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# Presidential Documents

**Title 3—**

## The President

**Executive Order 13333 of March 18, 2004**

## Amending Executive Order 13257 To Implement the Trafficking Victims Protection Reauthorization Act of 2003

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 *et seq.*) (the ''Act''), as amended by the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193), and section 301 of title 3, United States Code, it is hereby ordered that Executive Order 13257 of February 13, 2002, is amended as follows:

**Section 1.** The preamble is amended by: (a) deleting ''7103'' and inserting in lieu thereof ''7101 *et seq.*''; and (b) after the phrase ''(the ''Act''),'' inserting ''and section 301 of title 3, United States Code,''.

**Sec. 2.** Section 4 is redesignated as section 8.

**Sec. 3.** After section 3, the following new sections are added:

''**Sec. 4.** *Guidelines, Policies, and Regulations.* (a) The Senior Policy Operating Group (SPOG), described in subsection 105(f) of the Act, shall (i) establish guidelines and policies to coordinate the activities of executive branch departments and agencies regarding policies (including grants and grant policies) involving the international trafficking in persons and (ii) advise the Secretary of State what regulations may be necessary to implement section 105 of the Act, including such regulations as may be necessary to carry out the sharing of information on all matters relating to grants, grant policies, or other significant actions regarding the international trafficking in persons as set forth in subsection 105(f)(4) of the Act, to the extent permitted by law.

(b) The Secretary of State, in consultation with the members of the Task Force or their representatives, shall promulgate regulations to implement section 105 of the Act.

**Sec. 5.** *Enhanced Prevention of Trafficking in Persons.* (a) The Secretary of State, in consultation with the members of the Task Force or their representatives, shall carry out the functions under subsection 106(c) and subsection 106(d) of the Act.

(b) The Secretary of State shall have the authority to determine, under section 106(e)(1) of the Act, foreign destinations where sex tourism is significant. The Secretary of Homeland Security, in consultation with the members of the Task Force or their representatives and appropriate officials of the Departments of Commerce and Transportation, shall carry out all other functions under subsection 106(e) of the Act, including promulgation of any appropriate regulations relating to the distribution of the materials described in subsection 106(e).

(c) The head of each executive branch agency responsible for the establishment and conduct of initiatives and programs described in subsections 106(a) through (e) of the Act shall consult with appropriate nongovernmental organizations consistent with section 106(f) of the Act.

(d) The Secretary of State shall have responsibility to initiate appropriate regulatory implementation of the requirements set out in section 106(g) of the Act with respect to contracts, including proposing appropriate amendments to the Federal Acquisition Regulation. Each affected executive branch department or agency shall implement, within that department or agency,

the requirements set out in section 106(g) of the Act with respect to grants and cooperative agreements.

**Sec. 6.** *Research on Trafficking in Persons.* The entities named in section 112A of the Act shall carry out the research initiatives required by section 112A of the Act, and shall award grants according to such policies and guidelines as may be established by the SPOG described in section 105(f) of the Act, as well as any applicable agency rules and regulations.

**Sec. 7.** *Guidance for Exercising Authority and Performing Duties.* In exercising authority delegated by, or performing functions assigned in, this order, officers of the United States shall ensure that all actions taken by them are consistent with the President's constitutional authority to:

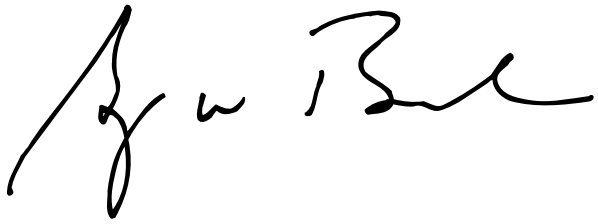
(a) conduct the foreign affairs of the United States;

(b) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties;

(c) recommend for congressional consideration such measures as the President may judge necessary or expedient; and

(d) supervise the unitary Executive Branch.''

**Sec. 4.** *Judicial Review.* This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.



THE WHITE HOUSE,
*March 18, 2004.*

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# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Part 301

**[Docket No. 03–057–2]**

### Japanese Beetle; Domestic Quarantine and Regulations

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the Japanese beetle quarantine and regulations by adding Colorado and Montana to the list of protected States. The interim rule was necessary to prevent the spread of Japanese beetle into noninfested areas of the United States.

**EFFECTIVE DATE:** The interim rule became effective on July 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Dr. S. Anwar Rizvi, Program Manager, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1231; (301) 734–4313.

**SUPPLEMENTARY INFORMATION:**

### Background

The Japanese beetle *(Popillia japonica)* feeds on fruits, vegetables, and ornamental plants and is capable of causing damage to over 300 potential hosts. The Japanese beetle quarantine and regulations, contained in 7 CFR 301.48 through 301.48–8 (referred to below as the regulations), quarantine the States of Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia and restrict the interstate movement of aircraft from regulated airports in these States in order to prevent the spread of the Japanese beetle to noninfested States where the Japanese beetle could become established. Those noninfested States where the Japanese beetle could become established are referred to as protected States and are listed in § 301.48(b).

In an interim rule effective July 18, 2003, and published in the **Federal Register** on July 24, 2003 (68 FR 43613–43614, Docket No. 03–057–1), we amended the regulations by adding Colorado and Montana to the list of protected States.

Comments on the interim rule were required to be received on or before September 22, 2003. We received one comment by that date. The comment was from a State agricultural agency and supported the interim rule. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866, 12372, and 12988 and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

### Regulatory Flexibility Act

This rule affirms an interim rule that amended the Japanese beetle quarantine and regulations by adding Colorado and Montana to the list of protected States. The interim rule was necessary to prevent the spread of Japanese beetle into noninfested areas of the United States.

The following analysis addresses the economic effect of this rule on small entities, as required by the Regulatory Flexibility Act.

The Japanese beetle is a highly destructive plant pest of foreign origin. It was first found in the United States in a nursery in southern New Jersey in 1916. In its native Japan, where the beetle's natural enemies keep its population in check, it is not a serious pest. In the United States however, the beetle entered without its natural enemies and found a favorable climate and an abundant food supply. By 1972, beetle infestations had been reported in 22 States east of the Mississippi River and also in Iowa and Missouri. The Japanese beetle has continued to disperse south and west without any natural enemies to slow its spread.

Both the adult and grub Japanese beetles are destructive plant pests. The adult beetles are known to feed on more than 400 species of broad-leaf plants, although only about 50 species are preferred. The grubs will also feed on a wide variety of plant roots, especially turf grass. The Japanese beetle is responsible for several millions of dollars in damages to U.S. agriculture each year.

As a result of the interim rule's addition of Colorado and Montana to the list of protected States, aircraft from regulated airports in any State quarantined because of the Japanese beetle must meet certain requirements before departing for Colorado or Montana to ensure the aircraft is free of Japanese beetle. The interim rule was necessary to reduce the risk of Japanese beetle becoming established in Colorado and Montana.

In 2001, all crop receipts for Colorado were approximately $1.4 billion. Feed crops comprised approximately 45 percent of all crops followed by vegetables (18 percent), food grains (16 percent), and greenhouse/nursery (15 percent).

TABLE 1.—2001 COLORADO CASH RECEIPTS, ALL CROPS

| Crops | Value (1,000 dollars) | Percentage |
|---|---|---|
| Food grains | 210,120 | 16 |
| Feed | 606,874 | 45 |
| Oil | 17,521 | 1 |

TABLE 1.—2001 COLORADO CASH RECEIPTS, ALL CROPS—Continued

| Crops | Value (1,000 dollars) | Percentage |
|---|---|---|
| Vegetables | 244,264 | 18 |
| Fruits, nuts | 19,242 | 1 |
| Greenhouse/nursery | 207,237 | 15 |
| All other | 49,207 | 4 |
| Total | 1,354,465 | 100 |

In 2001, all crop receipts for Montana were approximately $657 million. Food grains comprised approximately 56 percent of all crops followed by feed crops (26 percent) and all other (8 percent).

TABLE 2.—2001 MONTANA CASH RECEIPTS, ALL CROPS

| Crops | Value (1,000 dollars) | Percentage |
|---|---|---|
| Food grains | 366,398 | 56 |
| Feed | 175,184 | 26 |
| Oil | 9,087 | 1 |
| Vegetables | 31,410 | 5.5 |
| Fruits, nuts | 1,371 | 0.5 |
| Greenhouse/nursery | 16,860 | 3 |
| All other | 56,938 | 8 |
| Total | 657,248 | 100 |

The majority of the producers in Colorado and Montana can be classified as small entities according to the Small Business Administration (SBA) criterion of $750,000 or less in annual receipts. Agricultural producers play an important role in the States' economies. Thus, the benefits of protecting these States from infestation of Japanese beetle are worth the minor costs of inspection and treatment of air cargo.

The groups affected by this action will be air carriers flying from regulated airports in quarantined States to the protected States of Colorado and Montana. The additional costs incurred by the affected air carriers are expected to be minimal because the protocols and procedures are already established and followed for air cargo destined for any of the seven other protected States.

The majority of air cargo is transported within the United States by nine large businesses (Airborne, Burlington Express, DHL, Dynair, Emery Worldwide, Evergreen, FedEx, and United Parcel Service). According to SBA, an air carrier with more than 1,500 employees is considered large. The exact number or percentage of small air carriers who will be affected is currently unknown; however the economic effects will be limited because many entities already comply with the regulations in order to transport cargo to other protected States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 7 CFR Part 301**

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

## PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 68 FR 43613–43614 on July 24, 2003.

**Authority:** 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

Done in Washington, DC, this 17th day of March, 2004 .

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 04–6458 Filed 3–22–04; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 1220

**[No. LS–03–09]**

## Soybean Promotion and Research Program: Procedures To Request a Referendum

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule will amend the procedures for soybean producers to request a referendum on the Soybean Promotion and Research Order (Order), as authorized under the Soybean Promotion, Research, and Consumer Information Act (Act). The changes are intended to improve the operation of these procedures.

**EFFECTIVE DATE:** March 24, 2004.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Payne, Chief, Marketing Programs Branch Livestock and Seed Program, Agricultural Marketing Service (AMS), USDA, Room 2638–S, STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250–0251; telephone 202/720–1115, fax 202/720–1125, or by e-mail at *Kenneth.Payne@usda.gov* or Phil Brockman, USDA, Farm Service Agency (FSA), DAFO, STOP 0542, 1400 Independence Avenue, SW., Washington, DC 20250–0542; telephone 202/690–8034, fax 202/720–5900, or by e-mail at *Phil.Brockman@usda.gov.*

Producers can determine the location of county FSA offices by contacting (1) the nearest county FSA office, (2) the State FSA office, or (3) through an online search of FSA's Web site at *http://www.fsa.usda.gov/pas/default.asp.* From the options available on this Web page select ''Your local office,'' click on your State, and click on the map to select a county.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

The Office of Management and Budget (OMB) has waived the review process required by Executive Order 12866 for this action.

**Executive Order 12988**

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1971 of the Act, a person subject to the Order may file a petition with USDA stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with the law and requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, USDA would rule on the petition. The Act provides that the district courts of the United States in any district in which such person is an inhabitant, or has their principal place of business, has jurisdiction to review USDA's ruling on the petition, if a complaint for this purpose is filed within 20 days after the date of the entry of the ruling.

Further, § 1974 of the Act provides, with certain exceptions, that nothing in the Act may be construed to preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State. One exception in the Act concerns assessments collected by Qualified State Soybean Boards (QSSBs). The exception provides that to ensure adequate funding of the operations of QSSBs under the Act, no State law or regulation may limit or have the effect of limiting the full amount of assessments that a QSSB in that State may collect, and which is authorized to be credited under the Act. Another exception concerns certain referenda conducted during specified periods by a State relating to the continuation or termination of a QSSB or State soybean assessment.

**Regulatory Flexibility Act**

AMS has determined that this final rule will not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (RFA) (5 United States Code (U.S.C.) 601 *et seq.*). Participation in the Request for Referendum is voluntary. Not all persons subject to the Order are expected to participate. USDA personnel will determine producer eligibility.

For the purposes of the Request for Referendum, the Secretary will use the most recent number of soybean producers identified by USDA's FSA. At the time the proposed rule was published in the **Federal Register** (69 FR 3854) on January 27, 2004, the latest number of soybean producers identified by FSA was for years 2001 (587,151) and 2002 (573,825). The proposed rule contemplated averaging these two numbers to arrive at the total number of producers or baseline number that would be used to determine whether the requisite number of producers' desire a referendum. However, as a result of comments received by various organizations, and further discussions with FSA, AMS has determined that the number of producers should be determined by using FSA's data for 2002 and 2003. And rather than using a simple average of the 2 years, the total number will be calculated by combining the producers for both years and exclude duplication by only counting a producer once if that producer was engaged in the production of soybeans in both years. The total number of soybean producers that will be used as a baseline in the Request for Referendum will be changed from 585,488 to 663,880. The majority of producers subject to the Order are small businesses under the criteria established by the Small Business Administration (SBA) (13 CFR 121.201). SBA defines small agricultural producers as those having annual receipts of less than $750,000 annually.

This final rule amends the current procedures for soybean producers to request a referendum on the Order. The changes were discussed in the proposed rule. Those changes affected a number of sections in subpart F of part 1220, and include requiring documentation with form LS–51–1 to demonstrate that the producer or producer entity paid soybean assessments. These changes are intended to improve the operation of the procedures. The procedures to request a referendum on the Soybean Checkoff Program will permit participation by each person who was a producer and provides evidence that they or the producer entity they represent paid an assessment on soybeans during the representative period. USDA has determined that the representative period will be January 1, 2002, through December 31, 2003.

The information collection requirements, as discussed below, are minimal. Requesting a form by mail, in-person, facsimile, or via the Internet would not impose a significant economic burden on participants. Accordingly, the Administrator of AMS has determined that this final rule will not have a significant economic impact on a substantial number of small business entities. No comments were received regarding the RFA.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1990 (44 U.S.C. chapter 35), the reporting and recordkeeping requirements included in 7 CFR part 1220 were previously approved by OMB and were assigned OMB control number 0581–0093. The purpose of this final rule is to provide soybean producers the opportunity to request a referendum on the Order. These changes will affect the information collection requirements by requiring documentation that shows an assessment was paid during the representative period be provided with form LS–51–1. However, providing the documentation will have no significant impact on the approved per response burden for form LS–51–1. No comments were received regarding the information collection section.

**Background**

The Act (7 U.S.C. 6301–6311) provides for the establishment of a coordinated program of promotion and research designed to strengthen the soybean industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for soybeans and soybean products. The program is financed by an assessment of 0.5 of 1 percent of the net market price of soybeans sold by producers. The final Order establishing a Soybean Promotion, Research, and Consumer Information Program was published in the July 9, 1991, issue of the **Federal Register** (56 FR 31043) and assessments began on September 1, 1991.

The Act required that an initial referendum be conducted no earlier than 18 months and not later than 36

months after the issuance of the Order to determine whether the Order should be continued.

The initial referendum was conducted on February 9, 1994. On April 1, 1994, the Secretary announced that of the 85,606 valid ballots cast, 46,060 (53.8 percent) were in favor of continuing the Order and the remaining 39,546 votes (46.2 percent) were against continuing the Order. The Act required approval by a simple majority for the Order to continue.

The Act also required that within 18 months after the Secretary announced the results of the initial referendum, the Secretary would conduct a poll among producers to determine if producers favored a referendum on the continuance of the payment of refunds under the Order.

A July 25, 1995, nationwide poll of soybean producers did not generate sufficient support for a refund referendum to be held. A refund referendum would have been held if at least 20 percent (not in excess of one-fifth of which may be producers in any one State) of the 381,000 producers (76,200) nationwide requested it. Only 48,782 soybean producers participated in the poll. Consequently, refunds were discontinued on October 1, 1995.

The Act also specifies that the Secretary shall, 5 years after the conduct of the initial referendum and every 5 years thereafter, provide soybean producers an opportunity to request a referendum on the Order. On October 1, 1999, through November 16, 1999, a nationwide request for a referendum on the Order was conducted to determine if there was sufficient interest among soybean producers to vote on whether to continue the Soybean Checkoff Program. If at least 10 percent of the 600,813 soybean producers nationwide (not in excess of one-fifth of which may be producers in any one State) had participated in the request for referendum, a referendum would have been held. Only 17,970 eligible soybean producers completed valid requests—far short of the 60,082 required to trigger a referendum.

For all such referendums, if the Secretary determines that at least 10 percent of U.S. producers engaged in growing soybeans (not in excess of one-fifth of which may be producers in any one State) support the conduct of a referendum, the Secretary must conduct a referendum within 1 year of that determination. If these requirements are not met, no referendum will be conducted.

For the purposes of the Request for Referendum, USDA determined that they would use the most recent data of soybean producers identified by USDA's FSA. At the time the proposed rule was published in the **Federal Register** (69 FR 3854) on January 27, 2004, the most recent numbers of soybean producers identified by FSA was 597,151 for 2001 and 573,825 for 2002. However, as a result of comments received from various organizations and further discussions with FSA, AMS has determined that data is available for 2003 and should be used in lieu of 2001 as proposed. The information for years 2002 and 2003 is based on acreage reports compiled by FSA and using the data from the last two crop years collected will help ensure that all eligible producers are counted. After further review and discussions with FSA, it was determined that the initial baseline proposed by USDA might not include all producers who were engaged in the production of soybeans and would not accurately reflect the universe of soybeans producers for the 2-year period. For example, if Producer A grew soybeans on farm 1 in 2002 and producer B grew soybeans on farm 1 in 2003, under the proposed rule, the average number of producers for the 2 years equals one. Thus, the baseline would be ''one.'' Based on this conclusion and the purpose of the Request for Referendum, both producers could participate and should be included in the universe or baseline. Therefore, USDA will calculate the total number of soybean producers by using FSA's data for 2002 and 2003 and will sort the data in such a manner as to include all producers that were engaged in the production of soybeans in at least one of the 2 years and will avoid counting a producer more than once if that producer engaged in the production of soybeans in both years. Using this method, USDA has determined that the number of producers for the purposes of this Request for Referendum equals 663,880.

The Act provides that producers shall have an opportunity to request a referendum during a period established by the Secretary. Eligible persons must certify on an official form that they were a producer, paid an assessment during the representative period (January 1, 2002, through December 31, 2003), and indicate that they favor the conduct of a referendum. Further, producers will be required to provide documentation, such as sales receipts, showing that an assessment was paid during the representative period at the time a request for a referendum is made. The Request for Referendum period will be held during a 4-week period announced by the Secretary. The Act also provides that a Request for Referendum may be made in person or by mail-in request at county Cooperative Extension Service offices or county FSA offices. USDA has determined that the Request for Referendum will be held at the county FSA offices because it will give soybean producers the greatest opportunity to request a referendum.

This final rule sets forth the amended procedures as discussed in the proposed rule for producers to request a referendum as authorized under the Act, including definitions, eligibility, certification and request procedures, reporting results, and disposition of the forms and records. FSA will coordinate State and county FSA roles in conducting the Request for Referendum by (1) determining producer eligibility, (2) canvassing and counting requests, and (3) reporting the results.

**Comments**

On January 27, 2004, USDA published in the **Federal Register** (69 FR 3854) a proposed rule to amend the procedures for soybean producers to request a referendum on the Order. The proposed rule provided soybean producers the opportunity to submit comments on the procedures and permit soybean producers the opportunity to request an additional referendum on the Order. The comment period ended February 17, 2004.

USDA received two comments, one from the Chief Executive Officer of the United Soybean Board (Board) and another from an interested person, in a timely manner. In addition, one late comment was received. This comment generally reflected the views of the Board's comment. The two comments have been posted on AMS' Web site at *http://www.ams.usda.gov/lsg/mpb/rp-soy.htm.* The changes suggested by commenters are discussed below. Also, USDA has made other miscellaneous changes for the purpose of clarity and accuracy. Those changes are discussed below. For the readers' convenience the discussion of comments is organized by the topic heading.

**Discussion of Comments**

One commenter who did not support the Soybean Checkoff Program did not think the taxpayers of the United States should have to pay the costs of a referendum more frequently than once every 10 years. Furthermore, the commenter felt that if soybean farmers wanted more frequent referendums, then they should pay for all costs associated with the conduct and administration of such a referendum. The Act and Order provide that USDA, 5 years after the conduct of the initial

referendum and every 5 years thereafter, will give soybean producers the opportunity to request additional referendum. Furthermore, in accordance with the provisions of the Act many of the costs of the Request for Referendum or subsequent referendum are paid by soybean producers through assessments collected under the Soybean Checkoff Program. Consequently, this comment is not adopted.

