.* In taking an enforcement action, DOE must provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved.

(c) *Effects of suspension and termination.* Costs resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable, unless the contracting officer expressly authorizes them in the notice of suspension or termination or subsequently authorizes such costs. Other recipient costs during suspension or after termination, which are necessary and not reasonably avoidable, are allowable if the costs:

(1) Result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable; and

(2) Would be allowable if the award expired normally at the end of the funding period.

(d) *Relationship to debarment and suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under 10 CFR part 1036.

§ 600.353 Disputes and appeals.

Consistent with 10 CFR 600.22 and part 1024, recipients have the right to appeal certain decisions by contracting officers.

After-the-Award Requirements

§ 600.360 Purpose.

Sections 600.361 through 600.363 contain procedures for closeout and for subsequent disallowances and adjustments.

§ 600.361 Closeout procedures.

(a) Recipients must submit, within 90 calendar days after the date of completion of the award, all reports required by the terms and conditions of the award. DOE may approve extensions when requested by the recipient.

(b) The following provisions must apply to the closeout:

(1) Unless DOE authorizes an extension, a recipient must liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion of the award as specified in the terms and conditions of the award or in agency implementing instructions.

(2) DOE must make prompt, final payments to a recipient for allowable reimbursable costs under the award being closed out.

(3) The recipient must promptly refund any unobligated balances of cash that DOE has advanced or paid and that are not authorized to be retained by the recipient for use in other projects. OMB Circular A–129 governs unreturned amounts that become delinquent debts.

(4) When authorized by the terms and conditions of the award, the contracting officer must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(5) The recipient must account for any real property and equipment acquired with Federal funds or received from the Federal Government in accordance with §§ 600.321 through 600.325.

(6) If a final audit is required and has not been performed prior to the closeout of an award, DOE retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 600.362 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following:

(1) The right of DOE to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in § 600.316.

(4) Property management requirements in §§ 600.321 through 600.325.

(5) Records retention requirements in § 600.342.

(b) After closeout of an award, the continuing responsibilities under an award may be modified or ended in whole or in part with the consent of the contracting officer and the recipient, provided property management requirements are considered and provisions made for the continuing responsibilities of the recipient, as appropriate.

§ 600.363 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within 30 days after the demand for payment, DOE may reduce the debt in accordance with the procedures and techniques described in 10 CFR part 1015 and OMB Circular A–129, including:

(1) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due to the recipient.

(3) Taking other action permitted by statute or regulation.

(b) Except as otherwise provided by law, DOE may charge interest and administrative fees on an overdue debt in accordance with 31 CFR Chapter IX, parts 900–904, ''Federal Claims Collection Standards.''

Additional Provisions

§ 600.380 Purpose.

The purpose of ''Additional Provisions'' is to provide alternative requirements for recipients otherwise covered by this subpart D, when they are performing under Small Business Innovation Research grants.

§ 600.381 Special provisions for Small Business Innovation Research Grants.

(a) *General.* This section contains provisions applicable to the Small Business Innovation Reserach (SBIR) Program.

(b) *Provisions Applicable to Phase I SBIR Awards:* Phase I SBIR awards may be made on a fixed obligation basis, subject to the following requirements.

(1) While proposed costs must be analyzed in detail to ensure consistency with applicable cost principles, incurred costs are not subject to review under the standards of cost allowability.

(2) Although detailed budgets are submitted by a recipient and reviewed by DOE for purposes of establishing the

amount to be awarded, budget categories are not stipulated in making an award;

(3) Prior approval from the DOE for rebudgeting among categories by the recipient is not required. Prior approval from DOE is required for any variation from the requirement that no more than one-third of Phase I work can be done by subcontractors or consortium partners;

(4) Pre-award expenditure approval is not required;

(5) Payments are to be made in the same manner as other financial assistance (*see* § 600.312), except that, when determined appropriate by the cognizant program official and contracting officer, a lump sum payment may be made. If a lump sum payment is made, the award must contain a condition that requires the recipient to return to DOE amounts remaining unexpended at the end of the project if those amounts exceed $500;

(6) Recipients will certify in writing to the Contracting Officer at the end of the project that the activity was completed or the level of effort was expended. Should the activity or effort not be carried out, the recipeint would be expected to make appropriate reimbursements;

(7) Requirements for periodic reports may be established for each award so long as they are consistent with § 600.341;

(8) Changes in principal investigator or project leader, scope of effort, or institution, require the prior approval of DOE.

(c) *Provision Applicable to Phase II SBIR Awards.* Phase II SBIR awards may be made for a single budget period of 24 months.

(d) *Provisions Applicable to Phase I and Phase II SBIR Awards.*

(1) The prior approval of the cognizant DOE Contracting Officer is required before the final budget period of the project period may be extended without additional funds.

(2) A fee or profit may be paid to SBIR recipients.

Appendix A to Subpart D to Part 600—Patent and Data Provisions

1. Patent Rights (Small Business Firms and Nonprofit Organizations)
2. Patent Rights (Large Business Firms)—No Waiver
3. Rights in Data—General
4. Rights in Data—Programs Covered Under Special Protected Data Statutes

Patent Rights (Small Business Firms and Nonprofit Organizations)

(a) Definitions

Invention means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*).

Made when used in relation to any invention means the conception or first actual reduction to practice of such invention.

Nonprofit organization means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

Practical application means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

Small business firm means a small business concern as defined at section 2 of Public Law 85–536 (16 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3 through 121.8 and 13 CFR 121.3 through 121.12, respectively, will be used.

Subject invention means any invention of the Recipient conceived or first actually reduced to practice in the performance of work under this award, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d) must also occur during the period of award performance.

(b) Allocation of Principal Rights

The Recipient may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this Patent Rights clause and 35 U.S.C. 203. With respect to any subject invention in which the Recipient retains title, the Federal Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the U.S. the subject invention throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Applications by Recipient

(1) The Recipient will disclose each subject invention to DOE within two months after the inventor discloses it in writing to Recipient personnel responsible for the administration of patent matters. The disclosure to DOE shall be in the form of a written report and shall identify the award under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to DOE, the Recipient will promptly notify DOE of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Recipient.

(2) The Recipient will elect in writing whether or not to retain title to any such invention by notifying DOE within two years of disclosure to DOE. However, in any case where publication, on sale, or public use has initiated the one-year statutory period wherein valid patent protection can still be obtained in the U.S., the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Recipient will file its initial patent application on an invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the U.S. after a publication, on sale, or public use. The Recipient will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application, or six months from the date when permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications when such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to DOE, election, and filing under subparagraphs (c)(1), (2), and (3) of this clause may, at the discretion of DOE, be granted.

(d) Conditions When the Government May Obtain Title

The Recipient will convey to DOE, upon written request, title to any subject invention:

(1) If the Recipient fails to disclose or elect the subject invention within the times specified in paragraph (c) of this patent rights clause, or elects not to retain title; provided that DOE may only request title within 60 days after learning of the failure of the Recipient to disclose or elect within the specified times;

(2) In those countries in which the Recipient fails to file patent applications within the times specified in paragraph (c) of this Patent Rights clause; provided, however, that if the Recipient has filed a patent application in a country after the times specified in paragraph (c) of this Patent Rights clause, but prior to its receipt of the written request of DOE, the Recipient shall continue to retain title in that country; or

(3) In any country in which the Recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in a reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum Rights to Recipient and Protection of the Recipient Right To File

(1) The Recipient will retain a non-exclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Recipient fails to disclose the subject invention within the times specified in paragraph (c) of this Patent Rights clause. The Recipient's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope of the extent the Recipient was legally obligated to do so at the time the award was awarded. The license is transferable only with the approval of DOE except when transferred to the successor of that part of the Recipient's business to which the invention pertains.

(2) The Recipient's domestic license may be revoked or modified by DOE to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and the agency's licensing regulation, if any. This license will not be revoked in that field of use or the geographical areas in which the Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at discretion of the funding Federal agency to the extent the Recipient, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the funding Federal agency will furnish the Recipient a written notice of its intention to revoke or modify the license, and the Recipient will be allowed thirty days (or such other time as may be authorized by DOE for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and the agency's licensing regulations, if any, concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(f) Recipient Action To Protect Government's Interest

(1) The Recipient agrees to execute or to have executed and promptly deliver to DOE all instruments necessary to:

(i) Establish or confirm the rights the Government has throughout the world in those subject inventions for which the Recipient retains title; and

(ii) Convey title to DOE when requested under paragraph (d) of this Patent Rights clause, and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The Recipient agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Recipient each subject invention made under this award in order that the Recipient can comply with the disclosure provisions of paragraph (c) of this Patent Rights clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. The disclosure format should require, as a minimum, the information requested by paragraph (c)(1) of this Patent Rights clause. The Recipient shall instruct such employees through the employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Recipient will notify DOE of any decision not to continue prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The Recipient agrees to include, within the specification of any U.S. patent application and any patent issuing thereon covering a subject invention, the following statement: ''This invention was made with Government support under (identify the award) awarded by (identify DOE). The Government has certain rights in this invention.''

(g) Subaward/Contract

(1) The Recipient will include this Patent Rights clause, suitably modified to identify the parties, in all subawards/contracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or nonprofit organization. The subrecipient/contractor will retain all rights provided for the Recipient in this Patent Rights clause, and the Recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractors' subject inventions.

(2) The Recipient will include in all other subawards/contracts, regardless of tier, for experimental, developmental or research work, the patent rights clause required by 10 CFR 600.325(c).

(3) In the case of subawards/contracts at any tier, DOE, the Recipient, and the subrecipient/contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subrecipient/contractor and DOE with respect to those matters covered by the clause.

(h) Reporting on Utilization of Subject Inventions

The Recipient agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Recipient and such other data and information as DOE may reasonably specify. The Recipient also agrees to provide additional reports in connection with any march-in proceeding undertaken by DOE in accordance with paragraph (j) of this Patent Rights clause. As required by 35 U.S.C. 202(c)(5), DOE agrees it will not disclose such information to persons outside the Government without the permission of the Recipient.

(i) Preference for United States Industry.

Notwithstanding any other provision of this Patent Rights clause, the Recipient agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the U.S. unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the U.S. However, in individual cases, the requirement for such an agreement may be waived by DOE upon a showing by the Recipient or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the U.S. or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in-Rights

The Recipient agrees that with respect to any subject invention in which it has acquired title, DOE has the right in accordance with procedures at 37 CFR 401.6 and any supplemental regulations of the Agency to require the Recipient, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances and if the Recipient, assignee, or exclusive licensee refuses such a request, DOE has the right to grant such a license itself if DOE determines that:

(1) Such action is necessary because the Recipient or assignee has not taken or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Recipient, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Recipient, assignee, or licensee; or

(4) Such action is necessary because the agreement required by paragraph (i) of this Patent Rights clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the U.S. is in breach of such agreement.