*Section 1220.616 General*

One commenter submitted a comment regarding the methodology used by USDA in establishing the baseline or universe of producers that would be used to determine if 10 percent of the producers desire a referendum. The commenter contended that the method used to determine the number of soybean producers is an anomalous result. For example, 597,151 producers who grew soybeans during 2001 crop year can request a referendum. By averaging the two crop years (597,151 producers in 2001 and the 573,825 producers in 2002), only 58,548 or 9.8 percent of the 597,151 producers eligible to vote as a result of the 2001 crop year determination would be required for a referendum to be held. The commenters contend this methodology inappropriately lowers the statutory threshold below 10 percent.

Upon further review, it was determined that the initial baseline proposed by USDA might not include all producers who were engaged in the growing of soybeans and would not accurately reflect the universe of soybeans producers for the 2-year period. For example, if Producer A grew soybeans on farm 1 in 2002 and producer B grew soybeans on farm 1 in 2003, under the proposed rule, the average number of producers for the 2 years equals one. Thus, the baseline would be ''one.'' However, under the Request for Referendum, both producers could participate and should be included in the universe or baseline. As previously discussed, FSA maintains a list of soybean producers that report farm crop acreages and producer crop shares. FSA has the ability to identify all producers that were engaged in growing soybeans for years 2002–2003. Further, FSA has the ability to count the number of producers that produced soybeans in any one of the 2 years and exclude duplicate counting. This comment has merit. After further review, USDA has determined that the number of producers eligible to participate in the Request for Referendum is 663,880. Thus, if 10 percent or 66,388 producers request a referendum, the referendum will be conducted within 1 year after the results are announced. Section 1220.616(d) will be revised to include 663,880 as the total number of producers eligible to participate in the Request for Referendum.

Also, the commenter questioned a statement in the proposed rule's supplementary information section that indicated that averaging the number of soybean producers for crop years 2001 and 2002 was done in an effort to follow procedures similar to the 1999 Request for Referendum. The commenter noted that there are differences between the two. This statement was intended to merely reflect the use of more than 1 year to capture the most accurate number of producers possible. As such no change is necessary.

*Section 1220.618 Eligibility*

One commenter suggested that each person who requests a referendum must be required to show that the producer paid an assessment during the representative period. This comment has merit and is consistent with USDA's proposal. No change is needed. This rule requires any person who wants to request a referendum to provide documentation at the time a request is made that shows an assessment was been paid between January 1, 2002, through December 31, 2003, to be eligible to request a referendum.

*Section 1220.619 Time and Place for Requesting a Referendum*

One commenter supported USDA's proposal that eligible producers must participate in the county FSA office that maintains the producers' administrative farm records are appropriate. This comment has merit and is consistent with USDA's proposal for the Request for Referendum. No change is needed.

However, under § 1220.619(c), USDA removed the word ''vote'' and replaced it with the words ''request for referendum.'' The Request for Referendum does not require a ''yes'' or ''no'' vote.

*Section 1220.622 Certification and Request Procedures*

Under § 1220.622(c), the phrase ''* * * as provided in paragraph (a) of this section'' has been removed and replaced with ''* * * to the appropriate county FSA office'' to provide more clarity. Also, for clarity, under (c), the term ''the ballots'' and been removed and replaced with ''Form 51–1.''

*Section 1220.623 Canvassing Requests*

Under § 1220.623(b)(1), the phrase ''* * * are a producer'' has been deleted and replaced with ''* * * paid an assessment'.'' This correction clarifies that an assessment must have been paid during the representative period to request a referendum.

Under § 1220.623(e), the words ''and supporting documentation'' has been added after ''Form LS–51–1 under subsections (e)(2), (e)(3), (e)(4), and (e)(6).'' The words ''* * * or supporting documentation'' has been added after the words ''Form LS–51–1 under subsection (e)(5).'' These additions clarify that supporting documentation must be submitted with form LS–51–1.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. This action establishes the final rule, which provides soybean producers the opportunity to request a referendum on the Order. By establishing this final rule in a timely manner, USDA will be able to begin the Request for Referendum no later than May 2004.

**List of Subjects in 7 CFR Part 1220**

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Soybeans and soybean products, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, title 7, part 1220 is amended as follows:

## PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

■ 1. The authority citation for 7 CFR part 1220 continues to read as follows:

**Authority:** 7 U.S.C. 6301–6311.

■ 2. Subpart F is revised to read as follows:

### Subpart F—Procedures To Request a Referendum

**Definitions**

Sec.
1220.600 Act.
1220.601 Administrator, AMS.
1220.602 Administrator, FSA.
1220.603 Farm Service Agency.
1220.604 Farm Service Agency County Committee.
1220.605 Farm Service Agency County Executive Director.
1220.606 Farm Service Agency State Committee.
1220.607 Farm Service Agency State Executive Director.
1220.608 Order.
1220.609 Person.
1220.610 Producer.
1220.611 Public notice.

1220.612 Representative period.
1220.613 Secretary.
1220.614 Soybeans.
1220.615 State and United States.

**Procedures**

1220.616 General.
1220.617 Supervision of the process for requesting a referendum.
1220.618 Eligibility.
1220.619 Time and place for requesting a referendum.
1220.620 Facilities.
1220.621 Certification and request form.
1220.622 Certification and request procedures.
1220.623 Canvassing requests.
1220.624 Confidentiality.
1220.625 Counting requests.
1220.626 FSA county office report.
1220.627 FSA State office report.
1220.628 Results of the request for referendum.
1220.629 Disposition of records.
1220.630 Instructions and forms.

## Subpart F—Procedures To Request a Referendum

### Definitions

#### § 1220.600 Act.

*Act* means the Soybean, Promotion, Research, and Consumer Information Act set forth in title XIX, subtitle E, of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624), and any amendments thereto.

#### § 1220.601 Administrator, AMS.

*Administrator, AMS,* means the Administrator of the Agricultural Marketing Service, or any officer or employee of USDA to whom there has been delegated or may be delegated the authority to act in the Administrator's stead.

#### § 1220.602 Administrator, FSA.

*Administrator, FSA,* means the Administrator, of the Farm Service Agency, or any officer or employee of USDA to whom there has been delegated or may be delegated the authority to act in the Administrator's stead.

#### § 1220.603 Farm Service Agency.

*Farm Service Agency* also referred to as ''FSA'' means the Farm Service Agency of USDA.

#### § 1220.604 Farm Service Agency County Committee.

*Farm Service Agency County Committee,* also referred to as ''FSA County Committee or COC,'' means the group of persons within a county who are elected to act as the Farm Service Agency County Committee.

#### § 1220.605 Farm Service Agency County Executive Director.

*Farm Service Agency County Executive Director,* also referred to as ''CED,'' means the person employed by the FSA County Committee to execute the policies of the FSA County Committee and to be responsible for the day-to-day operation of the FSA county office, or the person acting in such capacity.

#### § 1220.606 Farm Service Agency State Committee.

*Farm Service Agency State Committee,* also referred to as ''FSA State Committee,'' means the group of persons within a State who are appointed by the Secretary to act as the Farm Service Agency State Committee.

#### § 1220.607 Farm Service Agency State Executive Director.

*Farm Service Agency State Executive Director,* also referred to as ''SED,'' means the person employed by the FSA State Committee to execute the policies of the FSA State Committee and to be responsible for the day-to-day operation of the FSA State office, or the person acting in such capacity.

#### § 1220.608 Order.

*Order* means the Soybean Promotion and Research Order.

#### § 1220.609 Person.

*Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

#### § 1220.610 Producer.

*Producer* means any person engaged in the growing of soybeans in the United States who owns or who shares the ownership and risk of loss of such soybeans.

#### § 1220.611 Public notice.

*Public notice* means a notice published in the **Federal Register,** not later than 60 days prior to the last day of the Request for Referendum period, that provides information regarding the Request for Referendum period. Such notification shall include, but not be limited to explanation of producers' rights, procedures to request a referendum, the purpose, dates of the Request for Referendum period, location for conducting the Request for Referendum, and eligibility requirements. Additionally, the United Soybean Board is required to provide producers, in writing, this same information during the same time period. Other pertinent information shall also be provided, without advertising expense, through press releases by State and county FSA offices and other appropriate Government offices, by means of newspapers, electronic media, county newsletters, and the like.

#### § 1220.612 Representative period.

*Representative period* means the period designated by the Secretary pursuant to section 1970 of the Act.

#### § 1220.613 Secretary.

*Secretary* means the Secretary of Agriculture of the United States Department of Agriculture (USDA) or any other officer or employee of USDA to whom there has been delegated or to whom there may be delegated the authority to act in the Secretary's stead.

#### § 1220.614 Soybeans.

*Soybeans* means all varieties of glycine max or glycine soja.

#### § 1220.615 State and United States.

*State and United States* include the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

### Procedures

#### § 1220.616 General.

An opportunity to request a referendum shall be provided to U.S. soybean producers to determine whether eligible producers favor the conduct of a referendum and the Request for Referendum shall be carried out in accordance with this subpart.

(a) The opportunity to request a referendum shall be provided at the county FSA offices.

(b) If the Secretary determines, based on results of the Request for Referendum that no less than 10 percent (not in excess of one-fifth of which may be producers in any one State) of all producers have requested a referendum on the Order, a referendum will be held within 1 year of that determination.

(c) If the Secretary determines, based on the results of the Request for Referendum, that the requirements in paragraph (b) of this section are not met, a referendum will not be conducted.

(d) For purposes of paragraphs (b) and (c) of this section, the number of soybean producers in the United States is determined to be 663,880.

#### § 1220.617 Supervision of the process for requesting a referendum.

The Administrator, AMS, shall be responsible for supervising the process of permitting producers to request a referendum in accordance with this subpart.

**§ 1220.618 Eligibility.**

(a) *Eligible producers.* Each person who was a producer and provides evidence that they or the producer entity they represent has paid an assessment on soybeans during the representative period is provided the opportunity to request a referendum. Each producer entity is entitled to only one request.

(b) *Proxy Registration.* Proxy registration is not authorized, except that an officer or employee of a corporate producer, or any guardian, administrator, executor, or trustee of a producer's estate, or an authorized representative of any eligible producer entity (other than an individual producer), such as a corporation or partnership, may request a referendum on behalf of that entity. Any individual who requests a referendum on behalf of any producer entity, shall certify that he or she is authorized by such entity to take such action.

(c) *Joint and group interest.* A group of individuals, such as members of a family, joint tenants, tenants in common, a partnership, owners of community property, or a corporation engaged in the production of soybeans as a producer entity shall be entitled to make only one request for a referendum; provided, however, that any individual member of a group who is an eligible producer separate from the group may request a referendum separately.

**§ 1220.619 Time and Place for Requesting a Referendum.**

(a) The opportunity to request a referendum shall be provided during a 4-week period beginning and ending on a date determined by the Secretary. Eligible persons shall have the opportunity to request a referendum by following the procedures in § 1220.622 during the normal business hours of each county FSA office.

(b) Producers can determine the location of county FSA offices by contacting the nearest county FSA office, the State FSA office or through an online search of FSA's web site at *www.fsa.usda.gov/pas/default.asp.*

(c) Each eligible person shall request a referendum in the county FSA office where FSA maintains and processes the producer's, corporation's, or other entities administrative farm records. For the producer, corporation, or other entity not participating in FSA programs, the opportunity to request a referendum would be provided at the county FSA office serving the county where the producer, corporation, or other legal entity owns or rents land. An individual or authorized representative of a corporation who grows soybeans in more than one county would request a referendum in the county FSA office where the individual or corporation or other entity does most of its business.

**§ 1220.620 Facilities.**

Each county FSA office will provide:

(a) A polling place that is well known and readily accessible to producers in the county and that is equipped and arranged so that each person can complete and submit their request in secret without coercion, duress, or interference of any sort whatsoever, and

(b) A holding container of sufficient size so arranged that no request can be read or removed without breaking seals on the container.

**§ 1220.621 Certification and request form.**

Form LS–51–1 shall be used to request a referendum and certify producer eligibility. The form does not require a ''yes'' or ''no'' vote. Individual producers and representatives of other producer entities should read the form carefully. By completing and signing the form, the individual simultaneously certifies eligibility and requests that a referendum be conducted.

**§ 1220.622 Certification and request procedures.**

(a) To request that a referendum be conducted, each eligible producer shall, during the Request for Referendum period, be provided the opportunity to request a referendum during a specified period announced by the Secretary.

(1) Each eligible producer shall be required to complete form LS–51–1 in its entirety and sign it. The producer must legibly print his/her name and, if applicable, the producer entity represented, address, county, and telephone number. The producer must read the certification statement on form LS–51–1 and sign it certifying that:

(i) The person or the producer entity they represent was a producer of soybeans during the representative period;

(ii) The individual requesting a referendum on behalf of a corporation or other entity is authorized to do so; and

(iii) The individual has submitted only one request for a referendum unless they are also an authorized representative for another eligible corporation or other entity.

(2) The producer, corporation, or other entity must also provide documentation, such as a sales receipt, showing that the producer, corporation, or other entity has paid an assessment on soybeans during the representative period.

(3) Only a completed and signed form LS–51–1 accompanied by documentation showing that soybean assessments were paid during the representative period shall be considered a valid request for a referendum.

(b) To request a referendum, eligible producers may obtain form LS–51–1 in-person, by mail, or by facsimile during the request for referendum period from the county FSA office where FSA maintains and processes the producer's, corporation's, or other entity's administrative farm records. For the producer, corporation, or other entity not participating in FSA programs, the opportunity to request a referendum would be provided at the county FSA office serving the county where the producer, corporation, or other entity owns or rents land. Eligible producers may also obtain form LS–51–1 via the Internet at *www.ams.usda.gov/lsg/mpb/rp-soy.htm.* For those persons who chose to obtain form LS–51–1 via the Internet, the completed form and required documentation must be submitted to the county FSA office where FSA maintains and process the producer's, corporation's, or other entity's administrative farm records. For producer, corporation, or other entity not participating in FSA programs, the opportunity to request a referendum would be provided at the county FSA office serving the county where the producer, corporation, or other entity owns or rents land.

(c) Producers or producer entities may return form LS–51–1 and the accompanying documentation in-person, by mail, or facsimile to the appropriate county FSA office. Form LS–51–1 returned in-person or by facsimile, must be received in the appropriate county FSA office prior to the close of the work day on the final day of the Request for Referendum period to be considered a valid request. Form LS–51–1 and the accompanying documentation returned by mail must be postmarked no later than midnight of the final day of the Request for Referendum period and must be received in the county FSA office prior to the start of canvassing Form LS 51–1.

(d) Producers who obtain form LS–51–1 in-person at the appropriate FSA county office may complete and return the form the same day, accompanied by documentation, such as a sales receipt, showing that soybean assessments were paid during the representative period.

**§ 1220.623 Canvassing requests.**

(a) Canvassing of Form LS–51–1 shall take place at the opening of county FSA offices on the 5th business day following the Request for Referendum

period. Such canvassing, acting on behalf of the Administrator, AMS, shall be in the presence of at least two members of the county committee. If two or more of the counties have been combined and are served by one county office, the canvassing of the requests shall be conducted by at least one member of the county committee from each county served by the county office. The FSA State committee or the State Executive Director if authorized by the State Committee, may designate the County Executive Director (CED) and a county or State FSA office employee to canvass the requests and report the results instead of two members of the county committee when it is determined that the number of eligible voters is so limited that having two members of the county committee present for this function is impractical, and designate the CED and/or another county or State FSA office employee to canvass requests in any emergency situation precluding at least two members of the county committee from being present to carry out the functions required in this section.

(b) The request for referendum should be canvassed as follows:

(1) *Number of eligible requests for a referendum.* Each person who was a producer during the representative period and provides documentation to prove that they paid an assessment will be considered eligible to request a referendum.

(2) *Number of ineligible requests for a referendum.* If FSA cannot determine that a producer is eligible based on the submitted documentation or if the producer fails to submit the required documentation, the producer shall be determined to be ineligible. FSA shall notify ineligible producers in writing as soon as practicable but no later than the 8th business day following the final day of the Request for Referendum period.

(c) *Appeal.* A person declared to be ineligible by FSA can appeal such decision and provide additional documentation to the FSA county office within 5 business days after the postmark date of the letter of notification of ineligibility. FSA will then make a final decision on the producer's eligibility and notify the producer of the decision.

(d) *Number of valid requests for referendum.* A person has been declared eligible and has provided and completed all of the required information on form LS–51–1.

(e) *Number of invalid requests for a referendum.* An invalid request for referendum includes, but is not limited to the following:

(1) Form LS–51–1 is not signed or all required information has not been provided;

(2) Form LS–51–1 and supporting documentation returned in-person or by facsimile was not received by the last business day of the Request for Referendum period;

(3) Form LS–51–1 and supporting documentation returned by mail was not postmarked by midnight of the final day of the Request for Referendum period;

(4) Form LS–51–1 and supporting documentation returned by mail was not received in the county FSA office prior to canvassing of the ballots;

(5) Form LS–51–1 or supporting documentation is mutilated or marked in such a way that any required information on the form is illegible; or

(6) Form LS–51–1 and supporting documentation not returned to the appropriate county FSA office.

### § 1220.624 Confidentiality.

The names of persons requesting a referendum shall be confidential and may not be divulged except as the Secretary may direct.

### § 1220.625 Counting requests.

(a) The requests for a referendum shall be counted by county FSA offices on the same day as the requests are canvassed if there are no ineligibility determinations to resolve. For those county FSA offices that do have ineligibility determinations, the requests shall be counted no later than the 14th business day following the final day of the Request for Referendum period.

(b) Requests for a referendum shall be counted as follows:

(1) Total number of producers who returned a Request for Referendum form LS–51–1;

(2) Number of ineligible producers requesting a referendum;

(3) Number of eligible producers requesting a referendum;

(4) Number of valid requests for a referendum; and

(5) Number of invalid requests for a referendum.

### § 1220.626 FSA county office report.

The county FSA office report shall be certified as accurate and complete by the CED or designee, acting on behalf of the Administrator, AMS, as soon as may be reasonably possible, but in no event later than 18th business day following the final day of the specified period, have prepared and certified the county summary of requests on a form provided by the Administrator, FSA. Each county FSA office shall transmit the results in its county to the FSA State office. The results in each county may be made available to the public upon notification by the Administrator, FSA, that the final results have been released by the Secretary. A copy of the report shall be posted for 30 days following the date of notification by the Administrator, FSA, in the county FSA office in a conspicuous place accessible to the public. One copy shall be kept on file in the county FSA office for a period of at least 12 months after notification by FSA that the final results have been released by the Secretary.

### § 1220.627 FSA State office report.

Each FSA State office shall transmit to the Administrator, FSA, as soon as possible, but in no event later than the 20th business day following the final day of the Request for Referendum period, a report summarizing the data contained in each of the reports from the county FSA offices. One copy of the State summary shall be filed for a period of not less than 12 months after the results have been released and available for public inspection after the results have been released.

### § 1220.628 Results of the request for referendum.

(a) The Administrator, FSA, shall submit to the Administrator, AMS, the reports from all State FSA offices. The Administrator, AMS, shall tabulate the results of the Request for Referendum. USDA will issue an official press release announcing the results of the Request for Referendum and publish the same results in the **Federal Register**. In addition, USDA will post the official results at the following Web site: *http://www.ams.usda.gov/lsg/mpb/rp-soy.htm*. Subsequently, State reports and related papers shall be available for public inspection upon request during normal business hours in the Marketing Programs Branch office, Livestock and Seed Program, AMS, USDA, Room 2638–S, STOP 0251, 1400 Independence Avenue, SW., Washington, DC.

(b) If the Secretary deems necessary, a State report or county report shall be reexamined and checked by such persons who may be designated by the Secretary.

### § 1220.629 Disposition of records.

Each FSA CED will place in sealed containers marked with the identification of the ''Request for Soybean Referendum,'' all of the form LS–51–1's along with the accompanying documentation and county summaries. Such records will be placed in a secure location under the custody of the FSA CED for a period of not less than 12 months after the date of notification by

the Administrator, FSA, that the final results have been announced by the Secretary. If the county FSA office receives no notice to the contrary from the Administrator, FSA, by the end of the 12 month period as described above, the CED or designee shall destroy the records.

**§ 1220.630 Instructions and forms.**

The Administrator, AMS, is authorized to prescribe additional instructions and forms not inconsistent with the provisions of this subpart.