(k) Special Provisions for Awards With Nonprofit Organizations

If the Recipient is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the U.S. may not be assigned without the approval of DOE, except where such assignment is made

to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the Recipient;

(2) The Recipient will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when DOE deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the Recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific or engineering research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that it will give preference to a small business firm if the Recipient determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided that the Recipient is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Recipient. However, the Recipient agrees that the Secretary of Commerce may review the Recipient's licensing program and decisions regarding small business applicants, and the Recipient will negotiate changes to its licensing policies, procedures or practices with the Secretary when the Secretary's review discloses that the Recipient could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4).

(l) Communications

All communications required by this Patent Rights clause should be sent to the DOE Patent Counsel address listed in the Award Document.

(m) Electronic Filing

Unless otherwise Specified in the award, the information identified in paragraphs (f)(2) and (f)(3) may be electronically filed.

[End of clause]

Patent Rights (Large Business Firms)—No Waiver

(a) Definitions

DOE patent waiver regulations, as used in this clause, means the Department of Energy patent waiver regulations in effect on the date of award. See 10 CFR part 784.

Invention, as used in this clause, means any invention or discovery which is or may be patentable of otherwise protectable under title 35 of the United States Code or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, *et seq.*).

Patent Counsel, as used in this clause, means the Department of Energy Patent Counsel assisting the awarding activity.

Subject invention, as used in this clause, means any invention of the Recipient conceived or first actually reduced to practice in the course of or under this agreement.

(b) Allocations of Principal Rights

(1) Assignment to the Government. The Recipient agrees to assign to the Government the entire right, title, and interest throughout the world in and to each subject invention, except to the extent that rights are retained by the Recipient under subparagraph (b)(2) and paragraph (d) of this clause.

(2) Greater rights determinations. The Recipient, or an employee-inventor after consultation with the Recipient, may request greater rights than the nonexclusive license an the foreign patent rights provided in paragraph (d) of this clause on identified inventions in accordance with the DOE patent waiver regulation. Each determination of greater rights under this agreement shall be subject to paragraph (c) of this clause, unless otherwise provided in the greater rights determination, and to the reservations and conditions deemed to be appropriate by the Secretary of Energy or designee.

(c) Minimum Rights Acquired by the Government

With respect to each subject invention to which the Department of Energy grants the Recipient principal or exclusive rights, the Recipient agrees to grant to the Government: A nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced each subject invention throughout the world by or on behalf of the Government of the United States (including any Government agency); ''march-in rights'' as set forth in 37 CFR 401.14(a)(J)); preference for U.S. industry as set forth in 37 CFR 401.14(a)(I); periodic reports upon request, no more frequently than annually, on the utilization or intent of utilization of a subject invention in a manner consistent with 35 U.S.C. 202(c)(50; and such Government rights in any instrument transferring rights in a subject invention.

(d) Minimum Rights to the Recipient

(1) The Recipient is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government obtains title, unless the Recipient fails to disclose the subject invention within the times specified in subparagraph (e)(2) of this clause. The Recipient's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Recipient is a part and includes the right to grant sublicenses of the same scope to the extent the Recipient was legally obligated to do so at the time the agreement was awarded. The license is transferable only with the approval of DOE except when transferred to the successor of that part of the Recipient's business to which the invention pertains.

(2) The Recipient may request the right to acquire patent rights to a subject invention in any foreign country where the Government has elected not to secure such rights, subject to the minimum rights acquired by the Government similar to paragraph (c) of this clause. Such request must be made in writhing to the Patent Counsel as part of the disclosure required by subparagraph (e)(2) of this clause, with a copy to the DOE Contracting Officer. DOE approval, if given, will be based on a determination that this would best serve the national interest.

(e) Invention Identification, Disclosures, and Reports

(1) The Recipient shall establish and maintain active and effective procedures to assure that subject inventions are promptly identified and disclosed to Recipient personnel responsible for patent matters within 6 months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this agreement. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of subject inventions, and records that show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Recipient shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Recipient shall disclose each subject invention to the DOE Patent Counsel with a copy to the Contracting Officer within 2 months after the inventor discloses it in writing to Recipient personnel responsible for patent matters or, if earlier, within 6 months after the Recipient becomes aware that a subject invention has been made, but in any event before any on sale, public use, or publication of such invention known to the Recipient. The disclosure to DOE shall be in the form of a written report and shall identify the agreement under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale, or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to DOE, the Recipient shall promptly notify Patent Counsel of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Recipient. The report should also include any request for a greater rights determination in accordance with subparagraph (b)(2) of this clause. When an invention is disclosed to DOE under this paragraph, it shall be deemed to have been made in the manner specified in Sections (a)(1) and (a)(2) of 42 U.S.C. 5908, unless the Recipient contends in writing at the time the invention is disclosed that it was not so made.

(3) The Recipient shall furnish the Contracting Officer a final report, within 3 months after completion of the work listing all subject inventions or containing a statement that there were no such inventions,

and listing all subawards/contracts at any tier containing a patent rights clause or containing a statement that there were no such subawards/contracts.

(4) The Recipient agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Recipient each subject invention made under subaward/contract in order that the Recipient can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by subparagraph (e)(2) of this clause.

(5) The Recipient agrees, subject to FAR 27.302(j), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) Examination of Records Relating to Inventions

(1) The Contracting Officer or any authorized representative shall, until 3 years after final payment under this agreement, have the right to examine any books (including laboratory notebooks), records, and documents of the Recipient relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this agreement to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Recipient has established and maintains the procedures required by subparagraphs (e)(1) and (4) of this clause;

(iii) The Recipient and its inventors have complied with the procedures.

(2) If the Contracting Officer learns of an unreported Recipient invention which the Contracting Officer believes may be a subject invention, the Recipient may be required to disclose the invention to DOE for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) Subaward/Contract

(1) The recipient shall include the clause PATENT RIGHTS (SMALL BUSINESS FIRMS AND NONPROFIT ORGANIZATIONS) (suitably modified to identify the parties) in all subawards/contracts, regardless of tier, for experimental, developmental, demonstration, or research work to be performed by a small business firm or domestic nonprofit organization, except where the work of the subaward/contract is subject to an Exceptional Circumstances Determination by DOE. In all other subawards/contracts, regardless of tier, for experimental, developmental, demonstration, or research work, the Recipient shall include this clause (suitably modified to identify the parties), or an alternate clause as directed by the contracting officer. The Recipient shall not, as part of the consideration for awarding the subaward/contract, obtain rights in the subrecipient's/contractor's subject inventions.

(2) In the event of a refusal by a prospective subrecipient/contractor to accept such a clause the Recipient:

(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subrecipient/contractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subaward/contract without the written authorization of the Contracting Officer.

(3) In the case of subawards/contracts at any tier, DOE, the subrecipient/contractor, and Recipient agree that the mutual obligations of the parties created by this clause constitute a contract between the subrecipient/contractor and DOE with respect to those matters covered by this clause.

(4) The Recipient shall promptly notify the Contracting Officer in writing upon the award of any subaward/contract at any tier containing a patent rights clause by identifying the subrecipient/contractor, the applicable patent rights clause, the work to be performed under the subaward/contract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Recipient shall furnish a copy of such subaward/contract, and, no more frequently than annually, a listing of the subawards/contracts that have been awarded.

(5) The Recipient shall identify all subject inventions of a subrecipient/contractor of which it acquires knowledge in the performance of this agreement and shall notify the Patent Counsel, with a copy to the contracting officer, promptly upon identification of the inventions.

(h) Atomic Energy

(1) No claim for pecuniary award of compensation under the provisions of the Atomic Energy Act of 1954, as amended, shall be asserted with respect to any invention or discovery made or conceived in the course of or under this agreement.

(2) Except as otherwise authorized in writing by the Contracting Officer, the Recipient will obtain patent agreements to effectuate the provisions of subparagraph (h)(1) of this clause from all persons who perform any part of the work under this agreement, except nontechnical personnel, such as clerical employees and manual laborers.

(i) Publication

It is recognized that during the course of the work under this agreement, the Recipient or its employees may from time to time desire to release or publish information regarding scientific or technical developments conceived or first actually reduced to practice in the course of or under this agreement. In order that public disclosure of such information will not adversely affect the patent interests of DOE or the Recipient, patent approval for release of publication shall be secured from Patent Counsel prior to any such release or publication.

(j) Forfeiture of Rights in Unreported Subject Inventions

(1) The Recipient shall forfeit and assign to the Government, at the request of the Secretary of Energy or designee, all rights in any subject invention which the Recipient fails to report to Patent Counsel within six months after the time the Recipient:

(i) Files or causes to be filed a United States or foreign patent application thereon; or

(ii) Submits the final report required by subparagraph (e)(3) of this clause, whichever is later.

(2) However, the Recipient shall not forfeit rights in a subject invention if, within the time specified in subparagraph (e)(2) of this clause, the Recipient:

(i) Prepares a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the agreement and delivers the decision to Patent Counsel, with a copy to the Contracting Officer, or

(ii) Contending that the invention is not a subject invention, the Recipient nevertheless discloses the invention and all facts pertinent to this contention to the Patent Counsel, with a copy of the Contracting Officer; or

(iii) Establishes that the failure to disclose did not result from the Recipient's fault or negligence.

(3) Pending written assignment of the patent application and patents on a subject invention determined by the Secretary of Energy or designee to be forfeited (such determination to be a final decision under the Disputes clause of this agreement), the Recipient shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (j) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to subject inventions.

(End of clause)

Rights in Data—General

(a) Definitions

Computer Data Bases, as used in this clause, means a collection of data in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

Computer software, as used in this clause, means (i) computer programs which are data comprising a series of instructions, rules, routines or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations and (ii) data comprising source code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created or compiled. The term does not include computer data bases.

Data, as used in this clause, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include

information incidental to administration, such as financial, administrative, cost or pricing, or management information.

Form, fit, and function data, as used in this clause, means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, as well as data identifying source, size, configuration, mating, and attachment characteristics, functional characteristics, and performance requirements; except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software.

Limited rights, as used in this clause, means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of subparagraph (g)(2) if included in this clause.

Limited rights data, as used in this clause, means data (other than computer software) developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged.

Restricted computer software, as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer software; including minor modifications of such computer software.

Restricted rights, as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of subparagraph (g)(3) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

Technical data, as used in this clause, means data (other than computer software) which are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.

Unlimited rights, as used in this clause, means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) Allocations of Rights

(1) Except as provided in paragraph (c) of this clause regarding copyright, the Government shall have unlimited rights in—

(i) Data first produced in the performance of this agreement;

(ii) Form, fit, and function data delivered under this agreement;

(iii) Data delivered under this agreement (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this agreement; and

(iv) All other data delivered under this agreement unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Recipient shall have the right to—

(i) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Recipient in the performance of this agreement, unless provided otherwise in paragraph (d) of this clause;

(ii) Protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause;

(iii) Substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take over appropriate action, in accordance with paragraphs (e) and (f) of this clause; and

(iv) Establish claim to copyright subsisting in data first produced in the performance of this agreement to the extent provided in subparagraph (c)(1) of this clause.

(c) Copyright

(1) Data first produced in the performance of this agreement. Unless provided otherwise in paragraph (d) of this clause, the Recipient may establish, without prior approval of the Contracting Officer, claim to copyright subsisting in data first produced in the performance of this agreement. When claim to copyright is made, the Recipient shall affix the applicable copyright notices of 17 U.S.C. 401 or 402 and acknowledgement of Government sponsorship (including agreement number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For such copyrighted data, including computer software, the Recipient grants to the Government, and others acting on its behalf, a paid-up nonexclusive, irrevocable worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.

(2) Data not first produced in the performance of this agreement. The Recipient shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this agreement any data not first produced in the performance of this agreement and which contains the copyright notice of 17 U.S.C. 401 or 402, unless the Recipient identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (c)(1) of this clause; provided, however, that if such data are computer software the Government shall acquire a copyright license as set forth in subparagraph (g)(3) of this clause if included in this agreement or as otherwise may be provided in a collateral agreement incorporated in or made part of this agreement.

(3) Removal of copyright notices. The Government agrees not to remove any copyright notices placed on data pursuant to this paragraph (c), and to include such notices on all reproductions of the data.

(d) Release, Publication and Use of Data

(1) The Recipient shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Recipient in the performance of this agreement, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise provided in this paragraph of this clause or expressly set forth in this agreement.

(2) The Recipient agrees that to the extent it receives or is given access to data necessary for the performance of this award, which contain restrictive markings, the Recipient shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the contracting officer.

(e) Unauthorized Marking of Data

(1) Notwithstanding any other provisions of this agreement concerning inspection or acceptance, if any data delivered under this agreement are marked with the notices specified in subparagraph (g)(2) or (g)(3) of this clause and use of such is not authorized by this clause, or if such data bears any other restrictive or limiting markings not authorized by this agreement, the Contracting Officer may at any time either return the data to the Recipient or cancel or ignore the markings. However, the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer shall make written inquiry to the Recipient affording the Recipient 30 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Recipient fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 30-day period (or a longer time not exceeding 90 days approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Recipient provides written justification to substantiate the propriety of the markings within the period set in subparagraph (e)(1)(i) of this clause, the Contracting Officer shall consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Recipient shall be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer shall furnish the Recipient a written determination, which determination shall become the final agency decision regarding the appropriateness of the markings unless the Recipient files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government shall continue to abide by the markings under this subparagraph (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government shall thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure

prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in subparagraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request thereunder.

(f) Omitted or Incorrect Markings

(1) Data delivered to the Government without either the limited rights or restricted rights notice as authorized by paragraph (g) of this clause, or the copyright notice required by paragraph (c) of this clause, shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the Recipient may request, within 6 months (or a longer time approved by the Contracting Officer for good cause shown) after delivery or such data, permission to have notices placed on qualifying data at the Recipient's expense, and the Contracting Officer may agree to do so if the Recipient:

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the use of the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability with respect to the disclosure, use, or reproduction of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The Contracting Officer may also:

(i) Permit correction at the Recipient's expense of incorrect notices if the Recipient identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized, or

(ii) Correct any incorrect notices.

(g) Protection of Limited Rights Data and Restricted Computer Software

When data other than that listed in subparagraphs (b)(1)(i), (ii), and (iii) of this clause are specified to be delivered under this agreement and qualify as either limited rights data or restricted computer software, if the Recipient desires to continue protection of such data, the Recipient shall withhold such data and not furnish them to the Government under this agreement. As a condition to this withholding, the Recipient shall identify the data being withheld and furnish form, fit, and function data in lieu thereof. Limited rights data that are formatted as a computer data base for delivery to the Government are to be treated as limited rights data and not restricted computer software.

(h) Subaward/Contract

The Recipient has the responsibility to obtain from its subrecipients/contractors all data and rights therein necessary to fulfill the Recipient's obligations to the Government under this agreement. If a subrecipient/contractor refuses to accept terms affording the Government such rights, the Recipient shall promptly bring such refusal to the attention of the Contracting Officer and not proceed with the subaward/contract award without further authorization.

(i) Additional Data Requirements

In addition to the data specified elsewhere in this agreement to be delivered, the Contracting Officer may, at anytime during agreement performance or within a period of 3 years after acceptance of all items to be delivered under this agreement, order any data first produced or specifically used in the performance of this agreement. This clause is applicable to all data ordered under this subparagraph. Nothing contained in this subparagraph shall require the Recipient to deliver any data the withholding of which is authorized by this clause, or data which are specifically identified in this agreement as not subject to this clause. When data are to be delivered under this subparagraph, the Recipient will be compensated for converting the data into the prescribed form, for reproduction, and for delivery.

(j) The recipient agrees, except as may be otherwise specified in this award for specific data items listed as not subject to this paragraph, that the Contracting Officer or an authorized representative may, up to three years after acceptance of all items to be delivered under this award, inspect at the Recipient's facility any data withheld pursuant to paragraph (g) of this clause, for purposes of verifying the Recipient's assertion pertaining to the limited rights or restricted rights status of the data or for evaluating work performance. Where the Recipient whose data are to be inspected demonstrates to the Contracting Officer that there would be a possible conflict of interest if the inspection were made by a particular representative, the Contracting Officer shall designate an alternate inspector.

As prescribed in 600.325(d)(1), the following Alternate I and/or II may be inserted in the clause in the award instrument.

Alternate I:

(g)(2) Notwithstanding subparagraph (g)(1) of this clause, the agreement may identify and specify the delivery of limited rights data, or the Contracting Officer may require by written request the delivery of limited rights data that has been withheld or would otherwise be withholdable. If delivery of such data is so required, the Recipient may affix the following ''Limited Rights Notice'' to the data and the Government will thereafter treat the data, in accordance with such Notice:

LIMITED RIGHTS NOTICE

(a) These data are submitted with limited rights under Government agreement No. _____ (and subaward/contract No. _____, if appropriate). These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of the Recipient, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, if any, provided that the Government makes such disclosure subject to prohibition against further use and disclosure:

(1) Use (except for manufacture) by Federal support services contractors within the scope of their contracts;

(2) This ''limited rights data'' may be disclosed for evaluation purposes under the restriction that the ''limited rights data'' be retained in confidence and not be further disclosed;

(3) This ''limited rights data'' may be disclosed to other contractors participating in the Government's program of which this Recipient is a part for information or use (except for manufacture) in connection with the work performed under their awards and under the restriction that the ''limited rights data'' be retained in confidence and not be further disclosed;

(4) This ''limited rights data'' may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the ''limited rights data'' be retained in confidence and not be further disclosed; and

(5) Release to a foreign government, or instrumentality thereof, as the interests of the United States Government may require, for information or evaluation, or for emergency repair or overhaul work by such government. This Notice shall be marked on any reproduction of this data in whole or in part.

(b) This Notice shall be marked on any reproduction of these data, in whole or in part.

(End of notice)

Alternate II:

(g)(3)(i) Notwithstanding subparagraph (g)(1) of this clause, the agreement may identify and specify the delivery of restricted computer software, or the Contracting Officer may require by written request the delivery of restricted computer software that has been withheld or would otherwise be withholdable. If delivery of such computer software is so required, the Recipient may affix the following ''Restricted Rights Notice'' to the computer software and the Government will thereafter treat the computer software, subject to paragraphs (e) and (f) of this clause, in accordance with the Notice.

RESTRICTED RIGHTS NOTICE

(a) This computer software is submitted with restricted rights under Government Agreement No. _____ (and subaward/contract _____, if appropriate). It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this Notice or as otherwise expressly stated in the agreement.

(b) This computer software may be—

(1) Used or copies for use in or with the computer or computers for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(2) Used or copied for use in a backup computer if any computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archiv3es) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software are made subject to the same restricted rights;

(5) Disclosed to and reproduced for use by support service Recipients in accordance with subparagraph (b)(1) through (4) of this

clause, provided the Government makes such disclosure or reproduction subject to these restricted rights; and

(6) Used or copied for use in or transferred to a replacement computer.

(c) Notwithstanding the foregoing, if this computer software is published copyrighted computer software, it is licensed to the Government, without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause.

(d) Any other rights or limitations regarding the use, duplication, or disclosure of this computer software are to be expressly stated, in, or incorporated in, the agreement.

(e) This Notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of notice)

(ii) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form Notice may be used in lieu thereof:

RESTRICTED RIGHTS NOTICE

Use, reproduction, or disclosure is subject to restrictions set forth in agreement No. _____ (and subaward/contract _____, If appropriate) with _____ (name of Recipient and subrecipient/contractor).

(End of notice)

(iii) If restricted computer software is delivered with the copyright notice of 17 U.S.C. 401, it will be presumed to be published copyrighted computer software licensed to the government without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause, unless the Recipient includes the following statement with such copyright notice: ''Unpublished—rights reserved under the Copyright Laws of the United States.''

(End of clause)

Rights in Data—Programs Covered Under Special Data Statutes

(a) Definitions

Computer Data Bases, as used in this clause, means a collection of data in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

Computer software, as used in this clause, means (i) computer programs which are data comprising a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations and (ii) data comprising source code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the computer program to be produced, created or compiled. The term does not include computer data bases.

Data, as used in this clause, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to administration, such as financial, administrative, cost or pricing or management information.

Form, fit, and function data, as used in this clause, means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability as well as data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software.

Limited rights data, as used in this clause, means data (other than computer software) developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged.

Restricted computer software, as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and confidential or privileged; or is published copyrighted computer software; including modifications of such computer software.

Protected data, as used in this clause, means technical data or commercial or financial data first produced in the performance of the award which, if it had been obtained from and first produced by a non-federal party, would be a trade secret or commercial or financial information that is privileged or confidential under the meaning of 5 U.S.C. 552(b)(4) and which data is marked as being protected data by a party to the award.

Protected rights, as used in this clause, mean the rights in protected data set forth in the Protected Rights Notice of paragraph (g) of this clause.

Technical data, as used in this clause, means that data which are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.

Unlimited rights, as used in this clause, means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) Allocation of Rights

(1) Except as provided in paragraph (c) of this clause regarding copyright, the Government shall have unlimited rights in—

(i) Data specifically identified in this agreement as data to be delivered without restriction;

(ii) Form, fit, and function data delivered under this agreement;

(iii) Data delivered under this agreement (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this agreement; and

(iv) All other data delivered under this agreement unless provided otherwise for protected data in accordance with paragraph (g) of this clause or for limited rights data or restricted computer software in accordance with paragraph (h) of this clause.