Dated: March 18, 2004.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 04–6519 Filed 3–19–04; 9:54 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 23

**[Docket No. CE204; Special Conditions No. 23–144–SC]**

## Special Conditions: Centex Aerospace, Inc; Diamond DA20–C1 Katana, Installation of Full Authority Digital Engine Control (FADEC) System and the Protection of the System From the Effects of High Intensity Radiated Fields (HIRF)

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

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued to CenTex Aerospace, Inc., 7805 Karl May Drive, Waco, Texas 76708 for the Diamond DA20–C1 Katana airplane. This airplane will have a novel or unusual design feature associated with the installation of an engine that uses an electronic engine control system in place of the engine's mechanical system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATE:** The effective date of these special conditions is: March 16, 2004. Comments must be received on or before April 22, 2004.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration (FAA), Regional Counsel, ACE–7, Attention: Rules Docket, Docket No. CE204, 901 Locust, Room 506, Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: Docket No. CE204. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Wes Ryan, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: 816–329–4127, fax: 816–329–4090.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

### Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or special condition number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. CE204.'' The postcard will be date stamped and returned to the commenter.

### Background

On December 19, 2002, CenTex Aerospace applied for a Supplemental Type Certificate for the Diamond DA20–C1 Katana. The DA20–C1 is powered by a reciprocating engine that is equipped with an electronic engine control system with full authority capability in place of the hydromechanical control system.

### Type Certification Basis

Under the provisions of 14 CFR 21.101, CenTex Aerospace must show that the DA20–C1 meets the applicable provisions of the original certification basis of the DA20–C1, as listed on Type Certificate No. TA4CH, issued April 6, 1998; exemptions, if any; and the special conditions adopted by this rulemaking action. The DA20–C1 was originally certified under 14 CFR 21.29 and 14 CFR part 23 effective February 1, 1965, as amended by Amendments 23–1 through 23–42; JAR–VLA effective April 26, 1990, through Amendment VLA/92/1, effective January 1, 1992, used as a safety equivalence to part 23, as provided by AC 23–11; 14 CFR part 36, dated December 1, 1969, as amended by current amendment as of the date of type certification; Equivalent Level of Safety for part 23, § 23.903(a)(1) (reference Finding ACE–95–1, dated December 2, 1994); and the terms of this Special Condition.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 23) do not contain adequate or appropriate safety standards for the DA20–C1 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38, and become part of the certification basis for the supplemental type certification basis in accordance with § 21.101. Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other models that are listed on the same type certificate to incorporate the same novel or unusual design features, the special conditions would also apply under the provisions of § 21.101.

### Novel or Unusual Design Features

The Diamond DA20–C1 will incorporate a novel or unusual design feature, an engine that includes an electronic control system with full authority digital engine control (FADEC) capability.

Many advanced electronic systems are prone to either upsets or damage, or both, at energy levels lower than analog systems. The increasing use of high power radio frequency emitters mandates requirements for improved high intensity radiated fields (HIRF) protection for electrical and electronic

equipment. Since the electronic engine control system used on the Diamond DA20–C1 will perform critical functions, provisions for protection from the effects of HIRF should be considered and, if necessary, incorporated into the airplane design data. The FAA policy contained in Notice 8110.71, dated April 2, 1998, establishes the HIRF energy levels that airplanes will be exposed to in service. The guidelines set forth in this notice are the result of an Aircraft Certification Service review of existing policy on HIRF, in light of the ongoing work of the Aviation Rulemaking Advisory Committee (ARAC) Electromagnetic Effects Harmonization Working Group (EEHWG). The EEHWG adopted a set of HIRF environment levels in November 1997 that were agreed upon by the FAA, the Joint Aviation Authorities (JAA), and industry participants. As a result, the HIRF environments in this notice reflect the environment levels recommended by this working group. This notice states that a FADEC is an example of a system that should address the HIRF environments.

Even though the control system will be certificated as part of the engine, the installation of an engine with an electronic control system requires evaluation due to the possible effects on or by other airplane systems (*e.g.,* radio interference with other airplane electronic systems, shared engine and airplane power sources). The regulatory requirements in 14 CFR part 23 for evaluating the installation of complex systems, including electronic systems, are contained in § 23.1309. However, when § 23.1309 was developed, the use of electronic control systems for engines was not envisioned; therefore, the § 23.1309 requirements were not applicable to systems certificated as part of the engine (reference § 23.1309(f)(1)). Also, electronic control systems often require inputs from airplane data and power sources and outputs to other airplane systems (*e.g.,* automated cockpit powerplant controls such as mixture setting). Although the parts of the system that are not certificated with the engine could be evaluated using the criteria of § 23.1309, the integral nature of systems such as these makes it unfeasible to evaluate the airplane portion of the system without including the engine portion of the system. However, § 23.1309(f)(1) again prevents complete evaluation of the installed airplane system since evaluation of the engine system's effects is not required.

Therefore, special conditions are proposed for the Diamond DA20–C1 airplane to provide HIRF protection and to evaluate the installation of the electronic engine control system for compliance with the requirements of § 23.1309(a) through (e) at Amendment 23–49.

## Applicability

As discussed above, these special conditions are applicable to the Diamond DA20–C1. Should CenTex Aerospace apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate as the DA20–C1 to incorporate the same novel or unusual design features, the special conditions would apply to that model as well under the provisions of § 21.101.

## Conclusion

This action affects only certain novel or unusual design features on one model, the Diamond DA20–C1. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**. However the FAA finds that good cause exists to make these special conditions effective upon issuance.

## List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

## Citation

■ The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

## The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Diamond DA20–C1 airplanes.

*1. High Intensity Radiated Fields (HIRF) Protection.* In showing compliance with 14 CFR part 21 and the airworthiness requirements of 14 CFR part 23, protection against hazards caused by exposure to HIRF fields for the full authority digital engine control system, which performs critical functions, must be considered. To prevent this occurrence, the electronic engine control system must be designed and installed to ensure that the operation and operational capabilities of this critical system are not adversely affected when the airplane is exposed to high energy radio fields.

At this time, the FAA and other airworthiness authorities are unable to precisely define or control the HIRF energy level to which the airplane will be exposed in service; therefore, the FAA hereby defines two acceptable interim methods for complying with the requirement for protection of systems that perform critical functions.

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the external HIRF threat environment defined in the following table:

| Frequency | Field strength (volts per meter) | |
|---|---|---|
| | Peak | Average |
| 10 kHz–100 kHz | 50 | 50 |
| 100 kHz–500 kHz | 50 | 50 |
| 500 kHz–2 MHz | 50 | 50 |
| 2 MHz–30 MHz | 100 | 100 |
| 30 MHz–70 MHz | 50 | 50 |
| 70 MHz–100 MHz | 50 | 50 |
| 100 MHz–200 MHz | 100 | 100 |
| 200 MHz–400 MHz | 100 | 100 |
| 400 MHz–700 MHz | 700 | 50 |
| 700 MHz–1 GHz | 700 | 100 |
| 1 GHz–2 GHz | 2000 | 200 |
| 2 GHz–4 GHz | 3000 | 200 |
| 4 GHz–6 GHz | 3000 | 200 |
| 6 GHz–8 GHz | 1000 | 200 |
| 8 GHz–12 GHz | 3000 | 300 |
| 12 GHz–18 GHz | 2000 | 200 |
| 18 GHz–40 GHz | 600 | 200 |

The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter peak electrical strength, without the benefit of airplane structural shielding, in the frequency range of 10 KHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation. Data used for engine certification may be used, when appropriate, for airplane certification.

2. *Electronic Engine Control System.* The installation of the electronic engine control system must comply with the requirements of § 23.1309(a) through (e) at Amendment 23–46. The intent of this requirement is not to re-evaluate the inherent hardware reliability of the control itself, but rather determine the effects, including environmental effects addressed in § 23.1309(e), on the

airplane systems and engine control system when installing the control on the airplane. When appropriate, engine certification data may be used when showing compliance with this requirement.

Issued in Kansas City, Missouri, on March 16, 2004.

**James E. Jackson,**

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

[FR Doc. 04–6454 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2003–16596; Airspace Docket No. 03–ASO–20]**

## Amendment of Class D, E2 and E4 Airspace; Columbus Lawson AAF, GA, and Class E5 Airspace; Columbus, GA

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

**ACTION:** Final rule.

**SUMMARY:** This action amends Class D, E2, and E4 airspace at Columbus Lawson Army Air Field (AAF), GA, and Class E airspace at Columbus, GA. As a result of the relocation of the Lawson AAF Instrument Landing System (ILS) and the extension of Runway (RWY) 15–33, it has been determined a modification should be made to the Columbus Lawson AAF, GA, Class D, E2 and E4 airspace and to the Columbus, GA, Class E5 airspace areas to contain the ILS RWY 33 Standard Instrument Approach Procedure (SIAP) to the Lawson AAF Airport. Additional surface area airspace and controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP.

**EFFECTIVE DATE:** 0901 UTC, June 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Water R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

**SUPPLEMENTARY INFORMATION:**

### History

On January 15, 2004, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class D, E2, and E4 airspace at Columbus Lawson AAF, GA, and Class E5 airspace at Columbus, GA, (69 FR 2311). This action provides adequate Class D, E2, E4 and E5 airspace for IFR operations at Columbus Lawson AAF, GA. Designations for Class D airspace areas extending upward from the surface of the earth and Class E airspace designations for airspace designated as surface areas and airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraphs 5000, 6002, 6004 and 6005 respectively, of FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class D and E designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

### The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class D, E2, and E4 airspace at Columbus Lawson AAF, GA, and Class E5 airspace at Columbus, GA.

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

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

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

## PART 71—DESIGNATION OF CLASS A, 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 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

*Paragraph 5000 Class D Airspace*

* * * * *

**ASO GA D Columbus Lawson AAF, GA [Revised]**

Columbus Lawson AAF, GA
(Lat. 32°20′14″ N, long. 84°59′29″ W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 4.2-mile radius of Lawson AAF, excluding that airspace within the Columbus Metropolitan Airport, GA, Class C airspace area. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

*Paragraph 6002 Class E Airspace Designated as Surface Areas*

* * * * *

**ASO GA E2 Columbus Lawson AAF, GA [Revised]**

Columbus Lawson AAF, GA
(Lat. 32°20′14″ N, long. 84°59′29″ W)

Within a 4.2-mile radius of Lawson AAF; excluding that airspace within the Columbus Metropolitan Airport, GA, Class C airspace area. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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*Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area*

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**ASO GA E4 Columbus Lawson AAF, GA [Revised]**

Lawson AAF, GA
(Lat. 32°20′14″ N, long. 84°59′29″ W)
Lawson VOR/DME
(Lat. 32°19′57″ N, long. 84°59′36″ W)
Lawson NDB
(Lat. 32°17′36″ N, long. 85°01′24″ W)

That airspace extending upward from the surface within 1.2 miles each side of the Lawson VOR/DME 214° radial extending from the 4.2-mile radius of Lawson AAF to 6 miles southwest of the NDB. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective date and time

will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

*Paragraph 6005 Class E Airspace Designated as Surface Areas*

* * * * *

**ASO GA E5 Columbus, GA [Revised]**

Columbus Metropolitan Airport, GA
(Lat. 32°30′59″ N, long. 84°56′20″ W)
Lawson AAF, GA
(Lat. 32′20′14″ N, long. 84°59′29″ W)
Lawson VOR/DME
(Lat. 32°19′57″ N, long. 84°59′36″ W)
Lawson LOC
(Lat. 32°20′43″ N, long. 84°59′55″ W)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Columbus Metropolitan Airport and within a 7.6-mile radius of Lawson AAF and within 2.5 miles each side of Lawson VOR/DME 340° radial, extending from the 7.6-mile radius to 15 miles north to the VOR/DME and within 4 miles each side of the Lawson LOC 127° course, extending from the 7.6-mile radius to 10.6 miles southeast of Lawson AAF.

* * * * *

Issued in College Park, Georgia, on February 26, 2004.

**Jeffrey U. Vincent,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 04–6048 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–13–M**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2003–16587; Airspace Docket No. 03–AAL–22]**

## Amendment of Class E Airspace; Juneau, AK

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

**ACTION:** Final rule.

**SUMMARY:** This action amends Class E airspace at Juneau, AK to provide adequate controlled airspace to contain aircraft executing a new Standard Instrument Approach Procedure (SIAP). This Rule results in additional Class E surface area airspace at Juneau, AK.

**EFFECTIVE DATE:** 0901 UTC, June 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

**SUPPLEMENTARY INFORMATION:**

### History

On Wednesday, January 14, 2004, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create additional Class E surface area airspace at Juneau, AK (69 FR 2086). The action was proposed in order to add Class E surface area airspace sufficient in size to contain aircraft while executing a new SIAP for the Juneau Airport. The new approach is Area Navigation-Global Positioning System (RNAV GPS) Runway 8 original. Amended Class E controlled airspace extending upward from the surface within 2.8 miles south and 2.2 miles north of the Juneau Localizer west course, extending from the 3-mile radius of the Juneau International Airport to 8.9-miles west of the Juneau International Airport is established by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E4 airspace areas designated as an extension to a Class D or Class E surface area are published in paragraph 6004 of FAA Order 7400.9L, *Airspace Designations and Reporting Points,* dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be revoked and revised subsequently in the Order.

### The Rule

This revision to 14 CFR part 71 establishes Class E airspace at Juneau, Alaska. This additional Class E airspace was created to accomodate aircraft executing a new SIAP and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Juneau Airport, Juneau, Alaska.

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

■ In consideration of the foregoing, 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 14 CFR part 71 continues to read as follows:

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

### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, *Airspace Designations and Reporting Points,* dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

*Paragraph 6004 Class E airspace designated as an extension to a Class D or Class E surface area.*

* * * * *

**AAL AK E4 Juneau, AK [Amended]**

Juneau Airport, AK
(Lat. 58°21′18″ N., long. 134°34′35″ W.)
Juneau Localizer
(Lat. 58°21′32″ N, long. 134°38′10″ W.)

That airspace extending upward from the surface within 2.8 miles south and 2.2 miles north of the Juneau Localizer west course, extending from the 3-mile radius of the Juneau International Airport to 8.9 miles west of the Juneau International Airport.

* * * * *

Issued in Anchorage, AK, on March 12, 2004.

**Anthony M. Wylie,**

*Acting Manager, Air Traffic Division, Alaskan Region.*

[FR Doc. 04–6380 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2003–16586; Airspace Docket No. 03–AAL–24]**

### Establishment of Class E Airspace; Ruby, AK

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at Ruby, AK to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAP) and two new Departure Procedures. This Rule results in new Class E airspace upward from 700 feet (ft.) above the surface at Ruby, AK.

**EFFECTIVE DATE:** 0901 UTC, June 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

**SUPPLEMENTARY INFORMATION:**

#### History

On Wednesday, January 14, 2004, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create new Class E airspace upward from 700ft. above the surface at Ruby, AK (69 FR 2085). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing two new SIAPs for the Ruby Airport. The new approaches are (1) Area Navigation-Global Positioning System (RNAV GPS) Runway 21 original, and (2) RNAV (GPS) Runway 3 original. New Class E controlled airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Ruby Airport area is established by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9L, *Airspace Designations and Reporting Points,* dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be revoked and revised subsequently in the Order.

#### The Rule

This revision to 14 CFR part 71 establishes Class E airspace at Ruby, Alaska. This additional Class E airspace was created to accommodate aircraft executing new SIAPs and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Ruby Airport, Ruby, Alaska.

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

■ In consideration of the foregoing, 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 14 CFR part 71 continues to read as follows:

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

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, *Airspace Designations and Reporting Points,* dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

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

* * * * *

**AAL AK E5 Ruby, AK [New]**

Ruby Airport, AK
(Lat. 64°43′38″ N., long. 155°28′12″ W.)
That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Ruby Airport.

* * * * *

Issued in Anchorage, AK, on March 12, 2004.

**Anthony M. Wylie,**

*Acting Manager, Air Traffic Division, Alaskan Region.*

[FR Doc. 04–6381 Filed 3–22–04; 8:45 am

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2003–16584; Airspace Docket No. 03–AAL–25]**

### Establishment of Class E Airspace; Kwigillingok, AK

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at Kwigillingok, AK to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAP). This Rule results in new Class E airspace upward from 700 feet (ft.) above the surface at Kwigillingok, AK.

**EFFECTIVE DATE:** 0901 UTC, June 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

**SUPPLEMENTARY INFORMATION:**

#### History

On Wednesday, January 14, 2004, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create new Class E airspace upward from 700ft. above the surface at Kwigillingok, AK (69 FR 2084). The

action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing two new SIAPs for the Kwigillingok Airport. The new approaches are (1) Area Navigation-Global Positioning System (RNAV GPS) Runway 33 original, and (2) RNAV (GPS) Runway 15 original. New Class E controlled airspace extending upward from 700 feet above the surface within a 6.2-mile radius of the Kwigillingok Airport area is established by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9L, *Airspace Designations and Reporting Points,* dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be revoked and revised subsequently in the Order.

### The Rule

This revision to 14 CFR part 71 establishes Class E airspace at Kwigillingok, Alaska. This additional Class E airspace was created to accomodate aircraft executing new SIAPs and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Kwigillingok Airport, Kwigillingok, Alaska.

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

■ In consideration of the foregoing, 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 14 CFR part 71 continues to read as follows:

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

### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, *Airspace Designations and Reporting Points,* dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

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

* * * * *

**AAL AK E5 Kwigillingok, AK [New]**

Kwigillingok Airport, AK
(Lat. 59°52′35″ N., long. 163°10′07″ W.)

That airspace extending upward from 700 feet above the surface within a 6.2-mile radius of the Kwigillingok Airport.

* * * * *

Issued in Anchorage, AK, on March 12, 2004.

**Anthony M. Wylie,**

*Acting Manager, Air Traffic Division, Alaskan Region.*

[FR Doc. 04–6382 Filed 3–22–04; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2004–16904; Airspace Docket No. 04–ASO–2]**

## Establishment of Class E Airpsace; Jamestown, KY

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at Jamestown, KY. Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAP) Runway (RWY) 17 and RWY 35 have been developed for Russell County Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and for Instrument Flight Rules (IFR) operations at Russell County Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

**EFFECTIVE DATE:** 0901 UTC, June 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

**SUPPLEMENTARY INFORMATION:**

### History

On February 3, 2004, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace at Jamestown, KY, (69 FR 5095). This action provides adequate Class E airspace for IFR operations at Russell County Airport. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

### The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Jamestown, KY.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation

as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration is amending 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 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth*

* * * * *

**ASO KY E5 Jamestown, KY [NEW]**

Russell County Airport, KY
(lat. 37°00′32″ N, long, 85°06′10″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-radius of Russell County Airport.

* * * * *

Issued in College Park, Georgia, on March 11, 2004.

**Jeffrey U. Vincent,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 04–6453 Filed 3–22–04; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2003–16622; Airspace Docket No. 03–ASO–21]**

## Amendment of Class E Airspace; Lexington, TN

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

**ACTION:** Final rule.

**SUMMARY:** This action amends Class E5 airpace at Lexington, TN. As a result of an evaluation, it has been determined a modification should be made to the Lexington, TN Class E5 airspace area to contain the VHF Omnidirectional Range (VOR) or Global Positioning Systems (GPS) Runway 33, Standard Instrument Approach Procedure (SIAP) to Franklin Wilkins Airport. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP.

**EFFECTIVE DATE:** 0901 UTC, June 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

**SUPPLEMENTARY INFORMATION:**

**History**

On January 15, 2004, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class E5 airspace at Lexington, TN, (69 FR 2312). This action provides adequate Class E5 for IFR operations at Lexington, TN, Franklin Wilkins Airport, Designations for Class E are published in FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

**The Rule**

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E5 airspace at Lexington, TN.

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

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

## PART 71—DESIGNATION OF CLASS A, 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 74300.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

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

* * * * *

**ASO TN E5 Lexington, TN [Revised]**

Lexington, Franklin Wilkins Airport, TN
(Lat. 35°39′05″ N, long. 88°22′44″ W)
Jacks Creek VORTAC
(Lat. 35°35′56″ N, long. 88°21′32″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Franklin Wilkins Airport, and within 8 miles east and 4 miles west of the Jacks Creek VORTAC 166° radial extending from the 6.6-mile radius to 16 miles southeast of the VORTAC.

* * * * *

Issued in College Park, Georgia, on February 26, 2004.