(2) The Recipient shall have the right to—

(i) Protect rights in protected data delivered under this agreement in the manner and to the extent provided in paragraph (g) of this clause;

(ii) Withhold from delivery those data which are limited rights data or restricted computer software to the extent provided in paragraph (h) of this clause;

(iii) Substantiate use of, add, or correct protected rights or copyrights notices and to take other appropriate action, in accordance with paragraph (e) of this clause; and

(iv) Establish claim to copyright subsisting in data first produced in the performance of this agreement to the extent provided in subparagraph (c)(1) of this clause.

(c) Copyright

(1) Data first produced in the performance of this agreement. Except as otherwise specifically provided in this agreement, the Recipient may establish, without the prior approval of the Contracting Officer, claim to copyright subsisting in any data first produced in the performance of this agreement. If claim to copyright is made, the Recipient shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including agreement number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For such copyrighted data, including computer software, the Recipient grants to the Government, and others acting on its behalf, a paid-up nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all such data.

(2) Data not first produced in the performance of this agreement. The Recipient shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this agreement any data that are not first produced in the performance of this agreement and that contain the copyright notice of 17 U.S.C. 401 or 402, unless the Recipient identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (c)(1) of this clause; provided, however, that if such data are computer software, the Government shall acquire a copyright license as set forth in subparagraph (h)(3) of this clause if included in this agreement or as otherwise may be provided in a collateral agreement incorporated or made a part of this agreeement.

(3) Removal of copyright notices. The Government agrees not to remove any copyright notices placed on data pursuant to this paragraph (c), and to include such notices on all reproductions of the data.

(d) Release, Publication and Use of Data

(1) The Receipt shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Recipient in the performance of this contract, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise

provided in this paragraph of this clause or expressly set forth in this contract.

(2) The Recipient agrees that to the extent it receives or is given access to data necessary for the performance of this agreement which contain restrictive markings, the Recipient shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the Contracting Officer.

(e) Unauthorized Marking of Data

(1) Notwithstanding any other provisions of this agreement concerning inspection or acceptance, if any data delivered under this agreement are marked with the notices specified in subparagraph (g)(2) or (g)(3) of this clause and use of such is not authorized by this clause, or if such data bears any other restrictive or limiting markings not authorized by this agreement, the Contracting Officer may at any time either return the data to the Recipient or cancel or ignore the markings. However, the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer shall make written inquiry to the Recipient affording the Recipient 30 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Recipient fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 30-day period (or a longer time not exceeding 90 days approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Recipient provides written justification to substantiate the propriety of the markings within the period set in subdivision (e)(1)(i) of this clause, the Contracting Officer shall consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Recipient shall be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer shall furnish the Recipient a written determination, which determination shall become the final agency decision regarding the appropriateness of the markings unless the Recipient files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government shall continue to abide by the markings under this subdivision (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination become final (in which instance the Government shall thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in subparagraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request thereunder.

(f) Omitted or Incorrect Markings

(1) Data delivered to the Government without either the limited rights or restricted rights notice as authorized by paragraph (*g*) of this clause, or the copyright notice required by paragraph (c) of this clause, shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the Recipient may request, within 6 months (or a longer time approved by the Contracting Officer for good cause shown) after delivery of such data, permission to have notices placed on qualifying data at the Recipient's expense, and the Contracting Officer may agree to do so if the Recipient—

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the use of the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability with respect to the disclosure, use, or reproduction of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The Contracting Officer may also:

(i) Permit correction at the Recipient's expense of incorrect notices if the Recipient identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(g) Rights to Protected Data

(1) The Recipient may, with the concurrence of DOE, claim and mark as protected data, any data first produced in the performance of this award that would have been treated as a trade secret if developed at private expense. Any such claimed ''protected data'' will be clearly marked with the following Protected Rights Notice, and will be treated in accordance with such Notice, subject to the provisions of paragraphs (e) and (f) of this clause.

PROTECTED RIGHTS NOTICE

These protected data were produced under agreement no. _____ with the U.S. Department of Energy and may not be published, disseminated, or disclosed to others outside the Government until (**Note:**) The period of protection of such data is fully negotiable, but cannot exceed the applicable statutorily authorized maximum), unless express written authorization is obtained from the recipient. Upon expiration of the period of protection set forth in this Notice, the Government shall have unlimited rights in this data. This Notice shall be marked on any reproduction of this data, in whole or in part.

(End of notice).

(2) Any such marked Protected Data may be disclosed under obligations of confidentiality for the following purposes:

(a) For evaluation purposes under the restriction that the ''Protected Data'' be retained in confidence and not be further disclosed; or

(b) To subcontractors or other team members performing work under the Government's (insert name of program or other applicable activity) program of which this award is a part, for information or use in connection with the work performed under their activity, and under the restriction that the Protected Data be retained in confidence and not be further disclosed.

(3) The obligations of confidentiality and restrictions on publication and dissemination shall end for any Protected Data.

(a) At the end of the protected period;

(b) If the data becomes publicly known or available from other sources without a breach of the obligation of confidentiality with respect to the Protected Data;

(c) If the same data is independently developed by someone who did not have access to the Protected Data and such data is made available without obligations of confidentiality; or

(d) If the Recipient disseminates or authorizes another to disseminate such data without obligations of confidentiality.

(4) However, the Recipient agrees that the following types of data are not considered to be protected and shall be provided to the Government when required by this award without any claim that the data are Protected Data. The parties agree that notwithstanding the following lists of types of data, nothing precludes the Government from seeking delivery of additional data in accordance with this award, or from making publicly available additional non-protected data, nor does the following list constitute any admission by the Government that technical data not on the list is Protected Data. (**Note:** It is expected that this paragraph will specify certain types of mutually agreed upon data that will be available to the public and will not be asserted by the recipient/contractor as limited rights or protected data).

(5) The Government's sole obligation with respect to any protected data shall be as set forth in this paragraph (g).

(h) Protection of Limited Rights Data

When data other than that listed in subparagraphs (b)(1)(i), (ii), and (iii) of this clause are specified to be delivered under this agreement and such data qualify as either limited rights data or restricted computer software, the Recipient, if the Recipient desires to continue protection of such data, shall withhold such data and not furnish them to the Government under this agreement. As a condition to this withholding the Recipient shall identify the data being withheld and furnish form, fit, and function data in lieu thereof.

(i) Subaward/Contract

The Recipient has the responsibility to obtain from its subrecipients/contractors all data and rights therein necessary to fulfill the Recipient's obligations to the Government under this agreement. If a subrecipient/contractor refuses to accept terms affording the Government such rights, the Recipient shall promptly bring such refusal to the attention of the Contracting Officer and not proceed with subaward/contract award without further authorization.

(j) Additional Data Requirements

In addition to the data specified elsewhere in this agreement to be delivered, the Contracting Officer may, at anytime during agreement performance or within a period of 3 years after acceptance of all items to be delivered under this agreement, order any data first produced or specifically used in the performance of this agreement. This clause is applicable to all data ordered under this subparagraph. Nothing contained in this subparagraph shall require the Recipient to deliver any data the withholding of which is authorized by this clause or data which are specifically identified in this agreement as not subject to this clause. When data are to be delivered under this subparagraph, the Recipient will be compensated for converting the data into the prescribed form, for reproduction, and for delivery.

(k) The Recipient agrees, except as may be otherwise specified in this agreement for specific data items listed as not subject to this paragraph, that the Contracting Officer or an authorized representative may, up to three years after acceptance of all items to be delivered under this contract, inspect at the Recipient's facility any data withheld pursuant to paragraph (h) of this clause, for purposes of verifying the Recipient's assertion pertaining to the limited rights or restricted rights status of the data or for evaluating work performance. Where the Recipient whose data are to be inspected demonstrates to the Contracting Officer that there would be a possible conflict of interest if the inspection were made by a particular representative, the Contracting Officer shall designate an alternate inspector.

As prescribed in 600.325(e)(2), the following Alternate I and/or II may be inserted in the clause in the award instrument.

Alternate I:

(h)(2) Notwithstanding subparagraph (h)(1) of this clause, the agreement may identify and specify the delivery of limited rights data, or the Contracting Officer may require by written request the delivery of limited rights data that has been withheld or would otherwise be withholdable. If delivery of such data is so required, the Recipient may affix the following ''Limited Rights Notice'' to the data and the Government will thereafter treat the data, in accordance with such Notice:

LIMITED RIGHTS NOTICE

(a) These data are submitted with limited rights under Government agreement No. _____ (and subaward/contract No. _____, if appropriate). These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of the Recipient, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, if any, provided that the Government makes such disclosure subject to prohibition against further use and disclosure:

(1) Use (except for manufacture) by Federal support services contractors within the scope of their contracts;

(2) This ''limited rights data'' may be disclosed for evaluation purposes under the restriction that the ''limited rights data'' be retained in confidence and not be further disclosed;

(3) This ''limited rights data'' may be disclosed to other contractors participating in the Government's program of which this Recipient is a part for information or use (except for manufacture) in connection with the work performed under their awards and under the restriction that the ''limited rights data'' be retained in confidence and not be further disclosed;

(4) This ''limited rights data'' may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the ''limited rights data'' be retained in confidence and not be further disclosed; and

(5) Release to a foreign government, or instrumentality thereof, as the interests of the United States Government may require, for information or evaluation, or for emergency repair or overhaul work by such government. This Notice shall be marked on any reproduction of this data in whole or in part.

(b) This Notice shall be marked on any reproduction of these data, in whole or in part.

(End of notice)

Alternate II:

(h)(3)(i) Notwithstanding subparagraph (h)(1) of this clause, the agreement may identify and specify the delivery of restricted computer software, or the Contracting Officer may require by written request the delivery of restricted computer software that has been withheld or would otherwise be withholdable. If delivery of such computer software is so required, the Recipient may affix the following ''Restricted Rights Notice'' to the computer software and the Government will thereafter treat the computer software, subject to paragraphs (d) and (e) of this clause, in accordance with the Notice:

RESTRICTED RIGHTS NOTICE

(a) This computer software is submitted with restricted rights under Government Agreement No. _____ (and subaward/contract _____, if appropriate). It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (c) of this Notice or as otherwise expressly stated in the agreement.

(b) This computer software may be—

(1) Used or copied for use in or with the computer or computers for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(2) Used or copies for use in a backup computer if any computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software are made subject to the same restricted rights;

(5) Disclosed to and reproduced for use by Federal support service Contractors in accordance with subparagraphs (b)(1) through (4) of this clause, provided the Government makes such disclosure or reproduction subject to these restricted rights; and

(6) Used or copies for use in or transferred to a replacement computer.

(c) Notwithstanding the foregoing, if this computer software is published copyrighted computer software, it is licensed to the Government, without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause.

(d) Any other rights or limitations regarding the use, duplication, or disclosure of this computer software are to be expressly stated in, or incorporated in, the agreement.