**Jeffrey U. Vincent,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 04–6047 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 121

**[Docket No. FAA–2002–11301; Notice No. 04–05]**

### Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities

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

**ACTION:** Policy statement.

**SUMMARY:** Until July 29, 2004, the FAA will continue to recognize the antidrug plan number for certain repair stations. This policy applies to any repair station that is conducting testing under the FAA's drug and alcohol regulations but does not hold an Antidrug and Alcohol Misuse Prevention Program Operations Specification. Because of administrative issues, the FAA has not been able to issue this Operations Specification to some repair stations before the February 11, 2004, implementation date set by the FAA.

**DATES:** This policy is effective from February 11, 2004, to July 29, 2004.

**FOR FURTHER INFORMATION CONTACT:** Diane J. Wood, Manager, AAM–800, Drug Abatement Division, Office of Aerospace Medicine, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, Telephone (202) 267–8442.

**SUPPLEMENTARY INFORMATION:**

#### Availability of Documents

You can get an electronic copy of this document using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search*); or

(2)Visiting the Office of Rulemaking's web page at *http://www.faa.gov/avr/arm/index.cfm;* or

(3) Accessing the Government Printing Office's web page at *//www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the Notice number or docket number of this proceeding.

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.*

#### Background

On January 12, 2004, the FAA issued a final rule entitled, ''Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities'' (69 FR 1840). This final rule amended 14 CFR part 121, appendices I and J, the ''Drug Testing Program'' and the ''Alcohol Misuse Prevention Program'' regulations. In the final rule, the FAA required an Antidrug and Alcohol Misuse Prevention Program Operations Specification (OpSpec) for all part 121 and 135 certificate holders and any part 145 repair station opting to conduct drug and alcohol testing under the FAA's regulations. The final rule was effective February 11, 2004.

For administrative reasons, the FAA has not been able to issue the Antidrug and Alcohol Misuse Prevention Program OpSpec to some part 145 repair stations by the effective date of the final rule. However, we will complete issuance of this OpSpec to the remaining part 145 repair stations no later than July 29, 2004.

#### Discussion

Some existing part 145 repair stations that already have an FAA antidrug plan number have been told by their Principal Maintenance Inspectors (PMIs) that the FAA could not issue an Antidrug and Alcohol Misuse Prevention Program OpSpec by February 11, 2004. The FAA was not able to issue some Antidrug and Alcohol Misuse Prevention Program OpSpecs in a timely manner. Therefore, the FAA will continue to recognize the antidrug plan numbers of part 145 repair stations that are conducting testing under 14 CFR part 121, appendices I and J, until their PMIs can issue them the Antidrug and Alcohol Misuse Prevention Program OpSpec. This policy does not extend the effective date of the final rule. Instead, it merely recognizes that some part 145 repair stations have tried to obtain the Antidrug and Alcohol Misuse Prevention Program OpSpec but were unable to do so because of administrative issues within the FAA.

#### Conclusion

Until July 29, 2004, the FAA will continue to recognize the antidrug plan number for certain part 145 repair stations. This policy applies to any repair station that is conducting testing under 14 CFR part 121, appendices I and J, but that has not yet been able to obtain the Antidrug and Alcohol Misuse Prevention Program OpSpec from its PMI. Employers regulated by 14 CFR part 121, appendices I and J should similarly continue to recognize the antidrug plan number for any such part 145 repair station.

Issued in Washington, DC, on March 18, 2004.

**Jon L. Jordan,**

*Federal Air Surgeon.*

[FR Doc. 04–6456 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 312 and 314

### Change of Address; Technical Amendment

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Food and Drug Administration (FDA) is amending its regulations to reflect a change in the address for the Center for Drug Evaluation and Research's (CDER) Central Document Room. This action is editorial in nature and is intended to provide accuracy and clarity to the agency's regulations.

**EFFECTIVE DATE:** March 23, 2004

**FOR FURTHER INFORMATION CONTACT:** Cathie L. Schumaker, Center for Drug Evaluation and Research (HFD–143), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7755.

**SUPPLEMENTARY INFORMATION:** FDA is amending its regulations in parts 312 and 314 (21 CFR parts 312 and 314) to reflect a change in the address for CDER's Central Document Room. Under FDA regulations, applicants must submit to this location information related to marketing applications.

Publication of this document constitutes final action on these changes

under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely correcting nonsubstantive errors.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 312 and 314 are amended as follows:

■ 1. Section 312.140(a) is amended by removing ''Park Bldg., Rm. 214, 12420 Parklawn Dr., Rockville, MD 20852'' and by adding in its place ''5901–B Ammendale Rd., Beltsville, MD 20705–1266.''

■ 2. Section 314.53(d)(4) is amended by removing ''Park Bldg., rm. 2–14, 12420 Parklawn Dr., Rockville, MD 20857'' and by adding in its place ''5901–B Ammendale Rd., Beltsville, MD 20705–1266.''

■ 3. Section 314.80(c) introductory text is amended by removing ''12229 Wilkins Ave., Rockville, MD 20852'' and by adding in its place ''5901–B Ammendale Rd., Beltsville, MD 20705–1266.''

■ 4. Section 314.420(a)(5) is amended by removing ''12229 Wilkins Ave., Rockville, MD 20852'' and by adding in its place ''5901–B Ammendale Rd., Beltsville, MD 20705–1266.''

■ 5. Section 314.440(a)(1) is amended by removing ''12420 Parklawn Dr., Rockville, MD 20852'' and by adding in its place ''5901–B Ammendale Rd., Beltsville, MD 20705–1266.''

Dated: March 15, 2004.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 04–6286 Filed 3–22–04; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[TD 9088]**

**RIN 1545–BA57**

## Compensatory Stock Options Under Section 482; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to final regulations.

**SUMMARY:** This document contains a correction to TD 9088, which was published in the **Federal Register** on August 26, 2003 (68 FR 51171) that provide guidance regarding the application of the rules of section 482 governing qualified cost sharing arrangements.

**EFFECTIVE DATE:** This correction is effective August 26, 2003.

**FOR FURTHER INFORMATION CONTACT:** Douglas Giblen (202) 435–5265 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

The final regulations that are the subject of this correction are under section 482 of the Internal Revenue Code.

### Need for Correction

As published, the final regulations (TD 9088) contain an error which may prove to be misleading and is in need of clarification.

### Correction of Publication

■ Accordingly, the publication of final regulations (TD 9088), which are the subject of FR Doc. 03–21355, is corrected as follows:

**§ 1.482–7 [Corrected]**

■ On page 51179, column 1, § 1.482–7 (d)(2)(iii)(C), line 9 from the bottom of the paragraph, the language ''paragraph (d)(2)(iii)(B)(*2*) of this section,'' is corrected to read ''paragraph (d)(2)(iii)(B)(*4*) of this section,''.

**Cynthia E. Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).*

[FR Doc. 04–6467 Filed 3–22–04; 8:45 am]

BILLING CODE 4830–01–P

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## 29 CFR Part 1614

**RIN 3046–AA74**

## Posting Requirements in Federal Sector Equal Employment Opportunity

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Interim final rule; extension of comment period.

**SUMMARY:** On January 26, 2004, the Equal Employment Opportunity Commission (EEOC) issued implementing rules under the No Fear Act regarding the posting of EEO complaint processing data. 69 FR 3483. The interim rule contained a 60–day comment period. Upon further consideration, the Commission has decided to extend the initial comment period an additional 30 days.

**DATES:** This interim final rule is effective January 26, 2004. Comments must be received on or before April 26, 2004.

**ADDRESSES:** Written comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507. As a convenience to commenters, the Executive Secretariat will accept comments of six pages or less transmitted by facsimile (''FAX'') machine. The telephone number of the FAX receiver is (202) 663–4114. This is not a toll free number. The six-page limitation is necessary to assure access to the equipment. Receipt of FAX transmissions will not be acknowledged although a sender may request confirmation by calling the Executive Secretariat at (202) 663–4070 (voice) or (202) 663–4074 (TTY). These are not toll free numbers. Copies of comments submitted by the public will be available for review at the Commission's library, room 6502, 1801 L Street, NW., Washington, DC, between the hours of 9:30 a.m. and 5 p.m.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Schlageter, Assistant Legal Counsel, Gary John Hozempa, Senior General Attorney or Mona Papillon, Senior General Attorney at (202) 663–4669 (voice) or (202) 663–7026 (TTY). Copies of this interim final rule are also available in the following alternate formats: large print, braille, audiotape and electronic file on computer disk. Requests for this notice in an alternative format should be made to EEOC's Publication Center at 1–800–669–3362.

For the Commission.

**Cari M. Dominguez,**

*Chair.*

[FR Doc. 04–6393 Filed 3–22–04; 8:45 am]

BILLING CODE 6570–01–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[CGD01–04–016]**

## Drawbridge Operation Regulations: Neponset River, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Granite Avenue

Bridge, mile 2.5, across the Neponset between Boston and Milton, Massachusetts. Under this temporary deviation the bridge need not open for the passage of vessel traffic from March 15, 2004 through April 14, 2004. This temporary deviation is necessary to facilitate mechanical repairs at the bridge.

**DATES:** This deviation is effective from March 15, 2004 through April 14, 2004.

**FOR FURTHER INFORMATION CONTACT:** John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

**SUPPLEMENTARY INFORMATION:** The Granite Avenue Bridge has a vertical clearance in the closed position of 6 feet at mean high water and 16 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.611(a).

The bridge owner, Massachusetts Highway Department (MHD), requested a temporary deviation from the drawbridge operation regulations to facilitate necessary maintenance, the replacement of the brake and emergency systems, at the bridge. The bridge must remain in the closed position to perform these repairs.

The Coast Guard coordinated this closure with the mariners who normally use this waterway to help facilitate this necessary bridge repair and to minimize any disruption to the marine transportation system.

The bridge has not received any requests to open in March or April during the past seven (7) years.

Under this temporary deviation the Granite Avenue Bridge need not open for the passage of vessel traffic from March 15, 2004 through April 14, 2004.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: March 12, 2004.

**John L. Grenier,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.*

[FR Doc. 04–6396 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[IL218–01a, FRL–7635–5]**

## Approval and Promulgation of Air Quality Implementation Plans; Illinois; Definition of Volatile Organic Material and Volatile Organic Compound

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving Illinois' October 31, 2003 request to revise the definition of volatile organic material (VOM) and volatile organic compound (VOC) to incorporate exemptions for several nonreactive compounds from the definition of VOM and VOC and thereby, from regulation as ozone precursors. These requested state implementation plan (SIP) revisions were made in response to, and consistent with, EPA's action to add these chemical compounds to the list of chemicals that are exempted from the definition of VOC. In the proposed rules section of this **Federal Register**, EPA is proposing approval of and soliciting public comment on these requested SIP revisions. If adverse comments are received on this action, EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

**DATES:** This rule is effective on May 24, 2004, unless EPA receives adverse written comments by April 22, 2004. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** You may inspect copies of the documents relevant to this action during normal business hours at the following location: Criteria Pollutant Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 office.

Send written comments to: J. Elmer Bortzer, Acting Chief, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments may also be submitted electronically or through hand delivery/courier, please follow the detailed instructions described in part (I)(B)(1)(i) through (iii) of the Supplementary Information section.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767. *dagostino.kathleen@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

This Supplementary Information section is organized as follows:

I. General Information
II. Background Information
III. What Has Illinois Submitted?
IV. Did Illinois Hold a Public Hearing?
V. What Action is EPA Taking?
VI. Is This Action Final, or May I Submit Comments?
VII. Statutory and Executive Order Reviews

### I. General Information

*A. How Can I Get Copies of This Document and Other Related Information?*

1. *The Regional Office has established an official public rulemaking file available for inspection at the Regional Office.* EPA has established an official public rulemaking file for this action under ''Region 5 Air Docket IL 218.'' The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air Programs Branch, Air and Radiation Division, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the Regulations.gov Web site located at *http://www.regulations.gov* where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the

Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

*B. How and To Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text ''Public comment on proposed rulemaking Region 5 Air Docket IL218'' in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to *bortzer.jay@epa.gov.* Please include the text ''Public comment on proposed rulemaking Region 5 Air Docket IL218'' in the subject line. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulations.gov.* Your use of Regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at *http://www.regulations.gov,* then click on the button ''TO SEARCH FOR REGULATIONS CLICK HERE,'' and select Environmental Protection Agency as the Agency name to search on. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

*iii. Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Jay Bortzer, Acting Chief, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please include the text ''Public comment on proposed rulemaking Region 5 Air Docket IL218'' in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: Jay Bortzer, Acting Chief, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

*C. How Should I Submit CBI To the Agency?*

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

## II. Background Information

The EPA's definition of VOC found at 40 CFR 51.100(s) lists compounds excluded from the definition of VOC on the basis that they have negligible photochemical reactivity. On February 7, 1996 (61 FR 4588), EPA amended the definition of VOC to add perchloroethylene (tetrachloroethylene) to the list of compounds excluded from the definition of VOC and thereby from control as ozone precursors. On October 8, 1996 (61 FR 52848), EPA amended the definition of VOC to add 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC–225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC–225cb); and decafluoropentane (HFC 43–10mee) to the list of compounds excluded from the definition of VOC and thereby from control as ozone precursors. Similarly, on August 25, 1997 (62 FR 44900), EPA amended the definition of VOC to add difluoromethane (HFC–32); ethylfluoride (HFC–161); 1,1,1,3,3,3-hexafluoropropane (HFC–236fa); 1,1,2,2,3-pentafluoropropane (HFC–245ca); 1,1,2,3,3-pentafluoropropane (HFC–245ea); 1,1,1,2,3-pentafluoropropane (HFC–245eb); 1,1,1,3,3-pentafluoropropane (HFC–245fa); 1,1,1,2,3,3-hexafluoropropane (HFC–236ea); 1,1,1,3,3-pentafluorobutane (HFC–365mfc); chlorofluoromethane (HCFC–31); 1,2-dichloro-1,1,2-trifluoroethane (HCFC–123a); 1-chloro-1-fluoroethane (HCFC–151a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane ($C_4F_9OCH_3$); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane

($C_4F_9OC_2H_5$); and 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$) to the list of compounds excluded from the definition of VOC and thereby from control as ozone precursors. These exclusions were based on scientific evidence that these chemical compounds have negligible photochemical reactivity and a negligible contribution to tropospheric ozone formation.

## III. What Has Illinois Submitted?

On October 31, 2003, the Illinois Environmental Protection Agency (IEPA) submitted revisions to the Illinois SIP for ozone. The submittal revises the definition for VOM and VOC contained in 35 Ill. Adm. Code 211.7250 to incorporate an exemption for perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC–225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC–225cb); decafluoropentane (HFC 43–10mee); difluoromethane (HFC–32); ethylfluoride (HFC–161); 1,1,1,3,3,3-hexafluoropropane (HFC–236fa); 1,1,2,2,3-pentafluoropropane (HFC–245ca); 1,1,2,3,3-pentafluoropropane (HFC–245ea); 1,1,1,2,3-pentafluoropropane (HFC–245eb); 1,1,1,3,3-pentafluoropropane (HFC–245fa); 1,1,1,2,3,3-hexafluoropropane (HFC–236ea); 1,1,1,3,3-pentafluorobutane (HFC–365mfc); chlorofluoromethane (HCFC–31); 1,2-dichloro-1,1,2-trifluoroethane (HCFC–123a); 1-chloro-1-fluoroethane (HCFC–151a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane ($C_4F_9OCH_3$); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$); and 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$) from the definition of VOM and VOC and thereby, from regulation as ozone precursors. The revisions to the Illinois definition of VOM and VOC were made in response to, and consistent with, EPA's action to add these chemical compounds to the list of chemicals that are exempted from the definition of VOC.

## IV. Did Illinois Hold a Public Hearing?

Illinois held public hearings on these revisions on November 20, 1996, April 2, 1997, and June 3, 1998.

## V. What Action Is EPA Taking?

For the reasons stated above, EPA is approving Illinois' October 31, 2003 request to revise the definition for VOM and VOC contained in 35 Ill. Adm. Code 211.7250. EPA's approval of the new definition of VOM and VOC will revise the Illinois SIP for ozone.

## VI. Is this Action Final, or May I Submit Comments?

EPA is publishing this action without prior proposal, because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision. Should EPA receive adverse written comments by April 22, 2004, we will withdraw this direct final and respond to any comments in a final action. If EPA does not receive adverse comments, this action will be effective without further notice. Any parties interested in commenting on this action should do so at this time. If we do not receive comments, this action will be effective on May 24, 2004.

## VII. Statutory and Executive Order Reviews

*Executive Order 12866: Regulatory Planning and Review*

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

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

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

*Regulatory Flexibility Act*

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

*Unfunded Mandates Reform Act*

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

*Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

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

*Executive Order 13132: Federalism*

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

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

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

*National Technology Transfer Advancement Act*

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

*Paperwork Reduction Act*

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

*Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 24, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2))

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

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

Dated: March 1, 2004.

**Jo Lynn Traub,**

*Acting Regional Administrator, Region 5.*

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

## PART 52—[AMENDED]

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

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

### Subpart O—Illinois

■ 2. Section 52.720 is amended by adding paragraph (c)(168) to read as follows:

**§ 52.720 Identification of plan.**

* * * * *

(c) * * *

(168) On October 31, 2003, the Illinois Environmental Protection Agency submitted revisions to the Illinois State Implementation Plan for ozone. The submittal revises the definition for volatile organic material (VOM) and volatile organic compound (VOC) contained in 35 Ill. Adm. Code 211.7250 to incorporate an exemption for perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC–225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC–225cb); decafluoropentane (HFC 43–10mee); difluoromethane (HFC–32); ethylfluoride (HFC–161); 1,1,1,3,3,3-hexafluoropropane (HFC–236fa); 1,1,2,2,3-pentafluoropropane (HFC–245ca); 1,1,2,3,3-pentafluoropropane (HFC–245ea); 1,1,1,2,3-pentafluoropropane (HFC–245eb); 1,1,1,3,3-pentafluoropropane (HFC–245fa); 1,1,1,2,3,3-hexafluoropropane (HFC–236ea); 1,1,1,3,3-pentafluorobutane (HFC–365mfc); chlorofluoromethane (HCFC–31); 1,2-dichloro-1,1,2-trifluoroethane (HCFC–123a); 1-chloro-1-fluoroethane (HCFC–151a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane ($C_4F_9OCH_3$); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$); and 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$) from the definition of VOM and VOC and thereby, from regulation as ozone precursors.

(i) Incorporation by reference.

(A) Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter 1: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, Subpart B: Definitions, Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC), amended at Illinois Register 11405, effective June 22, 1998.

[FR Doc. 04–6424 Filed 3–22–04; 8:45 am]

BILLING CODE 6560–50–P

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## DEPARTMENT OF DEFENSE

## 48 CFR Part 207

**[DFARS Case 2002–D036]**

## Defense Federal Acquisition Regulation Supplement; Buy-to-Budget Acquisition of End Items

**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 801 of the National Defense Authorization Act for Fiscal Year 2003. Section 801 authorizes DoD to acquire a higher quantity of an end item than the quantity specified in law, under certain conditions.

**EFFECTIVE DATE:** March 23, 2004.

**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–D036.

**SUPPLEMENTARY INFORMATION:**

### A. Background

DoD published an interim rule at 68 FR 43331 on July 22, 2003. The rule added a new subpart at DFARS 207.70 to implement section 801 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107–314). Section 801 added 10 U.S.C. 2308, which provides that DoD may acquire a higher quantity of an end item than the quantity specified in a law providing for the funding of the acquisition, if the agency head makes certain findings with regard to the acquisition.

DoD received no comments on the interim rule. Therefore, DoD is adopting the interim rule as a final rule without change.

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.* The rule authorizes DoD to acquire a higher quantity of an end item than the quantity specified in law. However, any additional quantities must be acquired without additional funding. Acquisition of the additional quantities must be made possible through production efficiencies or other cost reductions.

### 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 207**

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 207, which was published at 68 FR 43331 on July 22, 2003, is adopted as a final rule without change.

[FR Doc. 04–6238 Filed 3–22–04; 8:45 am]

BILLING CODE 5001–08–P

## DEPARTMENT OF DEFENSE

## 48 CFR Parts 216 and 217

**[DFARS Case 2003–D097]**

## Defense Federal Acquisition Regulation Supplement; Contract Period for Task and Delivery Order Contracts

**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 843 of the National Defense Authorization Act for Fiscal Year 2004. Section 843 provides that the contract period of a task or delivery order contract awarded pursuant to 10 U.S.C. 2304a may cover a total period of not more than 5 years.

**DATES:** *Effective date:* March 23, 2004.

*Comment date:* Comments on the interim rule should be submitted to the address shown below on or before May 24, 2004, to be considered in the formation of the final rule.

**ADDRESSES:** Respondents may submit comments via the Internet 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 2003–D097 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 2003–D097.

At the end of the comment period, interested parties may view public comments on the Internet 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 Subparts 216.5 and 217.2 to implement section 843 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136). Section 843 amends the general authority for task and delivery order contracts at 10 U.S.C. 2304a to specify that task or delivery order contacts entered into under that section may cover a total period of not more than 5 years. The rule clarifies that the total period includes all options or modifications.

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 has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 604. The analysis is summarized as follows: This interim rule applies to all new DoD solicitations for supplies or services that will result in a task or delivery order contract awarded pursuant to 10 U.S.C. 2304a. It may affect businesses interested in submitting offers for such contracts. The impact on small entities is uncertain. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D097.

### 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 action is necessary to implement section 843 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136), which provides that the contract period of a task or delivery order contract awarded pursuant to 10 U.S.C. 2304a may cover a total period of not more than 5 years. Comments received in response to this interim rule will be considered in the formation of the final rule.

**List of Subjects in 48 CFR Parts 216 and 217**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

■ Therefore, 48 CFR Parts 216 and 217 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 216 and 217 continues to read as follows:

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

## PART 216—TYPES OF CONTRACTS

■ 2. Section 216.501–2 is added to read as follows:

**216.501–2 General.**

(a) *See* 217.204(e) for limitations on the period for task order or delivery order contracts awarded by DoD pursuant to 10 U.S.C. 2304a.

## PART 217—SPECIAL CONTRACTING METHODS

■ 3. Section 217.204 is added to read as follows:

**217.204 Contracts.**

(e) Notwithstanding FAR 17.204(e), the period of a task order or delivery order contract, including all options or modifications, awarded by DoD pursuant to 10 U.S.C. 2304a shall not exceed 5 years.

[FR Doc. 04–6289 Filed 3–22–04; 8:45 am]

BILLING CODE 5001–08–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:** Final rule.

**SUMMARY:** DoD has adopted as final, without change, 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.

**EFFECTIVE DATE:** March 23, 2004.

**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–D041.

**SUPPLEMENTARY INFORMATION:**

## A. Background

DoD published an interim rule at 68 FR 50474 on August 21, 2003. The rule amended DFARS Subpart 217.1 to implement Section 820 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107–314). Section 820 amended 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).

DoD received no comments on the interim rule. Therefore, DoD is adopting the interim rule as a final rule without change.

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 primarily pertains to DoD planning and budget considerations with regard to multiyear contracts.

## 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 217

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 217, which was published at 68 FR 50474 on August 21, 2003, is adopted as a final rule without change.

[FR Doc. 04–6237 Filed 3–22–04; 8:45 am]

BILLING CODE 5001–08–P

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 229

**[Docket No. 030221039–4096–08; I.D. 031804B]**

## Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan (ALWTRP)

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

**ACTION:** Temporary rule.

**SUMMARY:** The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the ALWTRP's implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 1,894 square nautical miles (nm$^2$) (6,496.2 km$^2$) in March and 1,230 nm$^2$ (4,218.8 km$^2$) in April, east of Chatham, MA, for 15 days. The purpose of this action is to provide protection to an aggregation of North Atlantic right whales (right whales).

**DATES:** Effective beginning at 0001 hours March 25, 2004, through 2400 hours April 8, 2004.

**ADDRESSES:** Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Diane Borggaard, NMFS/Northeast Region, 978–281–9328 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–1401.

**SUPPLEMENTARY INFORMATION:**

## Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.noaa.gov/whaletrp/*.

## Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) as well as to provide conservation benefits to a fourth non-endangered species (minke) due to incidental interaction with commercial fishing activities. The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15–day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15–day period and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm$^2$ (139 km$^2$)) such that right whale density is equal to or greater than 0.04 right whales per nm$^2$ (1.85 km$^2$). A qualified individual is an individual ascertained by NMFS to be reasonably

able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On March 14, 2004, NMFS Aerial Survey Team reported a sighting of 15 right whales in the proximity of 41° 30.7′ N lat. and 69° 39.4′ W long. This position lies east of Chatham, MA. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15–day restricted period unless it is modified in the manner described in this temporary rule. In March, the DAM zone is bounded by the following coordinates:

41°45′N, 69°56′W (NW Corner)
41°45′N, 69°33′W
41°48.9′N, 69°24′W
42°00′N, 69°24′W
42°00′N, 69°07′W
41°07′N, 69°07′W
41°07′N, 70°10′W
41°15′N, 70°10′W and east along the coast to
41°18′N, 70°10′W
41°39′N, 70°10′W and east along the coast to
41°45′N, 69°56′W

In April, when the restrictions on anchored gillnet and lobster trap/pot fishing gear become effective in the Great South Channel and overlap a portion of the DAM zone, the DAM zone is divided into a northern and southern sector. Special note for gillnet and lobster trap/pot fishermen: This DAM action does not supersede the Great South Channel Critical Habitat Area restrictions in April found under the ALWTRP at 50 CFR 229.32. The April DAM zone is bounded by the following coordinates:

**Northern DAM:**

42°00′N, 69°24′W (NW Corner)
42°00′N, 69°07′W
41°55′N, 69°07′W
41°48.9′N, 69°24′W

**Southern DAM:**

41°45′N, 69°56′W (NW Corner)
41°45′N, 69°33′W
41°40′N, 69°45′W
41°07′N, 69°12′W
41°07′N, 70°10′W
41°15′N, 70°10′W and east along the coast to
41°18′N, 70°10′W
41°39′N, 70°10′W and east along the coast to
41°45′N, 69°56′W

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone. Special note for gillnet fisherman: This DAM zone overlaps the year round Northeast multispecies' Closed Area I. This DAM action does not supersede Northeast multispecies closures found at 50 CFR 648.81.

**Lobster Trap/Pot Gear**

Fishermen utilizing lobster trap/pot gear within the portion of the Northern Nearshore Lobster Waters and Northern Inshore State Lobster Waters that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area and Great South Channel Restricted Lobster Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

**Anchored Gillnet Gear**

Fishermen utilizing anchored gillnet gear within the portion of the Other Northeast Gillnet Waters, Great South Channel Restricted Gillnet Area, and Great South Channel Sliver Restricted Area that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per string;
4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends; and
5. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours March 25, 2004, through 2400 hours April 8, 2004, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon filing with the **Federal Register**.

**Classification**

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator for Fisheries (AA) has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

This action falls within the scope of alternatives and impacts analyzed in the Final EAs prepared for the ALWTRP's DAM program. Further analysis under the National Environmental Policy Act is not required.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30–day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this notice in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means as soon as the AA approves it, thereby providing approximately 3 additional days of notice while the Office of the Federal Register processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, DOC, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

**Authority:** 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: March 18, 2004.

**John Oliver,**

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

[FR Doc. 04–6565 Filed 3–19–04; 1:48 pm]

BILLING CODE 3510–22–S

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 622

**[Docket No. 001005281–0369–02; I.D. 031804A]**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction

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

**ACTION:** Inseason action; trip limit reduction.

**SUMMARY:** NMFS reduces the trip limit in the commercial hook-and-line fishery for king mackerel in the southern Florida west coast subzone to 500 lb (227 kg) of king mackerel per day in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the Gulf king mackerel resource.

**DATES:** This rule is effective 12:01 a.m., local time, March 20, 2004, through June 30, 2004, unless changed by further notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mark Godcharles, telephone: (727) 570–5727, fax: (727) 570–5583, e-mail: *Mark.Godcharles@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation

ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001) NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. The quota implemented for the southern Florida west coast subzone is 1,040,625 lb (472,020 kg). That quota is further divided into two equal quotas of 520,312 lb (236,010 kg) for vessels in each of two groups fishing with hook-and-line gear and run-around gillnets (50 CFR 622.42(c)(1)(i)(A)(2)(i)).

In accordance with 50 CFR 622.44(a)(2)(ii)(B)(2), from the date that 75 percent of the southern Florida west coast subzone's quota has been harvested until a closure of the subzone's fishery has been effected or the fishing year ends, king mackerel in or from the EEZ may be possessed on board or landed from a permitted vessel in amounts not exceeding 500 lb (227 kg) per day.

NMFS has determined that 75 percent of the quota for Gulf group king mackerel for vessels using hook-and-line gear in the southern Florida west coast subzone will be reached on March 19, 2004. Accordingly, a 500–lb (227–kg) trip limit applies to vessels in the commercial hook-and-line fishery for king mackerel in or from the EEZ in the southern Florida west coast subzone effective 12:01 a.m., local time, March 20, 2004. The 500–lb (227–kg) trip limit will remain in effect until the fishery closes or until the end of the current fishing year (June 30, 2004), whichever occurs first.

The Florida west coast subzone is that part of the eastern zone south and west of 25°20.4' N. lat. (a line directly east from the Miami-Dade County, FL boundary). The Florida west coast subzone is further divided into northern and southern subzones. The southern subzone is that part of the Florida west coast subzone which from November 1 through March 31 extends south and west from 25°20.4' N. lat. to 26°19.8' N. lat.(a line directly west from the Lee/Collier County, FL boundary), *i.e.,* the area off Collier and Monroe Counties. From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone which is between 26°19.8' N. lat. and 25°48' N. lat.(a line directly west from the Monroe/Collier County, FL boundary), *i.e.,* the area off Collier County.

## Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action in order to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment will require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30 day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: March 18, 2004.

**Alan D. Risenhoover,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 04–6474 Filed 3–18–04; 3:08 pm]

BILLING CODE 3510–22–S

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

**[Docket No. 040109009–4085–02; I.D. 121803D]**

**RIN 0648–AR79**

## Fisheries of the Northeastern United States; Recordkeeping and Reporting Requirements; Regulatory Amendment To Modify Seafood Dealer Reporting Requirements

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement approved management measures contained in a regulatory amendment to modify the reporting and recordkeeping regulations for federally permitted seafood dealers participating in the summer flounder, scup, black sea bass, Atlantic sea scallop, Northeast (NE) multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic surfclam, ocean quahog, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skates, and/or spiny dogfish fisheries in the NE Region. The purpose of this action is to improve monitoring of commercial landings by collecting more timely and accurate data, enhance enforceability of the existing regulations, promote compliance with existing regulations, and ensure consistency in reporting requirements among fisheries.

**DATES:** This final rule is effective May 1, 2004.

**ADDRESSES:** Copies of the regulatory amendment, its Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and other supporting materials are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. The regulatory amendment/RIR/IRFA is also accessible via the Internet at *http:www.nero.nmfs.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Patricia A. Kurkul at the above address and by e-mail to *David__Rostker@omb.eop.gov*, or by fax to (202) 395–7285.

**FOR FURTHER INFORMATION CONTACT:** Michael Pentony, Senior Fishery Policy Analyst, (978)281–9283, fax (978)281–9135, email *Michael.Pentony@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** This final rule implements measures contained in a regulatory amendment to modify the reporting and recordkeeping regulations for federally permitted seafood dealers. This action will require daily electronic reporting of all fish purchased (including fish received) by federally permitted dealers who are determined to be large dealers while delaying the daily reporting requirement for all small dealers who initially will be required to report electronically on a weekly basis. Also, it will eliminate dealer reporting via the Interactive Voice Response (IVR) system; implement a trip identifier requirement for dealers; require dealers to report the disposition of purchased

fish; and modify the dealer reporting requirements for the surfclam and ocean quahog fisheries to make them consistent with the requirements of other fisheries. Details concerning the justification for and development of the regulatory amendment and the implementing regulations were provided in the preamble to the proposed rule (69 FR 2870, January 21, 2004) and are not repeated here.

Regulations implementing the fishery management plans (FMPs) for the summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic surfclam, ocean quahog, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skates, and spiny dogfish fisheries are found at 50 CFR part 648. These FMPs were prepared under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All dealers and vessels issued a Federal permit in the aforementioned fisheries must comply with the reporting requirements outlined at § 648.7. Lobster dealers issued a Federal lobster permit, but not issued any of the permits with mandatory reporting requirements, are not required to comply with these reporting regulations, although other reporting requirements may apply. NMFS is modifying several components of these reporting regulations to simplify reporting requirements, improve data quality and data access, maximize compliance, and improve the information available for the management of important marine resources.

**Dealer Electronic Reporting**

This rule requires all seafood dealers permitted under § 648.6 to submit an electronic report containing the required trip-level information for each purchase of fish from fishing vessels. Electronic data submission replaces the comprehensive trip-level written reports dealers are required to submit weekly, as well as the weekly landings summary reports submitted through the dealer IVR system for quota-monitored species. Dealers are required to submit an electronic negative report for each week in which no fish were purchased. Written negative reports will be accepted through December 31, 2004. Dealers are allowed to submit negative reports for up to 3 months in advance, if they know that no fish will be purchased during that time.

There are four mechanisms from which dealers may choose how they submit trip-level reports electronically. Because dealers use computer applications to varying degrees, NMFS has developed an Internet web site (*http://safis.accsp.org*) that enables dealers to transfer information to NMFS via an Internet File Transfer Protocol (FTP) or to enter the data directly into an online form. Dealers without Internet access have the option of submitting electronic trip-level report files directly to NMFS via a standard FTP and the phone line. A fourth option allows dealers to use an acceptable file upload report system implemented by one or more state fishery management agencies. Dealers will receive a user name and personal identification number (PIN) that will enable them to log onto a secure site and submit their trip-level reports.

To ensure compatibility with the reporting system and database, seafood dealers are required to obtain and utilize a personal computer, in working condition, with an Intel Pentium 3–equivalent 300 megahertz or greater processing chip, at least 128 megabytes of random access memory (RAM), a 56,000 baud data/fax modem or cable or digital subscriber line (DSL) modem, Microsoft Internet Explorer version 6.0 (or equivalent) or better, and a monitor with 800 pixel by 600 pixel or better resolution.

Due to the Magnuson-Stevens Act provision that renders trip-level reports from dealers confidential, information sent from dealers to NMFS in compliance with the electronic reporting requirements is subject to strict encryption standards and will be available only to persons authorized under section 402(b) of the Magnuson-Stevens Act and the submitter. Dealers will also be allowed to access, review, and edit the information they have submitted, using a secure procedure similar to those in common usage throughout the banking industry. Dealers will be allowed to make corrections to their trip-level reports via the electronic editing features for up to 3 business days following the initial report. If a correction is needed more than 3 business days following the initial report, an extension will only be possible through a direct request to NMFS staff, and may be subject to enforcement action. These submissions will constitute the official reports as required by the various FMPs in the NE. No other reporting methods (e.g., written reports) will be considered to be in compliance with the electronic reporting requirements, except as provided for below for negative reports made through the end of the 2004 calendar year.

**Dealer Report Submission Schedule**

This final rule modifies the schedule for the submission of comprehensive trip-level reports by all federally permitted seafood dealers. Currently, detailed reports for all transactions in a reporting week must be postmarked or received by NMFS within 16 days after the end of each reporting week. Upon implementation, this action requires all federally permitted seafood dealers to submit trip-level reports electronically, and establishes two categories of seafood dealers for the purposes of determining the frequency with which these reports must be submitted.

Federally permitted seafood dealers with less than $300,000 in reported annual fish purchases (ex-vessel value) in each year from 2000–2002 have the option to submit trip-level reports electronically on a weekly basis until May 1, 2005, at which time they will be required to submit these reports electronically on a daily basis. All other federally permitted seafood dealers, those with $300,000 or more in reported annual fish purchases (ex-vessel value) in at least 1 year from 2000–2002 and all newly permitted dealers (those that obtained their initial dealer permit in either 2003 or 2004), are required to submit trip-level reports electronically on a daily basis beginning upon implementation of this final rule. All dealers are required to submit trip-level reports electronically, according to the provisions described above, beginning upon implementation of this final rule. The delay in effectiveness of the requirement to report purchases daily for some dealers is in recognition that for some dealers, particularly smaller dealers, compliance with these requirements may impose a fairly substantial initial administrative burden. By delaying for 1 year implementation of the requirement to report daily, NMFS intends to provide these smaller dealers with sufficient time to become acquainted with electronic reporting procedures before increasing their reporting frequency.

Analysis of the NMFS' dealer report database from 2000–2002 indicates that dealers with $300,000 or more in reported annual fish purchases in at least 1 year made, on average, 320.6 reports per year, while dealers below this threshold made, on average, only 27.6 reports per year. Because dealers that exceed the threshold had over 11 times more reports than dealers that fall below the threshold, it is more important for NMFS to monitor on a daily basis landings purchased by these larger dealers than landings purchased by the smaller dealers. Large dealers

(those defined as meeting or exceeding the threshold) represent less than 50 percent of dealers that reported fish purchases in 2000–2002 (and only 36 percent of permitted dealers), yet they accounted for 92 percent of all reports of fish purchases, 98 percent of total landed weight of fish purchases reported, and 98 percent of the total ex-vessel value of the fish purchases reported.

By providing dealers below the threshold an additional year to come into compliance with the daily reporting requirement, NMFS is providing an opportunity for dealers that report, on average, much less than dealers that meet or exceed the threshold to have extra time to become familiar with the new electronic reporting requirements before they are required to increase their reporting frequency. By requiring the larger dealers to report daily initially, NMFS can ensure that quota monitoring will be effective and reasonably accurate until all dealers begin reporting daily.

Dealers authorized to provide trip-level reports weekly must submit a report for all fish purchased in a reporting week (Sunday-Saturday) within 3 days of the end of the reporting week, *i.e.,* by midnight Tuesday of the week after the fish were purchased. This is the same schedule currently required of dealers submitting reports via the IVR system for quota-managed fisheries.

Dealers required to provide trip-level reports on a daily basis must submit a report for all completed purchases by midnight of the next business day. Reports are not required to be submitted on weekends or Federal holidays, although the data system will be operational should dealers choose to report on those days. Therefore, for transactions completed on a Sunday-Thursday, reports are due by midnight of the following day (Monday-Friday); for transactions completed on a Friday or Saturday, reports are due by midnight of the following Monday; for transactions completed the day before a Federal holiday, reports are due by midnight of the first business day following the holiday; and, for transactions completed on a Federal holiday, reports are due by midnight of the following day, unless the following day is a Saturday or Sunday, in which case the reports are due by midnight of the following Monday. For example, if a transaction is completed on the Wednesday before Thanksgiving, a Federal holiday, the report will be due by midnight on the Friday immediately following Thanksgiving. If a transaction is completed on Thanksgiving day, the report will also be due by midnight on the Friday immediately following, as it is the first business day after the Federal holiday.

NMFS is aware that not all required data elements, such as price and disposition of fish, may be available within this timeframe; therefore, to accommodate this lag in availability, price and disposition information must be submitted within 16 days of the end of the reporting week (by midnight Monday of the third week after the fish were purchased), or by the end of the calendar month, whichever is later. This will be accomplished through an update procedure in which the dealer will access and update the previously submitted data. Dealers using an FTP submission process will be allowed to submit an updated report and transmit the updated information using a modified FTP process.

Under this rule, dealers are required to submit a negative report for each week in which no fish were purchased. Negative reports will be due within 3 days of the end of the reporting week (by midnight on Tuesday of the following week). Negative reports are not required to be submitted on a daily basis. Dealers may submit negative reports in large blocks ahead of time (up to 3 months) if they know that no fish will be purchased during these times. This will decrease the number of reports required of dealers who can predict periods of inactivity.

For the remainder of the 2004 calendar year, negative reports will be accepted via hardcopy (i.e., in writing), as well as via electronic means. Beginning January 1, 2005, all negative reports, as well as trip-level reports, will only be accepted via one of the available electronic reporting mechanisms. This means that some federally permitted dealers that will not be purchasing any fish immediately following the implementation of this action will not have to come into full compliance to be able to submit dealer trip-level reports via electronic means until they either: (1) Anticipate purchasing fish from a fishing vessel during the 2004 calendar year; or (2) apply for their 2005 dealer permit renewal. As of the beginning of the 2005 calendar year, any dealer that has not come into compliance with this action, and is unable to submit negative and trip-level reports via one of the available electronic reporting methods described above, will not have his/her permit renewed. Said dealer may reapply and obtain a reinstated Federal dealer permit once he/she acquires and can demonstrate the capability to submit all required reports electronically.

**Quota Monitoring**

Dealers are no longer required to submit weekly landing summary reports or weekly negative reports through the dealer IVR system for quota-monitored species. Vessel owners/operators currently required to report through the IVR system are unaffected by this action.