(e) This Notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of notice)

(ii) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form Notice may be used in lieu thereof:

RESTRICTED RIGHTS NOTICE

Use, reproduction, or disclosure is subject to restrictions set forth in Agreement No. _____ (and subaward/contract _____, if appropriate) with _____ (name of Recipient and subrecipient/contractor).

(End of notice)

(iii) If restricted computer software is delivered with the copyright notice of 17 U.S.C. 401, it will be presumed to be published copyrighted computer software licensed to the Government without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause, unless the Recipient includes the following statement with such copyright notice: ''Unpublished—rights reserved under the Copyright Laws of the United States.''

(End of clause)

Appendix B to Subpart D to Part 600—Contract Provisions

All contracts awarded by a recipient, including those for amounts less than the simplified acquisition threshold, must contain the following provisions as applicable:

1. *Equal Employment Opportunity*—All contracts must contain a provision requiring compliance with E.O. 11246 (3 CFR, 1964–1965 Comp., p. 339), ''Equal Employment Opportunity,'' as amended by E.O. 11375 (3 CFR, 1966–1970 Comp., p. 684), ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' and as supplemented by regulations at 41 CFR chapter 60, ''Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.''

2. *Copeland ''Anti-Kickback'' Act (18 U.S.C. 874 and 40 U.S.C. 276c)*—All contracts and subawards in excess of $2,000 for construction or repair awarded by recipients and subrecipients must include a provision for compliance with the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, ''Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans

or Grants from the United States''). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient must report all suspected or reported violations to the responsible DOE contracting officer.

3. *Contact Work Hours and Safety Standards Act (40 U.S.C. 327–333)*—Where applicable, all contracts awarded by recipients in excess of $100,000 for construction and other purposes that involve the employment of mechanics or laborers must include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic is required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4. *Rights to Inventions and Data Made Under a Contract or Agreement*—Contracts or agreements for the performance of experimental, development, or research work must provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 10 CFR 600.325 and Appendix A—Patent and Data Rights to Subpart D, Part 600.

5. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended*—Contracts and subawards of amounts in excess of $100,000 must contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (41 U.S.C. 7401 *et seq.*) and the Federal Water Pollution control act as amended (33 U.S.C. 1251 *et seq.*). Violations must be reported to the responsible DOE contracting officer and the Regional Office of the Environmental Protection Agency (EPA).

6. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*—Contractors who apply or bid for an award of $100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C.1352. Each tier must also disclose any lobbing with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

7.*Debarment and Suspension (E.O.s 12549 and 12689*—Contract awards that exceed the simplified acquisition threshold and certain other contract awards must not be made to parties listed on nonprocurement portion of the General Services Administration's Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs in accordance with E.O.s 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235),''Debarment and Suspension.'' This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold must provide the required certification regarding its exclusion status and that of its principals.

8. *Davis-Bacon Act (40 U.S.C. 276a)*—As a general rule, it is unlikely that the Davis-Bacon Act, which among other things requires payment of prevailing wages on projects for the construction of public works, would apply to financial assistance awards. However, the presence of certain factors (*e.g.,* requirement of particular program statues; title to a construction facility resting in the Government) might necessitate a closer analysis of the award, to determine if the Davis-Bacon Act would apply in the particular factual situation presented.

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Federal Register

Thursday,
August 21, 2003

Part IV

Department of the Treasury

Fiscal Service

31 CFR Part 210

Federal Government Participation in the Automated Clearing House; Proposed Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 210

RIN 1510–AA93

Federal Government Participation in the Automated Clearing House

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Proposed rule with request for comment.

SUMMARY: We are proposing to amend our regulation at 31 CFR part 210, which governs the use of the Automated Clearing House (ACH) system by Federal agencies (agencies). Part 210 adopts, with some exceptions, the ACH rules (ACH Rules) developed by NACHA—The Electronic Payments Association (NACHA) as the rules governing the use of the ACH system by agencies.

The proposed rule addresses the circumstances in which checks presented or delivered to agencies may be converted to ACH debit entries. The proposed rule also addresses issues relating to the reclamation of Federal benefit payments and the receipt of misdirected Federal payments. We are requesting comment on all aspects of the proposed rule.

DATES: Comments on the proposed rule must be received by October 20, 2003.

ADDRESSES: You can download the proposed rule at the following World Wide Web address: *http://www.fms.treas.gov/ach.* You may also inspect and copy the proposed rules at: Treasury Department Library, Freedom of Information Act (FOIA) Collection, Room 1428, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, DC 20220. Before visiting, you must call (202) 622–0990 for an appointment.

You may send comments on the proposed rule electronically to the following address: *210comments@fms.treas.gov.* You may also mail your comments to Stephen M. Vajs, Director, Risk Management Division, Financial Management Service, U.S. Department of the Treasury, Room 423, 401 14th Street, SW., Washington, DC 20227.

FOR FURTHER INFORMATION CONTACT: John Galligan, Program Advisor, at (202) 874–6657 or *john.galligan@fms.treas.gov;* Natalie H. Diana, Senior Counsel, at (202) 874–6680 or *natalie.diana@fms.treas.gov;* or Donald J. Skiles, Senior Financial Program Specialist, at (202) 874–6994 or *donald.skiles@fms.treas.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Part 210 governs the use of the ACH system by agencies. The ACH system is a nationwide electronic fund transfer (EFT) system that provides for the inter-bank clearing of credit and debit transactions and for the exchange of information among participating financial institutions. Part 210 incorporates the ACH Rules adopted by NACHA, with certain exceptions.

We are issuing a proposed rule to amend part 210 in order to address the circumstances in which checks presented or delivered to agencies may be converted to ACH debit entries. In addition, the proposed rule amends several provisions of part 210 that address the reclamation of Federal benefit payments issued to deceased recipients and the receipt of misdirected Federal payments. We are requesting comment on the proposed rule.

II. Summary

A. Check Conversion

On April 11, 2002, we published a final rule that amended part 210 by permitting agencies that receive checks at points-of-purchase, dropboxes and via the mail to convert those checks to ACH debit entries. 67 FR 17895. The rule modified the ACH Rules governing check conversion to provide that presentment to an agency of a completed and signed check, following notice that the check will be converted, constitutes authorization for the conversion of the check to an ACH debit entry. The rule, which permits the conversion of both consumer and business checks, requires that agencies provide standard disclosures in connection with point-of-purchase and accounts receivable check conversion.

Since we published the final rule, we have continued to develop and implement initiatives to promote check conversion. These initiatives have demonstrated that point-of-purchase and accounts receivable check conversion can result in substantial cost-savings and efficiencies for the Federal government. However, we have identified certain barriers that our current rule poses for the wider use of check conversion by agencies. We are therefore proposing several amendments to part 210 to eliminate these barriers. The proposed amendments support the continuation of the efforts of the Financial Management Service (Service) and agencies to move to an all-electronic environment for the processing of payments and collections.

1. Revised Accounts Receivable Disclosure

Currently agencies that receive checks via the mail or at a dropbox may convert those checks to debit entries if the notice set forth at Appendix C to part 210 has been provided to the check writer. A number of agencies have indicated that the standard disclosure set forth in Appendix C is too lengthy to be included on many invoices and remittance documents. We recognize that there are space constraints on agency forms, which in many cases preclude the addition of several paragraphs of disclosure. We also believe that as check conversion and the use of electronic debits become more common, there is less of a need for very detailed disclosure. At the same time, it is important that consumers understand what is happening to their checks, particularly since an individual who sends a check to an agency is deemed to have authorized its conversion to an ACH debit on the basis of having been provided with prior notice of its conversion. We are requesting comment on whether the proposed disclosure strikes the appropriate balance between the need for a shorter notice and the need to ensure that consumers understand what is happening to their checks. We are also soliciting comment on whether the wording of the proposed notice is clear and understandable.

2. Expanded Accounts Receivable Check Conversion Applications

Currently, part 210 permits agencies to originate ACH debit entries using checks received at points-of-purchase, dropboxes and via the mail. However, agencies accept or cash checks in a broad array of circumstances that fall outside typical commercial settings, *e.g.*, retail sales locations and lockboxes. We have been asked to address a number of situations in which agencies accept or cash checks in circumstances that do not fall within the generally understood meanings of ''point-of-purchase,'' ''dropbox,'' or ''lockbox.'' For example, Army pay officers sometimes travel to remote, off-base locations in order to cash checks for soldiers. In those situations, pay officers cannot bring along the necessary equipment to scan and convert the check. Similarly, some National Park Service rangers collect park entrance fees at park entrances where check conversion equipment cannot be set up because there is not electric power or adequate enclosed and protected space. Additionally, in some situations checks are collected by agency representatives as an incident to their performance of ceremonial duties,

inspections or other responsibilities. These individuals may not have the authority to process payments, or it may not be appropriate to process the payments when they are received in light of the nature of the circumstances. In all of these situations, it is not possible to scan and return the voided check as required under the point-of-purchase check conversion rules (31 CFR 210.6(g)), and we therefore have been asked whether these checks can be converted under the accounts receivable check conversion rules (31 CFR 210.6(h)).

It is unclear whether situations such as those described above are more in the nature of a point-of-purchase or a dropbox transaction. The ACH Rules define a Point-of-Purchase (POP) entry as a debit entry initiated pursuant to a single entry authorization and a source document, provided to the Originator [1] by the Receiver [2] at the point-of-purchase to effect a transfer of funds. *See* ACH Rule 13.1.42. When we amended 31 CFR 210.6(g) to address point-of-purchase check conversion, we stated that the term ''point-of-purchase'' was intended to mean ''any location where an agency accepts checks as payment in connection with a contemporaneous transaction or any location where an agency cashes checks for employees or the public.'' 67 FR 17901.

The ACH Rules define an Accounts Receivable (ARC) entry as a ''debit entry initiated pursuant to a source document provided to the Originator by the Receiver via the U.S. mail or at a dropbox location.'' When we amended 31 CFR 210.6(h) to address accounts receivable check conversion, we stated, ''A dropbox is similar to a lockbox except that a payor delivers a payment to a dropbox in person rather than mailing the payment.'' 67 FR 17901.

When we amended part 210 to address check conversion, we envisioned check conversion as occurring at on-site agency locations—either agency locations where, in the usual course of business, checks are cashed or goods or services are sold (points-of-purchase) or locations where payments for accounts receivable are routinely received. We did not necessarily intend to preclude the conversion of checks in scenarios that do not precisely fit one of these two models; rather, we had not been presented with other potential scenarios at that time.