**Trip Identifier**

In order for each fishing trip to be uniquely identifiable and to aid in matching dealer trip-level report data with the corresponding fishing vessel trip report (VTR) data, this final rule explicitly defines and implements reporting of a trip identifier for each trip from which fish are purchased from a federally permitted vessel. The trip identifier requirement applies to all fish purchased by a federally permitted dealer from a federally permitted vessel that is required to maintain a VTR. The trip identifier is defined as follows: ''Trip identifier'' is the complete serial number of the vessel logbook page completed for that trip. If more than one vessel logbook is completed for a trip, then the serial number from any page may be used.

To facilitate the transfer of this information from the vessel to the dealer, the vessel logbook packet includes two pages labeled ''dealer copy.'' These pages include the unique serial number for the logbook packet and space for the vessel name, the USCG document or state registration number, the vessel permit number, and the date/time sailed. The dealer is responsible to obtain and include the unique serial number located on the dealer copy of the VTR with the appropriate trip-level dealer report when submitting this information via one of the available electronic reporting mechanisms. If more than one vessel logbook page is completed for a single fishing trip, only one serial number need be recorded.

Of more than 126,000 VTRs submitted for 2002, over 98 percent reported delivery to only one or two dealers per trip. In these situations, the current VTR form can accommodate transfer of the trip identifier to the dealer(s). To accommodate the less than 2 percent of remaining trips with three or more dealers, NMFS is developing alternatives for how fishing vessels may more easily transmit the trip identifier to multiple dealers. Details on these alternatives will be provided to vessels and dealers in permit holder letters announcing implementation of this action.

Effective upon implementation of this rule, all dealers must report the trip identifier for all purchases from federally permitted vessels. Through April 30, 2005, the trip identifier may be reported along with the price and disposition code information reported for the trip, i.e., up to 16 days from the end of the reporting week in which the transaction was completed, or by the end of the month, whichever is later. Effective May 1, 2005, the trip identifier must be reported along with the initial trip-level report, i.e., by midnight of the next business day. This change in reporting frequency for the trip identifier will be implemented automatically on May 1, 2005, unless this provision is waived by the Regional Administrator. Once this final rule has been effective for at least 6 months, NMFS will conduct a review of the trip identifier information and evaluate the effectiveness of allowing the trip identifier to be reported separately from the initial landings information.

**Disposition Code**

The disposition of seafood products is needed to determine the ultimate fate and use of harvested fish. This information is used by NMFS and its partners to better understand the impacts regulations may have on seafood markets and marketing and how these changes may affect fishermen and various sectors of the fishing industry. To ensure the disposition is accurately reflected in the database, this final rule requires that all federally permitted dealers report the disposition of any fish that they purchase. Disposition information includes such categories as ''sold as food,'' ''sold for bait,'' and ''not sold.'' In those cases where the final disposition may not be known, dealers are expected to provide a good faith estimate of the most likely disposition of the product.

**Mailing Address**

To eliminate duplication of information reported, dealers are no longer required to record their mailing address on each trip-level report. Dealers will continue to be required to provide their current mailing address on the permit application and to notify NMFS of any change in their mailing address.

**Changes to Surfclam and Ocean Quahog Dealer Reporting**

To eliminate confusion regarding the information required to be submitted by surfclam and ocean quahog dealers and processors, these dealers and processors are no longer required to report the allocation permit number of the vessel(s) from which they purchase surfclams or ocean quahogs, nor are processors required to report the size distribution and meat yield per bushel by species.

**Annual Processed Products Report**

All federally permitted seafood dealers subject to this final rule, including surfclam and ocean quahog dealers, are required to complete all sections of the Annual Processed Products Survey.

**Comments and Responses**

The deadline for receiving comments on the proposed rule was February 20, 2004. NMFS received 79 comment letters on the proposed rule prior to the close of the comment period. Four of these letters were from state fishery management agencies (Maine, Rhode Island, New York, and North Carolina). Fifty-eight letters were from individuals or organizations representing or affiliated with seafood dealers. Twelve letters originated from commercial fishermen or individuals or organizations representing commercial fishermen. Three letters were submitted by conservation non-governmental organizations, and two letters were submitted by members of the general public. Eighteen comment letters expressed support for the proposed rule, and the rest either expressed general opposition to the final rule or provided specific comments on one or more of the following issues:

**Comments on the Administrative Burden**

*Comment 1:* Thirty comment letters stated that the regulations in the proposed rule would be very burdensome for all dealers, particularly small dealers, and the administrative cost and burden associated with daily reporting would be too high.

*Response:* Many seafood dealer firms already employ computer-based accounting procedures and complying with these regulations could reduce the reporting burden on these dealers by eliminating the requirements to report via the IVR system and the written dealer weighout reports. For other dealers who do not already employ a computer-based accounting system for their purchases, the additional administrative burden of reporting via computer on a daily basis is not considered to be unduly burdensome. However, in consideration of the impacts of this action, particularly on smaller businesses, NMFS has decided to reduce the reporting burden, temporarily, on some small dealers. The final rule implements the requirement for daily reporting only for those dealers that reported $300,000 or more in annual fish purchases (ex-vessel value) in at least 1 year between 2000 and 2002. Because dealers that exceed the threshold report much more than dealers that fall below the threshold, it is more important for NMFS to monitor on a daily basis landings purchased by these larger dealers than landings purchased by the smaller dealers. Therefore, dealers that fall below this threshold will be required to report electronically via computer, but may continue to report on a weekly basis, rather than daily, until May 1, 2005, at which time they, too, will be required to report daily. Daily electronic reporting will significantly improve quota monitoring by increasing the resolution and timeliness of trip-level reports used in quota monitoring. Improvements in data resolution and timeliness are expected to minimize the potential for closing a quota-based fishery too early in the season (to the detriment of the industry) or too late in the season (to the detriment of the resource).

*Comment 2:* Six comment letters suggested that NMFS underestimated the economic impacts that would result from implementation of the regulations described in the proposed rule. One commenter added that this proposed rule was not subject to the same analytical requirements as Amendment 13 to the NE Multispecies FMP, and that NMFS should conduct a wider examination of the consequences of the action.

*Response:* NMFS notes that the estimates provided in the proposed rule of economic impacts likely to be incurred by dealers as a result of this final rule represent average costs per dealer, and that the actual costs incurred are likely to vary from dealer to dealer. Some dealers may incur costs substantially greater than the estimates, just as some dealers may incur costs substantially lower than the estimates. The actual amount of economic impact on each dealer will vary depending on whether or not they already own and utilize a computer that meets the minimum requirements, whether or not they currently have Internet access, whether or not they currently employ computer-based accounting of all fish purchases, and whether or not they currently employ computer-literate staff on a daily basis to perform these functions.

NMFS concedes that this action was not subject to the same breadth of analysis as Amendment 13 to the NE Multispecies FMP with respect to the National Environmental Policy Act

(NEPA), because a determination was made that due to the administrative nature of the regulations described in this rule, this action was categorically excluded from the requirement to prepare an Environmental Impact Statement (EIS) or Environmental Assessment, pursuant to NOAA Administrative Order 216–6. In contrast, due to its wide-ranging effects on fish stocks and the environment, as well as impacts on the fishing industry and fishing communities, Amendment 13 was subject to an EIS under NEPA.

The Regulatory Amendment to Modify Seafood Dealer Recordkeeping and Reporting Requirements includes an assessment of the biological, ecological, economic, and social impacts of the action. The Amendment complied with all the applicable analytical requirements of the Magnuson-Stevens Act, Executive Order (E.O.) 12866, the Regulatory Flexibility Act (RFA), the Endangered Species Act, the Marine Mammal Protection Act, the Paperwork Reduction Act (PRA), the Coastal Zone Management Act, the Data Quality Act, and E.O.s 12898, 13132, and 13158.

*Comment 3:* Ten comment letters indicated that the authors believed they would have to hire additional staff to deal with the increased workload associated with the increase to daily reporting.

*Response:* As indicated in the proposed rule, NMFS does not consider the increased workload as a result of the increase in reporting frequency to be significant. Reporting time is estimated to take, on average, 2 minutes per response. Dealers subject to daily reporting will be responsible for reporting once per day for each workday (Monday-Friday) of the week. Thus, the total average weekly reporting time will depend upon the number of transactions each dealer makes during a reporting cycle (either per day or per week). Dealers with more transactions will require more time to complete their reports, but the overall time is not expected to increase substantially above the time required to complete the current detailed trip-level and weekly summary-level dealer reports. To accommodate the concerns of some dealers regarding the increase in administrative burden, this final rule initially implements the requirement for daily reporting only for those dealers that reported $300,000 or more in fish purchases (ex-vessel value) in at least 1 year between 2000 and 2002. Dealers that fall below this threshold will be required to report electronically via computer, but may continue to report on a weekly, rather than daily, basis until May 1, 2005, at which time they, too, will be required to report daily.

*Comment 4:* One comment letter suggested that NMFS allow companies with less than 50 employees to continue to report once per week.

*Response:* This is similar to the alternative developed by NMFS whereby only firms with $300,000 or more in seafood purchases (ex-vessel value) in at least 1 year between 2000 and 2002 would be required to comply with the daily electronic reporting regulations. The final rule allows dealers that fall below this threshold to continue to report once per week until May 1, 2005, but will require that all reporting occur electronically. NMFS considers the requirement for all dealers to report electronically on a daily basis essential to making accurate and timely estimates of harvest levels.

*Comment 5:* One comment letter suggested that a possible outcome of the regulations described in the proposed rule would be for some dealers to cease operations, limiting options for fishing vessel owners or operators as to which dealer they might choose to sell their product. One additional comment, from a dealer holding a herring dealer permit, indicated that they may drop their herring permit if the regulations are implemented.

*Response:* Although it is possible that some dealers may cease operations rather than comply with these regulations, all indications suggest that the likelihood of this occurring is small. NMFS only received the one letter described above from a dealer indicating that they may drop a herring dealer permit. This dealer, however, also indicated in his letter that his firm has not purchased any Atlantic herring in 20 years. Thus, there would be no impact or loss of opportunity to fishing vessels from the loss of this herring dealer.

*Comment 6:* NMFS received two comment letters indicating that there would be significant impacts on fishermen-dealers (fishermen who have dealer permits to enable them to sell their catch to themselves, as a dealer, so that they can then sell their product directly to restaurants, retail stores, or other outlets that may not have dealer permits). The letter suggests that these entities are generally small businesses.

*Response:* NMFS expects that some fishermen-dealers already own a computer, either for their personal use or as part of their fishing business. These fishermen-dealers will have to begin utilizing this computer for reporting. Other fishermen-dealers may need to purchase a computer and become acquainted with basic computer operations in order to comply with the new dealer reporting requirements. NMFS has designed the system to be compatible with readily available off-the-shelf personal computers that can be purchased for less than $1,000. This one-time expense is not considered unreasonable as a cost of doing business. NMFS also notes that many small fishermen-dealers likely had less than $300,000 in annual purchases in 2000–2002 and therefore do not need to begin reporting on a daily basis until May 1, 2005.

*Comment 7:* Two comment letters stated that the commenters did not want to have to report all purchases twice: Once to report the pounds landed, and once to report the prices paid.

*Response:* NMFS does not consider this to be an additional burden. Currently, dealers subject to IVR reporting must report all the pounds landed for all purchases soon after the end of the reporting week, and then complete a separate written report that documents the pounds landed as well as the prices paid to the vessel. Although the reporting frequency for pounds landed will eventually increase to daily for all dealers, the frequency for the follow-up report with price and disposition information will remain as it is now, albeit reported via electronic means. Also, there is no requirement to report separately the pounds landed and the prices paid. If the price information is available and reported at the time of the initial report, no follow-up report would be necessary.

*Comment 8:* One comment letter suggested that data collected under the proposed system would be less credible than under the current system due to the added stress on dealers to comply with the daily reporting requirements.

*Response:* While there may be a period of adjustment during which time some dealers may feel added stress to comply with the new requirements, it will take only a short time for dealers to become familiar with the changes to the reporting system, and the result will be an increase in the quality of the data available for fisheries management.

*Comment 9:* One comment letter suggested, due to the level of impacts likely to be imposed on dealers as a result of the proposed rule, that an IRFA should be prepared.

*Response:* NMFS prepared an IRFA with the Regulatory Amendment document; a summary of the IRFA was included in the proposed rule. This final rule incorporates the Final Regulatory Flexibility Analysis.

*Comment 10:* One comment letter suggested that, contrary to conclusions drawn in the proposed rule, this action

would affect fishermen by affecting the prices they are paid.

*Response:* The cost basis, on average, per dealer, to implement this action is not substantial ($671-$1,479 per dealer in the first year, including costs to purchase all required computer hardware, software, Internet access, and initial training); therefore, any costs passed on to the fishing vessels in the way of lower prices in an attempt to recoup these costs are expected to be minimal when considered at the scale of the total number of vessels and trips handled by each dealer. Instead, dealers may choose to pass some or all of this additional cost on to purchasers in the form of higher prices for their products.

*Comment 11:* One comment letter claims that this action would violate National Standard 7 because it does not minimize costs to dealers or avoid duplication.

*Response:* By providing several options for how federally permitted dealers may report their trip-level reports (Internet-based web form, FTP upload, or state-based electronic reporting system), and by designing the system to be compatible with reasonably priced off-the-shelf computer systems (e.g., computer systems more than sufficient to meet the minimum hardware requirements are widely available for less than $1,000), NMFS has strived to the extent practicable, to minimize the costs to seafood dealers associated with complying with this action. One of the results of this action is to avoid the duplication of effort characteristic of the system that would otherwise remain in place (e.g., dealers with a permit for one or more of the quota-managed species are required to submit both weekly IVR reports as well as weekly paper weighout reports, and dealers that already employ computer-based accounting systems would enter the data once on their computers for their own use, but also have to provide paper reports of their purchases). NMFS considers that the benefits of this action outweigh the initial costs to affected dealers. Daily electronic reporting will significantly improve quota monitoring by increasing the resolution and timeliness of trip-level reports used in quota monitoring. Improvements in data resolution and timeliness are expected to minimize the potential for closing a quota-based fishery too early in the season (to the detriment of the industry) or too late in the season (to the detriment of the resource). Because either case results in adverse impacts to the fishing industry (closing a fishery too early results in a loss of opportunity to harvest fish in the current year, while closing a fishery too late reduces the available quota in future years), it is to the benefit of the fishing industry, dealers and vessels alike, to utilize the most accurate, highest resolution data possible.

**Comments on the Use of Computers and/or the Internet**

*Comment 12:* Twenty-two comment letters indicated that the authors do not use or have a computer, they lack computer skills, and/or they believe a computer would be too costly for them to buy.

*Response:* Many affected dealers already use a computer in their business operations and are familiar with at least the basics of operating said computer. Some portion of affected dealers may need to purchase a computer and become acquainted with basic computer operations in order to comply with the new dealer reporting requirements. NMFS has designed the system to be compatible with readily available off-the-shelf desktop or laptop personal computers that can be purchased for less than $1,000. NMFS does not consider this one-time expense to be unduly burdensome as a cost of doing business. Training on computer operations is available through a variety of sources and should not be difficult to obtain.

*Comment 13:* Seven comment letters suggested that reliance on the Internet as a data transfer medium was a problem, either because the commenter believed that Internet access is too costly, the commenter did not have access to the Internet, or the commenter's access to the Internet is intermittent.

*Response:* To accommodate issues associated with reliance on the Internet as a data transfer medium, NMFS is including a reporting option that does not rely on access to the Internet, but will allow a dealer to report directly to NMFS via their computer modem and a standard phone line. This option could be used by dealers for whom access to the Internet is either too expensive, unavailable, or unreliable.

*Comment 14:* Five comment letters indicated that the commenters believed their computer hardware and/or software was inadequate to comply with the proposed rule.

*Response:* NMFS understands that some dealers may have to upgrade their existing computer hardware and/or software in order to meet the requirements in this rule. However, the cost of upgrading a computer is less than the cost of purchasing a new computer, and neither of these costs is considered to be significant. There are no requirements for particular software associated with this action. Dealers may complete their reports via an online web-based form on the Internet, or use any readily available off-the-shelf bookkeeping software application to export reports suitable for upload.

*Comment 15:* One comment letter suggested that NMFS consider installing computer kiosks in large market areas (e.g., Fulton Fish Market) for dealers to access for reporting purposes.

*Response:* NMFS does not currently have the infrastructure or funding to set up an extensive network of computer kiosks for dealer reporting. Since it is likely that a substantial number of dealers have an office and already have access to a computer, either at home or at their dealership, the anticipated benefits of computer kiosks for dealer electronic reporting are likely to be negligible. However, the feasibility of establishing computer and Internet access for use by dealers and vessel operators at various port offices is currently being researched. In addition, NMFS is coordinating with the Atlantic Coastal Cooperative Statistics Program (ACCSP) and the state fishery management agencies to investigate setting up computer kiosks for vessel electronic reporting, which may accommodate some dealers as well.

*Comment 16:* Three comment letters suggested that NMFS should subsidize expenses incurred by dealers for computer equipment and labor necessary to comply with the new regulations.

*Response:* NMFS has no plans to subsidize the expenses incurred by dealers to comply with the rule; however, NMFS considers such a subsidy to be unnecessary as NMFS has designed the system to be compatible with readily available off-the-shelf personal computers that can be purchased for less than $1,000. This one-time expense is not considered unreasonable as a cost of doing business, nor an undue hardship on dealers. NMFS also does not consider the increase in labor costs as a result of the regulations to be significant.

*Comment 17:* Two comment letters raised concern over what would occur if a dealer has trouble reporting. One of these letters suggested that there be a backup method available if the Internet is not working.

*Response:* NMFS infers from this comment that the commenter is concerned with how reporting will be completed if the dealer had computer trouble, trouble accessing the Internet, or if there was trouble accessing NMFS' reporting system. If the dealer has computer trouble or there is a problem accessing the Internet, the dealer

remains responsible for complying with all aspects of this final rule (reporting all required data electronically at the specified frequencies). Computer and/or Internet problems will not relieve dealers of the reporting requirements specified in this rule. Also, as described in the response to an earlier comment, NMFS is including an option for dealers to report directly to NMFS via their computer modem and a phone line. This may serve as the primary reporting mechanism for those dealers without Internet access, or as a backup reporting mechanism for those dealers whose Internet connection is not working at the time they wish to report.

*Comment 18:* One comment letter indicated that there should be no cost to the dealer to report over the Internet, above the standard cost to obtain Internet service.

*Response:* This is the case. NMFS will not charge any fees or impose any other costs on dealers to report over the Internet. Any costs associated with gaining basic Internet access are the sole responsibility of the dealers who choose to report via the Internet.

*Comment 19:* One comment letter requested that the electronic reporting system be easy to use and remember, but that there be no ''cookies'' or hidden files put on the dealers' computers.

*Response:* In developing the electronic reporting system, NMFS has strived to develop a user-friendly system that will be easy for dealers to use and to remember the steps for reporting. It is the policy of NMFS that no cookies or hidden files will be employed in the development or implementation of this system.

*Comment 20:* One comment letter indicated that all dealer software required to comply with the new reporting system be compatible with existing software used by dealers.

*Response:* As long as all required data elements are included, any off-the-shelf or custom software package that is capable of exporting the proper file types would be usable by dealers. The system has been designed to be compatible with export file types commonly used by off-the-shelf business accounting software packages such as QuickBooks, PeachTree, and NetYield, among others.

*Comment 21:* One comment letter took issue with the use of the Internet as a data transfer medium, stating that the Internet represents a loss of privacy for individuals who use it.

*Response:* NMFS is intent on implementing a secure reporting and data management system that meets all applicable Department of Commerce standards to ensure confidentiality, as required under section 402(b) of the Magnuson-Steven Act. The system developed by NMFS employs the same technology used in the banking industry, including the use of a secure certificate, to ensure the confidentiality and security of financial transactions.

**Comments on the Trip Identifier**

*Comment 22:* NMFS received 27 comment letters that took issue with the proposed definition of the ''trip identifier'' that dealers are required to include in their trip-level reports. Most commenters voiced concern over their ability to ensure that the vessels would provide this information to them, and concern over the implications that the dealers would be held accountable if the trip identifier is not provided by the vessels. Several commenters stated that providing the trip identifier should be the responsibility of the vessel, not the dealer. One commenter suggested allowing dealers to report the trip identifier once per month. Some commenters indicated that, although this information would be possible to obtain, it may not always be possible to obtain at the time of the transaction. One commenter suggested that NMFS did not pursue sufficient alternatives for linking the VTR and the dealer trip-level reports before selecting the approach described in the proposed rule. Two commenters also suggested that NMFS consider delaying implementation of the trip identifier requirement until some time after the dealer electronic reporting requirements are implemented.