Because it is not possible to comply with the point-of-purchase rules in converting checks in the situations discussed above, whereas it is possible to comply with the accounts receivable check conversion rules, we believe that the most reasonable approach to these situations is to treat them as accounts receivable check conversion. Under this approach, these checks would be converted using an ARC code (for consumer checks) or a Cash Concentration or Disbursement (CCD) code (for business checks), and the checks would be destroyed rather than returned to the check writer. We believe that the check writer's interests would be adequately protected by applying the accounts receivable rules because the check writer will receive prior written notice in the form of Appendix C to part 210 (with minor alterations, as appropriate) and because the physical check will be destroyed. We are requesting comment on this approach.

3. Conversion of Additional Instruments

Part 210 incorporates the restrictions imposed under ACH Rules 3.6.2 and 3.7.1 on the kinds of source documents that can be used to originate ARC and POP entries. In contrast to the ACH Rules, part 210 does permit agencies to convert business checks received at points-of-purchase, dropboxes and via the mail. However, agencies currently are not permitted to originate ACH debit entries using as a source document various other kinds of payment instruments, such as money orders, traveler's checks, certified bank checks, and credit card checks. A number of agencies routinely receive these kinds of payment instruments in addition to personal and business checks. In these instances it becomes a significant operational burden to sort these payments and process them separately. Some agencies have elected not to participate in check conversion for this reason. We are proposing to amend part 210 to eliminate the regulatory prohibition against converting to ACH debit entries certain types of payment instruments that are commonly received at lockboxes and points-of-purchase.

We recognize that there are significant operational barriers that currently prevent the conversion of money orders and similar instruments, including debit blocks or filters on the accounts on which these items are drawn. However, removing regulatory obstacles to the conversion of these instruments will enable agencies to be positioned to convert these instruments once it becomes operationally feasible to do so without the need to undertake an additional rulemaking process. Until conversion of these instruments is possible, we may use stored item images to create paper drafts of any items returned due to debit blocks or similar mechanisms and process these drafts through the check processing system. In most cases, the use of a paper draft makes possible many of the same efficiencies as check conversion (*i.e.*, elimination of paper to process and deposit, enhanced reporting, archiving of documentation, increased speed of presentment and deposit of funds). In this regard, although we are not proposing to include U.S. Treasury checks among the items eligible for conversion, legislation currently in Congress would, if enacted, treat paper drafts created from images of U.S. Treasury checks as legally equivalent to the original checks.

We are aware that authorization issues can arise in connection with converting these instruments because an individual presenting such an item to an agency does not have authority to act with respect to the account on which the check is drawn and therefore cannot authorize conversion of the item. However, we believe that the ACH Rules incorporated in part 210 provide an adequate framework to enable a Receiver to pursue recovery of an unauthorized debit to the Receiver's account.

4. Re-Presented Check Entry Service Fees

Under the ACH Rules incorporated in part 210, agencies may use a Re-presented Check (RCK) entry to electronically re-present, via the ACH Network, a consumer check that has been returned unpaid due to insufficient funds. Some agencies that originate RCK entries also wish to use the ACH Network to collect a service fee from the issuer of the returned item. To collect such a fee, agencies must obtain the consumer's explicit authorization for the debit and must initiate a separate debit entry to the consumer's account. (Part 210 and the ACH Rules prohibit the addition of any service fee to the amount of the RCK entry.) Agencies often do not find it cost effective or customer friendly to obtain a written authorization from every check writer to collect a service fee electronically because only a small percentage of checks are returned unpaid.

Regulation E, 12 CFR part 205, is the Federal Reserve's regulation governing

[1] In an ACH debit transaction, the Originator is the person or entity originating the debit entry to the account of the payor. In the transactions discussed in this section of the notice, the Originator is the agency collecting payment.

[2] In an ACH debit transaction, the Receiver is the person or entity making the payment (*i.e.*, the payor) by authorizing a debit to an account. In this document, we may refer to a person or entity making a payment to a Federal agency as a payor, a Receiver, a customer, or a consumer, as appropriate.

Electronic Fund Transfer (EFT) payments. The Official Staff Commentary on Regulation E (Commentary) states that the electronic re-presentment of a returned check is not covered by Regulation E because the transaction is originated by check. Commentary, Section 205.3, Paragraph 3(c)(1). Regulation E does apply, however, to any fee authorized by the consumer to be debited electronically from the consumer's account because the check was returned for insufficient funds. Accordingly, such a fee may be collected by ACH debit only if authorized by the consumer. The Commentary states that a consumer authorizes a one-time EFT where the consumer receives notice that the transaction will be processed as an EFT and completes the transaction. Commentary, Section 205.3, Paragraph 3(b).

Part 210 currently provides that agencies may collect a service fee by ACH debit in the case of accounts receivable and point-of-purchase entries that are returned for insufficient funds, provided that notice of the fee has been included in the required disclosure.[3] We are proposing to expand this provision to allow agencies to originate an ACH debit entry in order to collect a service fee related to an RCK entry if notice of the fee is given to the Receiver before the agency accepts the Receiver's check.

B. Reclamations; Misdirected Payments

We are proposing to amend part 210 to address certain issues relating to the reclamation of Federal benefit payments and the receipt of misdirected Federal payments. The changes that we are proposing to make are:

(1) To require financial institutions that learn that an account holder has died to return any subsequent Federal benefit payments using return reason code R15 (Beneficiary or Account Holder Deceased) or R14 (Representative Payee Deceased), as appropriate;

(2) To provide that financial institutions are not liable for post-death benefit payments to which the recipient was entitled;

(3) To require a financial institution that becomes aware that a Federal benefit payment was misdirected to notify the agency that sent the payment of the error;

(4) To prohibit agencies from reclaiming payments that were made more than seven years prior to the date of the notice of reclamation;

(5) To limit the information that agencies may request from financial institutions, in accordance with the Right to Financial Privacy Act; and

(6) To allow financial institutions to notify an account owner of the receipt of a notice of reclamation ''promptly'' rather than ''immediately.''

We are also making several non-substantive changes to the wording of the reclamation provisions of part 210 in order to correct typographical errors and clarify its operation.

1. Mandatory Use of R15 or R14 Return Reason Code

A financial institution is required to return any Federal benefit payment received after the institution learns of the death of the recipient. *See* 31 CFR 210.10(a). However, part 210 does not specify what ACH return reason code financial institutions must use in effecting these returns. In some cases, financial institutions use an R02 (Account Closed) code, whereas in other cases financial institutions use an R15 (Beneficiary or Account Holder Deceased) or R14 (Representative Payee Deceased) code. Most Federal paying agencies that receive payments returned with an R15 code automatically stop payments to the recipient and begin an investigation. In contrast, when a payment is returned using an R02 or other non-death code, agencies may only temporarily suspend the payment rather than terminating further payments to the recipient. Thus, the use of the R02 or other non-death code to return a payment made to a deceased recipient may result in further payments being issued to the deceased beneficiary, creating a risk of loss of additional public funds.

We are proposing to require financial institutions to return benefit payments using an R15 or R14 code, as appropriate, if the financial institution is aware that the recipient is deceased. This requirement would not impose any additional burden on financial institutions to take steps to learn of the death of account holders, but would simply require that, in circumstances where the financial institution is aware of the death of the recipient, the R15 or R14 code be used to return payments. We are also proposing to amend the regulation to provide that a Receiving Depository Financial Institution (RDFI) that returns a payment using the R15 or R14 code is deemed to have satisfied the requirement to notify an agency of the death of a payment recipient if the RDFI learns of the death from a source other than notice from the agency. We believe that the use of the R15 and R14 codes is an efficient means of notifying agencies that a recipient is deceased because of the stop on subsequent payments and investigation that is automatically triggered when an agency receives an R15 returned payment. We request comment both from agencies and from financial institutions on this proposed rule change.

2. Post-Death Payments to Which Recipient Is Entitled

We are proposing to amend part 210 to provide an exception to the general rule that an RDFI is liable to the Federal government for all post-death benefit payments unless the RDFI has the right to limit its liability. Currently, part 210 imposes on RDFIs partial or full liability for benefit payments received after the death or legal incapacity of a recipient. The allocation of this liability to RDFIs is based on the presumption that a post-death payment is improper because the recipient is not entitled to the payment. However, we have become aware that there are certain types of payments to which a recipient (or his or her estate) is legally entitled, and which an agency may not have the legal obligation or authority to recover, notwithstanding that the payment was issued following the recipient's death. For example, agencies sometimes issue payments that represent retroactive benefits owed to the recipient. The recipient's legal entitlement to such a payment does not necessarily end upon death.

One of the premises underlying the allocation of liability to financial institutions for payments that agencies issue to deceased recipients is that because these payments are improper, there is a loss of public funds unless the payments are recovered. We do not believe that it is equitable to impose liability on a financial institution where there is no loss of public funds because the agency that certified the payment has determined that the payment was properly issued notwithstanding its issuance following the recipient's death. Accordingly, we are proposing to amend part 210 to address these situations. In determining whether to reclaim post-death payments, we will rely on the determination of the certifying agency as to whether a recipient is entitled to a post-death payment. It is our understanding that, for the vast majority of Federal benefit payments, death does in fact end the recipient's legal entitlement to the payments. Therefore, as a practical matter, the effect of this amendment would be that financial institutions may expect that a small

[3] Any agency that seeks to collect a service fee from the issuer of a returned check must have independent authority to do so. Part 210 does not authorize the collection of a service fee, but only provides an electronic means through which such a fee can be collected if authority exists.

number of post-death payments will not be the subject of a notice of reclamation. We request comment both from financial institutions and from agencies on this proposal.

3. Misdirected Federal Payments

Although the vast majority of electronic Federal payments are delivered without incident to the intended recipient, on rare occasions a Federal payment is delivered to an account that does not belong to the entitled payee. This can occur, for example, if the payee mistakenly provides an incorrect account or routing number to the paying agency. RDFIs may rely on the account number alone in posting a payment, and have no obligation to verify that the payee name matches the name of the account holder on the RDFI's records.

In some cases, the owner of an account to which a Federal payment was erroneously delivered has brought the erroneous payment to the attention of the RDFI. Sometimes the RDFI contacts the agency that originated the payment. In other instances, rather than notifying the agency, RDFIs have handled such errors by removing the funds from the account to which they were credited and crediting the funds to the account of the intended payee, based on the payee name and/or the individual identification number in the ACH information accompanying the payment. When this approach is taken, the agency that originated the payments remains unaware of any problem, meaning that the agency may continue to direct subsequent payments to the wrong account.

The repeated delivery of payments to the wrong account, particularly where the account owner has taken steps to bring the mistake to the attention of the bank, undermines public confidence in the Federal government's use of the ACH system. We do not believe that it is unduly burdensome to require financial institutions to contact paying agencies in the small number of cases in which financial institutions are made aware that a Federal payment has been misdirected. We are requesting comment on this proposed amendment to part 210, including the means by which this notice to agencies could be most conveniently and effectively provided.

4. Seven Year Limit on Reclamations

We are proposing to amend the limitation on the age of payments that an agency may reclaim. Part 210 currently prohibits (subject to one exception) an agency from reclaiming any post-death or post-incapacity payment made more than six years prior to the most recent payment made by the agency to the recipient's account. There have, however, been situations in which the most recent payment that an agency made to a recipient's account took place several years before the reclamation was initiated. Thus, notwithstanding the existing limitation, there have been reclamations initiated by agencies for payments made many years ago. Although these reclamations are infrequent, they are particularly difficult and time-consuming to process because neither agencies nor financial institutions retain records indefinitely, meaning that very old payment records or related account information frequently is not available. We therefore are proposing to prohibit agencies from reclaiming any payment that was made more than seven years prior to the date of the notice of reclamation. The only exception to this limitation would be in a situation in which the account balance exceeds the total amount of the payments that the agency would otherwise be permitted to reclaim after applying the seven-year limitation.

5. Right to Financial Privacy Act Changes

Part 210 currently provides that in order to limit its liability in a reclamation, a financial institution must respond to a notice of reclamation by providing the names, addresses, and ''any other relevant information'' regarding account co-owners and other persons who withdrew, or were authorized to withdraw, funds from the recipient's account after the death or legal incapacity of the recipient. 31 CFR 210.11(b)(3)(i). This information is used by paying agencies to pursue the recovery of the payments from persons who have made use of the funds but who were not entitled to them.

The information that an agency may obtain from a financial institution in connection with a reclamation is limited by the Right to Financial Privacy Act, 12 U.S.C. 3401 *et seq.* (Financial Privacy Act). The Financial Privacy Act prohibits, subject to some exceptions, agencies from obtaining from financial institutions any information contained in or derived from the financial records of any customer, except pursuant to an administrative or judicial subpena, a search warrant, or other method prescribed by the Act. The Financial Privacy Act contains two exceptions that permit agencies to obtain from a financial institution certain information related to an account to which an erroneous Social Security Federal Old-Age, Survivors, and Disability Insurance benefit payment, or a benefit payment made by the Railroad Retirement Board or Department of Veterans' Affairs (VA), was sent without following the Act's procedural requirements. The exceptions permit disclosure by a financial institution of the name and address of any customer ''where the disclosure of such information is necessary to, and such information is used solely for the purpose[s] of, the proper administration of'' title II of the Social Security Act (42 U.S.C. 401 *et seq.*), the Railroad Retirement Act (45 U.S.C. 231 *et seq.*) or benefits programs under laws administered by VA. 12 U.S.C. 3413(k), (p). These exceptions permit disclosure only of names and addresses—not of other transaction information, such as dates and times of withdrawals.

In order to clarify that the information that financial institutions are required to provide in connection with a reclamation is limited to the information specified in the Financial Privacy Act, we are proposing to revise the wording of subsection 210.11(b)(3)(i).

6. Notification to Account Owners

We are proposing to revise § 210.13 in order to allow financial institutions to notify an account owner of the receipt of a notice of reclamation ''promptly'' rather than ''immediately.'' We do not believe that the need to notify account owners of a reclamation is so urgent as to require immediate notification. This change is intended to reduce an unnecessary burden on financial institutions.

III. Section-by-Section Analysis

Section 210.2(d)

We are proposing to revise the definition of Applicable ACH Rules at § 210.2(d) by adding a new subparagraph (8) in order to exclude ACH Rules 3.6.2 and 3.7.1 from the definition. ACH Rules 3.6.2 and 3.7.1, respectively, prohibit the origination of ARC entries and POP entries using, among other things, third-party checks, credit card checks, obligations of financial institutions (*e.g.*, traveler's checks, cashier's checks, official checks, money orders, etc.), and checks drawn on a state or local government.

Section 210.2(i)

We are proposing to add a new definition of ''business check'' to § 210.2. The definition would include not only any check drawn on a corporate or business deposit account (including a third-party check), but also credit card checks; negotiable instruments issued by a financial

institution (*e.g.*, traveler's checks, cashier's checks, official checks, money orders, etc.); and checks drawn on a state or local government. The new definition is used in proposed § 210.6(g) and (h) in order to permit agencies to use these instruments as source documents in originating ACH debit entries.

Section 210.6(g)

We are proposing to amend § 210.6(g) in order to permit the origination of ACH debit entries at agency points-of-purchase using as source documents instruments included under the new definition of ''business check'' set forth at proposed § 210.2(i).

Section 210.6(h)

We are proposing to revise § 210.6(h) in order to provide that agencies may originate ACH debit entries using checks that are (1) received via the mail; (2) received at a dropbox; and (3) delivered in person in circumstances in which it is impossible or impractical for the agency to image and return the check at the time the check is delivered. In all cases, the disclosure set forth at Appendix C must be provided to the Receiver before the check is delivered. In situations in which the check is being delivered in person, the disclosures must be posted or handed to the Receiver. Proposed § 210.6(h) uses the new term ''business check,'' as defined in proposed § 210.2(i), in order to permit the conversion of certain instruments that agencies currently are not permitted to convert.

Section 210.6(i)

We are proposing to revise § 210.6(i) in order to permit agencies to originate ACH debit entries to collect one-time service fees in connection with RCK entries if prior notice of the fee is given. Section 210.6(i) would override the requirement in the ACH Rules that a Receiver authorize, in writing, the collection of a service fee and instead require that, prior to accepting the Receiver's check or source document, the agency disclose to the Receiver that a service fee may be collected. This provision does not create for agencies the authority to impose a service fee; rather, it permits an agency that has the authority to impose such a fee to collect the fee by ACH debit without a written authorization.

Section 210.8(d)

We are proposing to add a new subsection to § 210.8 in order to require an RDFI to promptly notify an agency if the RDFI becomes aware that the agency has originated an ACH credit entry to an account that is not owned by the payee whose name appears in the ACH payment information. ''Promptly'' will normally mean no later than two business days after the error has come to the RDFI's attention. An RDFI that fails to provide the notice may be liable to the Federal government for loss resulting from its failure to notify the paying agency pursuant to the general liability provision of 210.11(d).

This subsection does not impose any duty on RDFIs to verify the account numbers on incoming payments against the receiver names. It does, however, require that if such an error is brought to the attention of an RDFI, the RDFI must notify the agency that originated the payment.

Section 210.10

We are proposing to revise paragraph (a) of § 210.10 to require that an RDFI use return reason code R15 (Beneficiary or Account Holder Deceased) or R14 (Representative Payee Deceased), as appropriate, to return any benefit payments received after the RDFI becomes aware of the death of a recipient or beneficiary. We are also proposing to add a sentence stating that the use of an R15 or R14 code will satisfy the RDFI's obligation to notify the agency after learning of the death of a recipient or beneficiary from a source other than notice from the agency.

We are proposing to revise § 210.10(c) to provide that an RDFI is not liable for a benefit payment received after the death of a recipient or beneficiary if the agency that certified the disbursement of the payment determines that the recipient or beneficiary is entitled to the post-death payment. It is the responsibility of the agency certifying the payment to make a determination regarding its legal obligation or authority to recover a post-death benefit payment. The Service will act in accordance with the agency's direction, as set forth at § 210.9(b). (''In processing reclamations pursuant to this subpart, the Service shall act pursuant to the direction of the agency that certified the benefit payment(s) being reclaimed.'')

We are proposing to revise § 210.10(d) in order to amend the limitation on the age of payments that an agency may reclaim. Section 210.10(d) currently prohibits, subject to one exception, an agency from reclaiming any post-death or post-incapacity payment made more than six years prior to the most recent payment made by the agency to the recipient's account. Proposed § 210.10(d) would prohibit agencies from reclaiming any payment that was made more than seven years prior to the date of the notice of reclamation. The only exception to this limitation would be in a situation in which the account balance exceeds the total amount of the payments that the agency would otherwise be permitted to reclaim.

Additional wording changes have been made to proposed § 210.10(d). The first sentence of § 210.10(d) currently provides that an agency must initiate a reclamation within 120 calendar days after it receives notice of the death or legal incapacity of a recipient or death of a beneficiary. We are proposing to revise the wording of that sentence in order to provide that the 120 day period begins when an agency receives ''actual or constructive knowledge'' of the death or legal incapacity. This is the standard to which financial institutions are subject as a condition of limiting their liability for a reclamation under § 210.11. In addition, the second sentence of proposed § 210.10(d)(1) has been reworded in order to make it more clear that a notice of reclamation applies only to the type of payments which are the subject of the notice, and does not preclude reclamation actions by other agencies that may have issued payments to the recipient or by the same agency with respect to a different type of payment issued to the recipient. For example, the Social Security Administration issues two different types of benefit payments: Social Security Federal Old-Age, Survivors, and Disability Insurance (SSA) payments and Supplemental Security Income (SSI) payments. Some recipients receive both of these types of benefit payments. A notice of reclamation regarding SSA payments is separate from, and does not affect the potential liability of a financial institution under, a notice of reclamation for SSI payments issued to the same recipient.

Section 210.11

We are proposing to revise § 210.11 to limit the information that an RDFI is required to provide in order to limit its liability in a reclamation. First, the information regarding withdrawers and co-owners is limited to the name and address of these individuals. Second, the information is to be provided only in cases involving the reclamation of Social Security Federal Old-Age, Survivors, and Disability Insurance benefit payments, or benefit payments certified by the Railroad Retirement Board or Department of Veterans' Affairs.

Section 210.13

We are proposing to revise § 210.13 to provide that an RDFI must promptly (rather than ''immediately,'' as currently

provided) notify account owner(s) of the receipt of a notice of reclamation.

Section 210.14

We are proposing to correct an error in § 210.14 by changing the word ''direct'' to ''directed.''

Appendix C

We are proposing to amend Appendix C to the regulation by shortening the disclosure that agencies must provide in connection with ACH debit entries that they originate pursuant to § 210.6(h).

IV. Procedural Requirements

Request for Comment on Plain Language

Executive Order 12866 requires each agency in the Executive branch to write regulations that are simple and easy to understand. We invite comment on how to make the proposed rule clearer. For example, you may wish to discuss: (1) Whether we have organized the material to suit your needs; (2) whether the requirements of the rules are clear; or (3) whether there is something else we could do to make these rules easier to understand.

Executive Order 12866

The proposed rule does not meet the criteria for a ''significant regulatory action'' as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

Regulatory Flexibility Act Analysis

It is hereby certified that the proposed rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq) is not required.

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that the agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. We have determined that the proposed rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, we have not prepared a budgetary impact statement or specifically addressed any regulatory alternatives.

Executive Order 13132—Federalism Summary Impact Statement

Executive Order 13132 requires agencies, including the Service, to certify their compliance with that Order when they transmit to the Office of Management and Budget (OMB) any draft final regulation that has federalism implications. Under the Order, a regulation has federalism implications if it has ''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.'' In the case of a regulation that has federalism implications and that preempts State law, the Order imposes certain specific requirements that the agency must satisfy, to the extent practicable and permitted by law, prior to the formal promulgation of the regulation.