*Response:* To accommodate concerns over the requirement for dealers to obtain and report the trip identifier, the final rule will extend temporarily the time period within which the trip identifier must be reported by the dealer. The proposed rule included the trip identifier as one of the items that would need to be reported within 24 hours of the transaction. The final rule will delay this requirement such that until May 1, 2005, the trip identifier may be reported along with the price and disposition information up to 16 days from the end of the reporting week, or by the end of the calendar month, whichever is later. At the end of this first year, NMFS will evaluate the effectiveness of allowing the trip identifier to be reported separate from the initial landings information. The requirement for the trip identifier to be reported within 24 hours of the initial transaction will be implemented automatically on May 1, 2005, unless waived by the Regional Administrator. The final rule will also modify this requirement such that dealers must obtain a trip identifier only from federally permitted vessels, rather than from federally and state permitted vessels. The current VTR is considered to provide a sufficient mechanism for most vessels to provide the trip identifier to dealers, as there are two removable ''dealer copy'' pages of the VTR that have the VTR serial number pre-printed on them. In addition, for those vessels that sell product to three or more dealers, NMFS staff are developing alternatives for how fishing vessels may more easily transmit the trip identifier to these dealers. Details on these alternatives will be provided to vessels and dealers in permit holder letters announcing implementation of this action. NMFS considered other options for linking the dealer reports with the VTRs, such as relying on information provided by the vessel, and concluded that including the VTR serial number on the dealer report represented the most efficient and consistent mechanism to ensure that the two reports could be effectively linked.

*Comment 23:* One comment letter suggested that NMFS implement a rule requiring fishing vessels to tag fish cartons with their VTR number, thereby ensuring that the trip identifier would be available for the dealers.

*Response:* NMFS does not foresee a need to implement a regulation specifying the mechanism by which fishing vessels must provide the trip identifier to dealers because it will be more efficient for dealers and vessels alike to be able to determine what works best in their own situations.

*Comment 24:* Two comment letters stated that the trip identifier and the VTR number should be the same (i.e., that the trip identifier should be reported as the VTR number).

*Response:* This is how the trip identifier is determined. The regulations specify that the trip identifier is defined as the complete VTR serial number. It is the intent of NMFS that utilizing the VTR number as the trip identifier will provide a simple and consistent link between the VTR and the dealer trip-level report.

**Comments on the Timing of Reports**

*Comment 25:* Four comment letters suggested that NMFS should expand the time frame for requiring landings data to be reported to 4 days for quota-managed species and 7 days for non-quota-managed species.

*Response:* NMFS has decided to modify the reporting frequency, temporarily, for some small dealers. The final rule implements the requirement for daily reporting only for those dealers that reported $300,000 or more in fish purchases (ex-vessel value) in at least 1

year between 2000 and 2002. Because dealers that exceed the threshold report much more than dealers that fall below the threshold, it is more important for NMFS to monitor on a daily basis landings purchased by these larger dealers than landings purchased by the smaller dealers. Dealers that fall below this threshold will be required to report electronically via computer, but may continue to report on a weekly basis, rather than daily, until May 1, 2005, at which time they, too, will be required to report daily.

*Comment 26:* NMFS received two letters commenting that daily reporting was not needed for quota monitoring.

*Response:* Experience has demonstrated the limitations of weekly data reporting for quota monitoring. Catch projections based on weekly data often lack the precision necessary to effectively manage quota-based fisheries. Daily electronic reporting will significantly improve quota monitoring by increasing the resolution and timeliness of trip-level reports used in quota monitoring. Improvements in data resolution and timeliness are expected to minimize the potential for closing a quota-based fishery too early in the season (to the detriment of the industry) or too late in the season (to the detriment of the resource).

*Comment 27:* Six comment letters indicated that dealers would not be able to report every day. One comment letter requested that the weekend reporting exemption be extended to include Federal holidays.

*Response:* NMFS clarifies that under the system implemented in this rule, dealers subject to the daily reporting requirement are required to report once on each business day (Monday-Friday, excluding Federal holidays), and are not required to report on weekends or Federal holidays. NMFS is modifying the regulations as described in the proposed rule, such that only new dealers and dealers that reported $300,000 or more of fish purchases (ex-vessel value) in at least 1 year from 2000–2002 are required to report on a daily basis. Dealers that fall below this threshold will be able to continue to report on a weekly basis, through April 30, 2005.

*Comment 28:* Seven comment letters indicated that 3 days was an insufficient amount of time to make corrections to trip-level reports. One commenter suggested changing the limit from 3 calendar days to 3–4 business days. Another commenter suggested 14 days.

*Response:* NMFS clarifies that the intent of the proposed rule was to indicate that corrections to landing reports may be made within 3 business days, not calendar days. NMFS considers 3 business days sufficient time to make any necessary corrections to incorrectly reported trip-level reports, except in rare circumstances which NMFS will consider on a case-by-case basis.

*Comment 29:* Two comment letters indicated that daily reporting should only be required for quota-managed species, and all other species should be reported on a weekly basis.

*Response:* NMFS considered the approach suggested by the commenter, and concluded that this approach would not be practicable. Requiring different reporting frequencies depending on the species landed would likely result in significant confusion among dealers and introduce inconsistencies into the dealer report database. Maintaining reporting frequencies as indicated, not based on species, will be more consistent for all dealers, regardless of the state in which they reside.

*Comment 30:* One comment letter suggested that the end-of-week reporting deadline be extended from midnight Tuesday to midnight Wednesday to provide more time for dealers to finalize all landings that came in between the previous Friday and Sunday.

*Response:* NMFS considered this comment and concluded that the originally proposed deadline of midnight Tuesday is sufficient time to report all purchases that occurred for the previous Friday and Saturday. This schedule remains consistent with the current IVR reporting schedule, under which all weekly purchases must be reported by midnight on the following Tuesday.

*Comment 31:* One comment letter indicated that 8 minutes would not be sufficient time to complete a report.

*Response:* NMFS considered this comment, and concluded that, once dealers become familiar with the reporting systems and protocols, each trip-level report will take no more than 2 minutes to complete, on average.

**Comments on Access to Data**

*Comment 32:* NMFS received one letter suggesting that dealers be able to retrieve historical data entered by that dealer at any time.

*Response:* The system is designed so that dealers will immediately have access to all information they submit electronically. Historical information (data submitted to NMFS prior to the introduction of the electronic reporting system) will be available electronically in late 2004 or early 2005. Although the ability to make corrections to those data will be limited according to the provisions of the regulations, all information will remain available for viewing.

*Comment 33:* One comment letter indicated that access to the dealer reporting system should be password protected on a secure system so that only the appropriate dealer personnel and NMFS have access.

*Response:* It is the intent of NMFS to implement a system as described by the commenter, in which each dealer may access their data through a password-protected secure system. Access to these data will be limited to NMFS and other personnel (state fishery management agency staff, staff of the Regional Fishery Management Councils, etc.), as authorized under section 402(b) of the Magnuson-Stevens Act.

*Comment 34:* One commenter indicated that dealers should be able to revise previously submitted data.

*Response:* NMFS agrees and has developed the reporting system so that dealers will be able to revise previously submitted data, subject to the constraints identified in the regulations.

*Comment 35:* One comment letter questioned why dealer reports are confidential.

*Response:* Dealer reports are treated as confidential information under section 402(b) of the Magnuson-Stevens Act, which requires that all information submitted to the Secretary of Commerce by any person in compliance with any requirement under the Act shall remain confidential and not be disclosed except under the limited circumstances described in the law. Summary data, with no identifying information, is made available to the public on a routine basis.

**Comments on the Alternatives**

*Comment 36:* Two comment letters suggested that NMFS provide additional options for reporting: One commenter requested the option of faxing reports in addition to reporting via a computer; and the other commenter suggested that NMFS use a combination of the current IVR system and electronic reporting, at the discretion of the dealer.

*Response:* In order to ensure compatibility of data submitted by dealers, and their availability for use by managers, NMFS insists that all dealer reports must be submitted via one of the electronic reporting mechanisms described in the rule. Dealer reports via fax and/or the IVR system will not be considered to be in compliance with this rule.

*Comment 37:* Thirteen comment letters indicated that the commenters supported the status quo and they believed the weekly IVR system was

easier to use than the proposed daily electronic reporting system.

*Response:* While some dealers would prefer the status quo, with which they may have significant experience, NMFS intends to improve the current reporting system. The daily electronic reporting system is intended to remedy several limitations of the weekly reporting systems by increasing the resolution of landings data, making landings data available to managers and other users in a more timely manner, and eliminating the redundant reporting systems of both an IVR report and a written dealer weighout report.

*Comment 38:* Two comment letters indicated support for an alternative to the proposed action--the alternative that would make daily electronic reporting mandatory only for those dealers that met a minimum threshold criterion of having purchased $300,000 or more of fish (ex-vessel value) in at least 1 year between 2000 and 2002.

*Response:* NMFS is implementing a variation on this alternative that allows dealers below the threshold to continue to report on a weekly basis until May 1, 2005, at which time they will need to begin reporting on a daily basis. New dealers and dealers above the threshold will be required to begin reporting on a daily basis upon implementation of this rule. All federally permitted dealers, regardless of the threshold, will need to begin reporting electronically upon implementation of this rule. Because dealers that exceed the threshold report much more than dealers that fall below the threshold, it is more important for NMFS to monitor on a daily basis landings purchased by these larger dealers than landings purchased by the smaller dealers.

**Comments on Interactions With State Systems**

*Comment 39:* Five comment letters raised issues regarding the integration and interaction of the proposed system with reporting systems being developed by the states. One letter opposed the proposed regulations because they purportedly continue an overlap of reporting requirements with the states. Similarly, another comment letter suggested that NMFS use landings data provided to the states, or allow dealers to report to NMFS at the same time they report to their state. Several commenters suggested that NMFS use the same system as the states.

*Response:* Several states are in the process of developing electronic reporting systems. NMFS has been working in conjunction with the ACCSP and the state fishery management agencies to ensure that the system deployed by NMFS is consistent and compatible to the maximum degree possible with the systems being developed and implemented by the various states agencies. One of the reporting options allows dealers to use an acceptable file upload report system implemented by their state fishery management agency, provided that they comply with the more frequent of the minimum reporting schedules (e.g., if the state requires weekly reporting, but the Federal regulations require daily reporting, the dealer may use the state system to report their purchases, but must do so daily). This option, which is available to all dealers in a state with a compatible electronic reporting system, will enable these dealers to report once, to their state, and have their data automatically provided to NMFS, eliminating any overlap or duplication of state and Federal reporting requirements.

*Comment 40:* One comment letter suggested that NMFS work more closely with the ACCSP, and, in particular, the North Carolina Division of Marine Fisheries (NC DMF), on the development of the electronic reporting system.

*Response:* As noted in the response to the previous comment, NMFS has worked closely with ACCSP to develop a data reporting system that is compatible and consistent with ACCSP and the state fishery management agency data reporting systems, including the system being developed by NC DMF. All data collected by NMFS will be available to the states, including NC DMF, through the ACCSP system.

**Comments on Price and Disposition Information**

*Comment 41:* Twenty-four comment letters stated that the time allotted in the proposed rule to provide price information on purchases was insufficient. Several of these commenters suggested that at least 1 week be allowed, and other commenters suggested that 1 month be the minimum time.

*Response:* The proposed rule would have required that all trip-level reports be updated with price information no later than midnight on the Tuesday following the week in which the purchases were first reported. In some cases (for those fish purchased over a weekend, or on a Monday or Tuesday), dealers would have had at least 1 week to provide price information. For purchases reported on a Wednesday, Thursday, or Friday, dealers would have had less than 1 week to update the report with price information. To accommodate the concerns of affected dealers, the final rule modifies this requirement to allow dealers to provide this information up to 16 days from the end of the reporting week, or by the end of the calendar month, whichever is later. This provides dealers an extra 2–3 weeks to update their trip-level reports with price and disposition information.

*Comment 42:* NMFS received nine comment letters that questioned the requirement to report the disposition of the seafood products. Several commenters indicated they were unsure of the purpose of the disposition code, and several others suggested that this requirement had no bearing on fishery regulations. Most of these commenters also added that this requirement should not be included in the final rule.

*Response:* Catch disposition information is needed to develop and maintain a more complete understanding of seafood industry marketing for use in analyses regarding the impacts changes to fishing regulations may have on fishermen and various sectors of the fishing industry.

*Comment 43:* Two comment letters suggested that NMFS should not require price information.

*Response:* Information on the prices paid to fishing vessels for their catch provides vital data to enable NMFS, the states, and the Regional Fishery Management Councils to understand and analyze the economic and social impacts changes to fishing regulations may have on fishermen and various sectors of the fishing industry and their communities.

**Comments on Negative Reporting**

*Comment 44:* Six comment letters addressed the requirement for negative reporting. Two letters stated that negative reporting should not be necessary, two suggested that negative reports continue to be due monthly, one requested that negative reports not be due daily, and one letter suggested that negative reports be due on the same frequency as trip-level reports.

*Response:* Negative reporting is required to establish and enable NMFS to distinguish between dealers who did not report because they purchased no fish during a reporting period and those dealers who simply failed to report, but may have purchased fish. Without negative reporting, it would be impossible for NMFS to determine when all dealers required to report have, in fact, completed their reporting requirement. In order to be assured of a complete and accurate accounting of landings, at the end of a reporting period, NMFS needs to be able to determine if the landings that have been

reported represent all of the landings during that period. Negative reporting closes that loop by providing a mechanism by which NMFS can determine whether dealers that did not report a purchase have either failed to report a purchase or simply did not make a purchase during that reporting period. Unlike reports of purchases, negative reports are required to be made on a weekly basis, and may be made for up to 3 months in advance. This provision is intended to reduce the reporting burden on dealers who do not purchase any fish for extended periods of time. If negative reports were due less frequently than weekly (e.g., monthly), NMFS would not be able to effectively monitor quota-based fisheries because the information needed to confirm compliance with the reporting requirements would not be provided in a sufficiently timely manner.

**Other Comments**

*Comment 45:* Two comment letters suggested that, rather than implementing electronic dealer reporting, NMFS require the recreational fishing sector to obtain operator permits, and provide log books and trip reports.

*Response:* These comments are not directly relevant to the rule in question, which is intended to provide a mechanism to improve the accounting of commercial fish landings. Commercial fish landings are handled by commercial seafood dealers, thus this action addresses the reporting requirements for these dealers. This action does not propose any changes to the regulations that affect the recreational fishing sector, as landings by this sector are not pertinent to an accounting of commercial fish landings.

*Comment 46:* One comment letter suggested that electronic dealer reporting would only be used to close quota-based fisheries sooner.

*Response:* It is the intent of NMFS that implementation of an electronic dealer reporting system will allow quotas to be managed more effectively, reducing the frequency of early closures of quota-based fisheries as well as late closures.

*Comment 47:* One comment letter requested that NMFS implement new reporting requirements to ensure that dealers in the NE identify large and small coastal shark landings by species.

*Response:* NMFS regulations require reporting of all landings by species, including sharks, and NMFS is working with dealers in the NE to improve the identification of shark species.

*Comment 48:* Two comment letters stated that the annual report is redundant with data submitted earlier in the year and should not be required.

*Response:* NMFS disagrees that the Annual Processed Products Survey report is redundant with previously submitted data. The annual report collects information on employment and the volume and value of processed products that is not captured in the daily and weekly dealer trip-level reports.

*Comment 49:* Three comment letters raised an issue regarding whether this action is directed at the point-of-purchase transaction or the point-of-landing transaction. One comment letter suggested that the requirement to report daily be initiated at the point-of-purchase rather than the point-of-landing, because it can sometimes take an extended period of time for some vessels to be unloaded, and until the vessel is completely unloaded, the amount of fish to be purchased is not known. The other two letters suggested that the point-of-landing would be the more appropriate transaction point.

*Response:* NMFS has considered this issue, and recognizes that there remains some debate regarding whether the point-of-purchase or the point-of-landing is more appropriate to determine the action that triggers a dealer trip-level report, but is making no change to this aspect of the regulations at this time. This may be reconsidered in a future action.

*Comment 50:* One comment letter indicated that the commenter would like the proposed reporting requirements to apply to dealers that hold only a Federal lobster permit, as well as the others affected by the action.

*Response:* The scope of this action is limited to those regulations promulgated under 50 CFR part 648, and the fisheries addressed therein. Changes to the regulations under 50 CFR part 697 that address fisheries managed under the Atlantic Coastal Fisheries Cooperative Management Act, including American lobster, may be reconsidered in a future action.

*Comment 51:* One comment letter suggested that NMFS implement no-take marine sanctuaries to protect fishery resources.

*Response:* The implementation of no-take marine sanctuaries is not within the scope of this action.

**Changes From the Proposed Rule**

In § 648.2, new definitions for ''Dealer—large'' and ''Dealer—small'' are added to clarify to whom the differing reporting schedules specified at § 648.7(f)(1) apply. The definitions are based on the threshold criterion described in the proposed rule under the alternatives to the proposed action that would have implemented the electronic reporting requirements only for dealers with reported annual purchases above the threshold.

In § 648.2, the definition of ''trip identifier'' is modified to clarify that the complete serial number of the vessel logbook page completed for a trip composes the trip identifier, and to remove the option that would have allowed dealers to use the vessel's date sailed as the trip identifier. This option has been removed as a result of a change to the trip identifier requirement so that it is required only for trips conducted by federally permitted vessels. The option was included originally to provide a mechanism for dealers to determine a trip identifier when purchasing fish from a state-only permitted vessel that was not required to use a Federal fishing VTR and would not have access to a logbook serial number. Because the trip identifier requirement no longer applies for trips made by state-only permitted vessels, this option is no longer necessary and would only serve to introduce confusion and inconsistencies into the reporting system.

In § 648.7, paragraph (a)(1) is revised to clarify that dealers must submit a detailed trip-level report of all fish purchased or received, subject to the time periods specified in paragraph (f) of this section, without specifying whether those reports must be submitted on a daily basis. The intent of this final rule is to determine, with greater level of precision and accuracy, the amount of fish landed; therefore, this section is clarified to indicate that it is fish both purchased and received that must be reported. This paragraph is also revised to clarify that the Regional Administrator has the authority to direct dealers to report by some other means than those specified in this rule, should the need arise.

In § 648.7, paragraph (a)(1)(i) is revised to limit the requirement for dealers to provide a trip identifier to those trips from which fish are purchased or received from a commercial fishing vessel permitted under this part. This removes the requirement for dealers to provide a trip identifier when reporting fish purchased or received from a non-federally permitted vessel.

In § 648.7, paragraph (a)(2) is revised to specify that dealers are required to have the capability to transmit data over a telephone line or a cable using a computer modem. This clarifies that any form of Internet access (dial-up, DSL, or cable) is sufficient to comply with the requirements of this rule.

In § 648.7, paragraph (d) is revised to clarify that all records upon which the reports required under this section are or will be based must be made available for inspection upon request.

In § 648.7, paragraph (e) is revised to clarify that fishing log reports must be kept on board the vessel and available for review for at least 1 year and must be retained for a total of 3 years after the date of the last entry on the log.

In § 648.7, paragraph (f)(1)(i) is revised to specify the report submission schedule required for Large Dealers, i.e., that detailed daily trip-level reports must be received by midnight of the next business day following the day fish are purchased or received from a fishing vessel.

In § 648.7, a new paragraph (f)(1)(ii) is inserted to specify the report submission schedule required for Small Dealers, i.e., that through April 30, 2005, small dealers are required to provide detailed trip-level reports that must be received within 3 days after the end of the reporting week, or by midnight of the following Tuesday, and that effective May 1, 2005, small dealers are required to provide detailed daily trip-level reports that must be received by midnight of the next business day following the day fish are purchased or received from a fishing vessel.

In § 648.7, paragraph (f)(1)(ii) is redesignated as paragraph (f)(1)(iii) and revised to clarify that corrections to previously submitted trip-level reports may be made for up to 3 business days following submission of the initial report.

In § 648.7, a new paragraph (f)(1)(iv) is inserted to specify that through April 30, 2005, the trip identifier, as well as the price and disposition information, may be submitted after the initial trip-level report, but must be received within 16 days of the end of the reporting week or the end of the calendar month, whichever is later. This paragraph also clarifies that dealers will be able to access and update previously submitted trip identifier, price, and disposition data. This paragraph is further revised to clarify that, effective May 1, 2005, the trip identifier must be submitted with the initial trip-level report.