In general, the Executive Order requires the agency to adhere strictly to Federal constitutional principles in developing rules that have federalism implications; provides guidance about an agency's interpretation of statutes that authorize regulations that preempt State law; and requires consultation with State officials before the agency issues a final rule that has federalism implications or that preempts State law.

The proposed rule 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.

List of Subjects in 31 CFR Part 210

Automated Clearing House, Electronic funds transfer, Financial institutions, Fraud, and Incorporation by reference.

Authority and Issuance

For the reasons set forth in the preamble, we propose to amend part 210 of title 31 of the Code of Federal Regulations as follows:

PART 210—FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARING HOUSE

1. The authority citation for part 210 continues to read as follows:

Authority: 5 U.S.C. 5525; 12 U.S.C. 391; 31 U.S.C. 321, 3301, 3302, 3321, 3332, 3335, and 3720.

2. Amend § 210.2 as follows:

A. Revise paragraph (d);

B. Redesignate paragraphs (i) through (r) as (j) through (s);

C. Add new paragraph (i).

The revised and added text reads as follows:

§ 210.2 Definitions.

* * * * *

(d) *Applicable ACH Rules* means the ACH Rules with an effective date on or before June 13, 2003, as published in Parts II, III, and IV of the ''2003 ACH Rules: A Complete Guide to Rules & Regulations Governing the ACH Network,'' including the supplement thereto approved February 27, 2003 and effective June 13, 2003, except:

(1) ACH Rule 1.1 (limiting the applicability of the ACH Rules to members of an ACH association);

(2) ACH Rule 1.2.2 (governing claims for compensation);

(3) ACH Rule 1.2.4; 2.2.1.10; Appendix Eight and Appendix Eleven (governing the enforcement of the ACH Rules, including self-audit requirements);

(4) ACH Rules 2.2.1.8; 2.6; and 4.7 (governing the reclamation of benefit payments);

(5) ACH Rule 8.3 and Appendix Two (requiring that a credit entry be originated no more than two banking days before the settlement date of the entry—*see* definition of ''Effective Entry Date'' in Appendix Two);

(6) ACH Rule 2.10.2.2 (requiring that originating depository financial institutions (ODFIs) establish exposure limits for Originators of Internet-initiated debit entries);

(7) ACH Rule 2.11.3 (requiring reporting regarding unauthorized Telephone-initiated entries); and

(8) ACH Rules 3.6.2 and 3.7.1 (restricting source documents for Accounts Receivable entries and Point-of-Purchase entries).

* * * * *

(i) *Business check* means:

(1) A check drawn on corporate or business deposit account, including a third-party check,

(2) A credit card check,

(3) A negotiable instrument issued by a financial institution (*e.g.*, a traveler's check, cashier's check, official check, money order, *etc.*), and

(4) A check drawn on a state or local government.

* * * * *

3. Revise §§ 210.6(g), (h) and (i) to read as follows:

§ 210.6 Agencies.

* * * * *

(g) *Point-of-purchase debit entries.* An agency may originate an ACH debit entry using a business check or a check

drawn on a consumer account that is presented at a point-of-purchase. Agencies shall use the Point-of-Purchase (POP) Standard Entry Class (SEC) code for entries to consumer accounts and the Cash Concentration or Disbursement (CCD) SEC code for entries to business accounts. The requirements of ACH Rules 2.1.2 and 3.4 shall be met for such an entry if the Receiver presents the check at a location where the agency has posted a conspicuous notice at the point-of-purchase containing the disclosure set forth at Appendix A to this part and the agency makes available to the Receiver at the same location, in a form that the Receiver can retain, the disclosure set forth at Appendix B to this part. For purposes of ACH Rules 3.10 and 4.1.1, authorization shall consist of a copy of the notice and a copy of the Receiver's source document.

(h) *Accounts receivable check conversion.*

(1) Conversion of consumer checks. An agency may originate an Accounts Receivable (ARC) entry using a check drawn on a consumer account that is received via the mail or at a dropbox, or that is delivered in person in circumstances in which the agency cannot contemporaneously image and return the check. The notice and authorization requirements of ACH Rules 2.1.4 and 3.6.1 shall be met for an ARC entry only if an agency has provided the Receiver with the disclosure set forth at Appendix C to this part.

(2) Conversion of business checks. An agency may originate an ACH debit using a business check that is received via the mail or at a dropbox, or that is delivered in person in circumstances in which the agency cannot contemporaneously image and return the check. The agency shall use the CCD SEC code for such entries, which shall be deemed to meet the requirements of ACH Rule 2.1.2 if the agency has provided the disclosure set forth at Appendix C to this part. For purposes of ACH Rules 3.10 and 4.1.1, authorization shall consist of a copy of the notice and a copy of the Receiver's source document.

(i) *Returned item service fee.* An agency may originate an ACH debit entry to collect a one-time service fee in connection with a Re-presented Check (RCK) entry or an ACH debit entry originated pursuant to paragraph (g) or (h) of this section that is returned due to insufficient funds. An entry originated pursuant to this paragraph shall meet the requirements of ACH Rules 2.1.2 and 3.4 if the agency has disclosed the collection of the fee to the Receiver as part of the disclosures required under paragraph (g) or (h) of this section or, in the case of a fee in connection with an RCK entry, prior to the acceptance of the check to which an RCK entry relates. For purposes of ACH Rule 3.10 and 4.1.1, authorization shall consist of a copy of the disclosure of the collection of the fee and a copy of the Receiver's check or source document.

4. Add a new paragraph (d) to § 210.8 to read as follows:

§ 210.8 Financial institutions.

* * * * *

(d) *Notice of misdirected payment.* An RDFI shall promptly notify an agency if the RDFI becomes aware that the agency has originated an ACH credit entry to an account that is not owned by the payee whose name appears in the ACH payment information.

5. Amend § 210.10 by revising paragraphs (a), (c) and (d) to read as follows:

§ 210.10 RDFI liability.

(a) *Full liability.* An RDFI shall be liable to the Federal Government for the total amount of all benefit payments received after the death or legal incapacity of a recipient or the death of a beneficiary unless the RDFI has the right to limit its liability under 210.11 of this part. An RDFI shall return any benefit payments received after the RDFI becomes aware of the death or legal incapacity of a recipient or the death of a beneficiary, regardless of the manner in which the RDFI discovers such information, using return reason code R15 (Beneficiary or Account Holder Deceased) or R14 (Representative Payee Deceased), as appropriate, in the case of a deceased recipient or beneficiary. If the RDFI becomes aware of the death or legal incapacity of a recipient or death of a beneficiary from a source other than notice from the agency issuing payments to the recipient, the RDFI shall immediately notify the agency of the death or incapacity. The use of the R15 or R14 return reason code shall be deemed to constitute such notice.

* * * * *

(c) *Exceptions to liability rule.*

(1) An RDFI shall not be liable for post-death benefit payments sent to a recipient acting as a representative payee or fiduciary on behalf of a beneficiary, if the beneficiary was deceased at the time the authorization was executed and the RDFI did not have actual or constructive knowledge of the death of the beneficiary.

(2) An RDFI shall not be liable for a benefit payment received after the death of a recipient or beneficiary if the agency that certified the disbursement of the payment determines that the recipient or beneficiary was entitled to the post-death payment.

(d) *Time limits.* An agency that initiates a request for a reclamation must do so within 120 calendar days after the date that the agency first has actual or constructive knowledge of the death or legal incapacity of a recipient or the death of a beneficiary. An agency may not reclaim any post-death or post-incapacity payment made more than seven years prior to the date of the notice of reclamation; provided, however, that if the account balance at the time the RDFI receives the notice of reclamation exceeds the total amount of post-death or post-incapacity payments made by the agency during such seven year period, this limitation shall not apply and the RDFI shall be liable for the total amount of all post-death or post-incapacity payments made, up to the amount in the account at the time the RDFI receives the notice of reclamation and has had a reasonable opportunity (not to exceed one business day) to act on the notice.

* * * * *

6. Amend § 210.11 by revising paragraph (b)(3)(i) to read as follows:

§ 210.11 Limited liability.

* * * * *

(b) *Qualification for limited liability.*

* * * * *

(3)(i) In cases involving the reclamation of Social Security Federal Old-Age, Survivors, and Disability Insurance benefit payments, or benefit payments certified by the Railroad Retirement Board or the Department of Veterans' Affairs, provide the name and address of the following person(s):

(A) The recipient (last known address) and any co-owner(s) of the recipient's account;

(B) All other person(s) authorized to withdraw funds from the recipient's account; and

(C) Person(s) who withdrew funds from the recipient's account after the death or legal incapacity of the recipient or death of the beneficiary.

* * * * *

7. Revise § 210.13 to read as follows:

§ 210.13 Notice to account owners.

Provision of notice by RDFI. Upon receipt by an RDFI of a notice of reclamation, the RDFI promptly shall mail to the last known address of the account owner(s) or otherwise provide to the account owner(s) a copy of any notice required by the Service to be provided to account owners as specified in the Green Book. Proof that this notice was sent may be required by the Service.

8. Amend § 210.14 by revising paragraph (a) to read as follows:

§ 210.14 Erroneous death information.

(a) *Notification of error to the agency.* If, after the RDFI responds fully to the notice of reclamation, the RDFI learns that the recipient or beneficiary is not dead or legally incapacitated or that the date of death is incorrect, the RDFI shall inform the agency that certified the underlying payment(s) and directed the Service to reclaim the funds in dispute.

* * * * *

9. Revise Appendix C to part 210 to read as follows:

C. Appendix C to Part 210—Standard Disclosure for Accounts Receivable Conversion—Notice

If you send us a check, it will be converted into an electronic fund transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually occur within 24 hours, and will be shown on your regular account statement.

You will not receive your original check back. We will destroy your original check, but we will keep the copy of it. If the EFT cannot be processed for technical reasons, you authorize us to process the copy in place of your original check. If the EFT cannot be completed because of insufficient funds, we may try to make the transfer up to 2 times [and we will charge you a one-time fee of $_____, which we will also collect by EFT].

Note: *This disclosure must be conspicuous. This means that it should be printed in reasonably large typeface. If this disclosure is combined with other information, it should be set off by contrasting color, by surrounding it with a box, or by using other means to ensure that it is prominently featured.*

* * * * *

Dated: August 14, 2003.

Richard L. Gregg,

Commissioner.

[FR Doc. 03–21203 Filed 8–20–03; 8:45 am]

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H.R. 1018/P.L. 108–70

To designate the building located at 1 Federal Plaza in New York, New York, as the ''James L. Watson United States Court of International Trade Building''. (Aug. 14, 2003; 117 Stat. 886)

H.R. 1761/P.L. 108–71

To designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the ''Garner E. Shriver Post Office Building''. (Aug. 14, 2003; 117 Stat. 887)

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