In § 648.7, paragraph (f)(1)(iii) is redesignated as paragraph (f)(1)(v) and revised to specify that this paragraph applies effective May 1, 2005. This paragraph is also revised to extend the period within which price and disposition information may be reported, from 3 days from the end of the reporting week, to 16 days from the end of the reporting week or the end of the calendar month, whichever is later, and to specify that, effective May 1, 2005, only price and disposition information may be submitted within this timeframe.

In § 648.7, paragraph (f)(1)(iv) is redesignated as paragraph (f)(1)(vi).

## Classification

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

Included in this final rule is the Final Regulatory Flexibility Analysis (FRFA) prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the IRFA, the comments and responses to the proposed rule, and the analyses completed in support of this action. A copy of the IRFA is available from the Regional Administrator (see **ADDRESSES**).

## Final Regulatory Flexibility Analysis

### *Statement of Objective and Need*

A description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to the proposed rule and is not repeated here.

### Summary of Significant Issues Raised in Public Comments

NMFS received 79 comment letters on the proposed rule prior to the close of the comment period. Of these, several made reference specifically to issues addressed in the IRFA, particularly the costs associated with purchasing or upgrading computer equipment, the need to hire additional staff to comply with the new reporting requirements, the overall administrative burden on small businesses to comply with the requirement to report daily, NMFS estimate of the economic impacts that would result from implementation of the regulations described in the proposed rule, the impact on fishermen-dealers, effects on fishermen due to reductions in prices paid by dealers, and support for the alternative that would make daily electronic reporting mandatory only for those dealers that met a minimum threshold of annual purchases. The remainder of the comment letters raised issues that did not pertain to the IRFA. For a complete description of the comments received on the proposed rule, refer to the section above titled ''Comments and Responses.''

To address the significant issues raised by the public on the proposed rule, the economic analyses contained in the IRFA, and the alternatives to the proposed action, NMFS is implementing several changes from what was proposed in the proposed rule. To address concerns raised regarding the administrative burden on small businesses to comply with the new reporting requirements, NMFS is delaying for 1 year the requirement for smaller dealers (those below the threshold used to define a Small Dealer) to report on a daily basis. These dealers will have to report electronically beginning with the implementation of this rule, but they may continue through April 30, 2005, to report on a weekly basis. This delay is intended to provide time for smaller dealers to become familiar with the changes associated with reporting electronically via computer, many of whom may be obtaining a computer for the first time, before they must increase the frequency of their trip-level reports. By providing this delay, these dealers will be able to better assess whether or not they will need to hire additional staff to comply with the eventual change to a more frequent reporting schedule. NMFS intends for this change to also accommodate the concerns of fishermen-dealers, many of whom are small businesses that will meet the definition of a Small Dealer.

In addition to this change, NMFS considered the comments regarding the costs of purchasing or upgrading computer equipment, the potential for reductions in prices paid to fishermen, and the overall estimate of the economic impacts associated with this rule, but is not making any changes to the requirements in response to these concerns. Regarding the costs to purchase or upgrade computer equipment, NMFS has estimated the costs to be no more than $671-$1,479 per dealer for all hardware, software, initial training, and the first year of dial-up Internet service. These costs are based upon published retail prices for readily available off-the-shelf systems that will be more than sufficient to meet the minimum requirements of the reporting system. NMFS does not consider these costs to be prohibitive or an unreasonable part of doing business.

Regarding the potential for dealers to reduce prices paid to fishermen in order to recoup their compliance costs and thus impose an adverse economic impact on fishermen, NMFS does not foresee this to be a significant issue. As noted above, the cost basis, on average, per dealer, to implement this action is not substantial ($671-$1,479 per dealer in the first year); therefore, any costs passed on to fishing vessels in the way of lower prices in an attempt to recoup these costs are expected to be minimal when considered at the scale of the total number of vessels and trips handled by

each dealer. Due to these analyses, and other information provided in the IRFA, NMFS considers its original estimates of the potential economic impacts on dealers to remain valid. None of the comment letters submitted on the proposed rule provided any new information not previously considered by NMFS in its analysis of economic impacts.

**Description and Estimate of Number of Small Entities to Which the Rule Will Apply**

This action impacts seafood dealers and processors who purchase fish from vessels landing specific species in the NE Region. Dealers are firms who purchase fish from vessels for a commercial purpose, other than solely for transport over land, and then sell or otherwise transfer that product directly to restaurants, markets, other dealers, processors, and consumers without substantially altering the product. Processors are firms that purchase raw product and produce another product form, which is then sold or otherwise transferred to markets, restaurants, or consumers. The vast majority of dealers and processors have at least four different permits.

For purposes of the RFA, all dealers affected by this final rule are considered small businesses; therefore, there are no disproportionate impacts between large and small entities, as defined in the RFA. However, given the differences noted in the preamble to this final rule in the number of reports submitted by Large Dealers and Small Dealers, as defined in this rule, NMFS is assigning all affected dealers to one of these classes for the purpose of determining when said dealers must comply with the requirement to report daily. All dealers must comply with the requirement to report electronically immediately upon implementation of this rule, but while Large Dealers must begin reporting daily immediately upon implementation of this rule, Small Dealers may continue to report on a weekly basis until May 1, 2005, at which time they must also begin reporting daily.

Based on 2002 landings information, it is estimated that approximately 500 dealers and processors will be required to comply with this rule. The majority of these dealers and processors are resident in Massachusetts (26 percent), Maine (20 percent), New York (16 percent), and Rhode Island (11 percent). All other coastal states through North Carolina have dealers and processors who need to comply with the action, and there are companies with dealer permits who purchased fish in 2002 from as far away as California and Hawaii. However, the value of fish purchased by dealers outside of the NE Region is so small that they may not continue purchasing fish directly from vessels once they are forced to comply with mandatory electronic reporting if they do not currently have the capability to report electronically.

Based on industry surveys conducted over the past year, NMFS estimates that at least 50 firms have the necessary computer hardware, software, and Internet connections to comply with this final rule with no additional cost. It is therefore assumed that as many as 450 firms will need to purchase the hardware and software and obtain an Internet connection. It is very likely that more than 50 currently active dealers have computers and Internet access, but this information is unavailable at this time. While this additional information (the actual number of permitted dealers with computer capability and Internet access) would have been useful in the analysis of the potential economic impacts of the action and the alternatives, the process to collect this information could not be completed within the timeframe necessary to complete this action.

**Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

The projected reporting, recordkeeping, and other compliance requirements to which this final rule applies were identified in the preamble to the proposed rule and in the IRFA and remain the same, with the exception of the temporary reductions in required reporting frequencies described in the section above entitled ''Changes From the Proposed Rule.'' A description of the projected reporting, recordkeeping, and other compliance requirements is provided in the IRFA and the IRFA summary contained in the Classification section of the proposed rule and is not repeated here. No professional skills are necessary for preparation of the reports or records specified above.

**Steps Taken To Minimize Economic Impacts on Small Entities**

This final rule modifies the reporting and recordkeeping regulations for federally permitted seafood dealers participating in the summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic surfclam, ocean quahog, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skates, and/or spiny dogfish fisheries in the NE Region. The potential economic impacts of these measures are described in detail in the IRFA and the IRFA summary contained in the Classification section of the proposed rule. Results of these analyses indicate that, although there will be an economic cost incurred by most affected dealers to comply with the new requirements, the overall magnitude of this cost is likely to be relatively small ($769-$1,577 per dealer in the initial year and less in follow-on years).

In addition to the action being taken in this final rule, NMFS considered several alternatives, including: (1) Making no changes to the current seafood dealer reporting requirements; (2) voluntary electronic reporting for federally permitted dealers; (3) mandatory electronic reporting for some federally permitted dealers, based on a threshold criterion of $300,000 in annual purchases in at least 1 year between 2000 and 2002; and (4) tiered implementation of mandatory electronic reporting for federally permitted dealers, based on the same threshold criterion. NMFS selected this action from among the alternatives because it will provide for a substantial improvement in data collection, make dealer trip-level report data more readily available, provide for a substantial improvement in the ability of NMFS to monitor landings of quota-managed species, and minimize costs to the Government that would be required if the Government were to maintain multiple data collection systems, as would be the case under all of the non-preferred alternatives save the no action alternative. Specifically, NMFS avouches that daily electronic reporting will significantly improve quota monitoring by increasing the resolution and timeliness of trip-level reports used in quota monitoring. Improvements in data resolution and timeliness are expected to minimize the potential for closing a quota-based fishery too early in the season (to the detriment of the industry) or too late in the season (to the detriment of the resource). Because either case results in adverse impacts to the fishing industry (closing a fishery too early results in a loss of opportunity to harvest fish in the current year, while closing a fishery too late reduces the available quota in future years), it is to the benefit of the fishing industry, dealers and vessels alike, to utilize the most accurate, highest resolution data possible.

Under the no action alternative, there would be no increases in costs to the dealers and no revisions would be made to the existing recordkeeping and reporting requirements. This alternative would result in the lowest possible cost

to industry as a whole, but would not achieve any of the objectives of this action and is, therefore, unacceptable to meet the continuing needs of fisheries managers for timely, accurate, and precise data on which to base management decisions.

Under the alternative to make daily electronic reporting voluntary, federally permitted dealers would be given the option to report all fish purchases electronically rather than via the present reporting requirements. Dealers that opted to report electronically all purchases on a trip-by-trip basis, as under the proposed action, would be exempt from the regulations requiring weekly hardcopy trip-level reports and IVR reports. Dealers that did not opt to utilize electronic reporting would remain required to provide weekly hardcopy trip-level reports and, if applicable, IVR reports. There is no information available on the number of firms that would voluntarily submit electronic reports. For many of the larger dealers that already have the capability to report electronically, it would undoubtedly make sense for them to participate. However, many dealers would likely not participate, resulting in an overall lower cost to the industry than the preferred alternative. Although this alternative would result in lower costs to the industry as a whole, it would not achieve the objectives of this action, as it would require the Government to utilize and maintain duplicate data collection and management systems without providing any benefit regarding data quality, timeliness, or availability.

The alternative that would use a threshold criterion to determine which dealers must comply with electronic reporting would mandate daily electronic reporting for dealers who purchased $300,000 or more of fish (ex-vessel value) from commercial fishing vessels in at least 1 year between 2000 and 2002. Data show that this alternative would impact approximately 50 percent of the dealers, which translates into an overall industry cost of one-half the cost of the proposed action. Although this alternative would also result in lower costs to the industry as a whole, it also would not achieve the objectives of this action, as it would require the Government to utilize and maintain duplicate data collection and management systems without providing any benefit regarding data quality, timeliness, or availability.

The alternative that would use a threshold criterion to determine when dealers must come into compliance with electronic reporting would mandate electronic reporting for all dealers, but delay implementation by a year for dealers who purchased less than $300,000 worth of fish in each year between 2000 and 2002. This would delay implementation for approximately 50 percent of the dealers. Compared to the proposed action, this alternative would be less costly to industry in present value terms due to the delayed implementation, assuming that the price of computers and software does not increase. Although this alternative possibly would result in slightly lower costs to the industry as a whole, it would not fully achieve the objectives of this action, as it would require the Government to utilize and maintain duplicate data collection and management systems during the interim period and would delay and compromise the Government's ability to effectively monitor quota-managed species and obtain the full benefits of the new system regarding data quality, timeliness, and availability.

In addition to the alternatives considered in the proposed rule, this final rule incorporates several changes from the measures proposed initially. These changes are intended to minimize, to the extent practicable, economic impacts on affected dealers while meeting the overall objectives of the action. These changes include: (1) Delaying for 1 year the full implementation of the requirement for federally permitted dealers to report fish purchased on a daily basis, for smaller dealers (those with less than $300,000 in annual purchases in each year from 2000–2002); (2) delaying for 1 year the requirement for the trip identifier to be reported on a daily basis at the time of the initial trip-level report, and allowing, during the interim, the trip identifier to be reported along with the price and disposition information; (3) extending the timeframe within which the price and disposition information may be reported to up to 16 days from the end of the reporting week or the end of the month, whichever is later; and (4) modifying the requirement for dealers to obtain the trip identifier to only apply when fish are purchased from a federally permitted vessel, instead of from state as well as federally permitted vessels.

These changes have the effect of reducing the initial administrative burden on affected dealers, particularly smaller dealers who may have been less able to fully comply with all of the new requirements. Because dealers that meet or exceed the threshold report much more than dealers that fall below the threshold, it is more important for NMFS to monitor on a daily basis landings purchased by these larger dealers than landings purchased by the smaller dealers. Only 49 percent of dealers that reported during 2000–2002 will be required to report daily. The remaining 51 percent will be able to continue to report weekly until May 1, 2005. The change in the requirement to obtain a trip identifier has the effect of substantially reducing the number of vessels and the number of fishing trips for which dealers will have to obtain and report the trip identifier.

**Small Entity Compliance Guide**

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of related rules. As part of this rulemaking process, a small entity compliance guide will be sent to all holders of NE Federal dealer or commercial fishing vessel permits. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from NMFS (see ADDRESSES) and at the following web site: *http://www.nmfs.gov/ro/doc/nero.html*.

**Collection-of-Information Requirements**

This final rule contains two collection-of-information requirements subject to the Paperwork Reduction Act (PRA). These two requirements represent revisions to existing approved collections. The collection of this information is under review by OMB. NMFS will notify the affected public through a follow-up notice in the **Federal Register** announcing OMB's clearance of the collection-of-information requirements. The public's reporting burden for the collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information requirements.

The new and revised reporting requirements and the estimated time for a response are as follows:

Dealer purchase reports, OMB control number 0648–0229 (2 minutes per response for a dealer purchase report).

Annual Processed Products Survey, OMB control number 0648–0118 (30 minutes per year to complete the survey).

Send comments on these or any other aspects of the collection of information to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall any person be subject to a penalty for failure to comply with a collection-of-information subject to the requirements of the PRA unless that collection-of-information displays a currently valid OMB control number.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 17, 2004.

**Rebecca Lent,**

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

■ For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.2, new definitions for ''Dealer—large,'' ''Dealer—small,'' and ''Trip identifier'' are added, in alphabetical order, to read as follows:

### § 648.2 Definitions.

* * * * *

*Dealer—large* means a federally permitted dealer determined by the Regional Administrator to have reported $300,000, or more, in annual fish purchases (ex-vessel value) at least once from 2000 through 2002, or, any dealer for whom the Regional Administrator cannot establish that he/she meets the definition of a Small Dealer provided below.

*Dealer—small* means a federally permitted dealer determined by the Regional Administrator to have reported less than $300,000 in annual fish purchases (ex-vessel value) in each year from 2000 through 2002.

* * * * *

*Trip Identifier* means the complete serial number of the vessel logbook page completed for that trip.

* * * * *

■ 3. In § 648.7, paragraphs (a), (d), (e), (f)(1), and (f)(3) are revised to read as follows:

### § 648.7 Record keeping and reporting requirements.

(a) *Dealers*—(1) *Detailed report.* Federally permitted dealers must submit to the Regional Administrator or to the official designee a detailed report of all fish purchased or received for commercial purposes, other than solely for transport on land, within the time periods specified in paragraph (f) of this section, by one of the available electronic reporting mechanisms approved by NMFS, unless otherwise directed by the Regional Administrator. The following information, and any other information required by the Regional Administrator, must be provided in each report:

(i) All dealers issued a dealer permit under this part must provide: Dealer name; dealer permit number; name and permit number or name and hull number (USCG documentation number or state registration number, whichever is applicable) of vessel(s) from which fish are purchased or received; trip identifier for each trip from which fish are purchased or received from a commercial fishing vessel permitted under this part; date(s) of purchases and receipts; pounds by species (by market category, if applicable, or, if a surfclam or ocean quahog processor or dealer, the number of bushels by species); price per pound by species (by market category, if applicable, or, if a surfclam or ocean quahog processor or dealer, the price per bushel by species) or total value by species (by market category, if applicable); port landed; cage tag numbers (if a surfclam or ocean quahog processor or dealer); disposition of the seafood product; and any other information deemed necessary by the Regional Administrator. If no fish are purchased or received during a day, no report is required to be submitted. If no fish are purchased or received during an entire reporting week, a report so stating must be submitted.

(ii) [Reserved]

(iii) *Dealer reporting requirements for skates.* In addition to the requirements under paragraph (a)(1)(i) of this section, dealers shall report the species of skates received. Species of skates shall be identified according to the following categories: Winter skate, little skate, little/winter skate, barndoor skate, smooth skate, thorny skate, clearnose skate, rosette skate, and unclassified skate. NMFS will provide dealers with a skate species identification guide.

(2) *System requirements.* All persons required to submit reports under paragraph (a)(1) of this section are required to have the capability to transmit data over a telephone line or a cable using a computer modem. To ensure compatibility with the reporting system and database, dealers are required to obtain and utilize a personal computer, in working condition, that meets the minimum specifications identified by NMFS. The affected public will be notified of the minimum specifications via a letter to all Federal dealer permit holders.

(3) *Annual report.* All persons required to submit reports under paragraph (a)(1) of this section are required to submit the following information on an annual basis, on forms supplied by the Regional Administrator:

(i) All dealers issued a dealer permit under this part must complete all sections of the Annual Processed Products Report for all species of fish that were processed during the previous year. Reports must be submitted to the address supplied by the Regional Administrator.

(ii) Surfclam and ocean quahog processors and dealers whose plant processing capacities change more than 10 percent during any year shall notify the Regional Administrator in writing within 10 days after the change.

(iii) Atlantic herring processors, including processing vessels, must complete and submit all sections of the Annual Processed Products Report.

* * * * *

(d) *Inspection.* All persons required to submit reports under this section, upon the request of an authorized officer, or by an employee of NMFS designated by the Regional Administrator to make such inspections, must make immediately available for inspection copies of the required reports and the records upon which the reports are or will be based. At any time during or after a trip, vessel owners and operators must make immediately available for inspection the fishing log reports currently in use, or to be submitted.

(e) *Record retention.* Records upon which trip-level reports are based must be retained and be available for immediate review for a total of 3 years after the date of the last entry on the report. Dealers must retain the required records at their principal place of business. Copies of fishing log reports must be kept on board the vessel and available for review for at least 1 year and must be retained for a total of 3 years after the date of the last entry on the log.

(f) * * *

(1) *Dealer or processor reports.* (i) Dealers—large. Detailed daily trip reports, required by paragraph (a)(1)(i) of this section, must be received by midnight of the next business day following the day fish are purchased or received from a fishing vessel. Reports of purchases or receipts made on a Friday, Saturday, or Sunday must be received by midnight of the following Monday. If no fish are purchased or received during a reporting week, the

report so stating required under paragraph (a)(1)(i) of this section must be received within 3 days after the end of the reporting week, or by midnight on the following Tuesday.

(ii) Dealers—small. (A) Through April 30, 2005. Detailed trip reports, required by paragraph (a)(1)(i) of this section, must be received within 3 days after the end of the reporting week, or by midnight on the following Tuesday. If no fish are purchased or received during a reporting week, the report so stating required under paragraph (a)(1)(i) of this section must be received also within 3 days after the end of the reporting week, or by midnight on the following Tuesday.

(B) Effective May 1, 2005. Detailed trip reports, required by paragraph (a)(1)(i) of this section, must be received by midnight of the next business day following the day fish are purchased or received from a fishing vessel. Reports of purchases or receipts made on a Friday, Saturday, or Sunday must be received by midnight of the following Monday. If no fish are purchased or received during a reporting week, the report so stating required under paragraph (a)(1)(i) of this section must be received within 3 days after the end of the reporting week, or by midnight on the following Tuesday.

(iii) Dealers who want to make corrections to their trip-level reports via the electronic editing features may do so for up to 3 business days following submission of the initial report. If a correction is needed more than 3 business days following the submission of the initial trip-level report, the dealer must contact NMFS directly to request an extension of time to make the correction.

(iv) Through April 30, 2005, to accommodate the potential lag in availability of some required data, the trip identifier, price, and disposition information may be submitted after the initial report, but must be received within 16 days of the end of the reporting week or the end of the calendar month, whichever is later. Dealers will be able to access and update previously submitted trip identifier, price, and disposition data. Effective May 1, 2005, the trip identifier must be submitted with the initial purchase report, as required under paragraphs (f)(1)(i) and (f)(1)(ii)(B) of this section.

(v) Effective May 1, 2005, to accommodate the potential lag in availability of some required data, price and disposition information only may be submitted after the initial report, but must be received within 16 days of the end of the reporting week or the end of the calendar month, whichever is later. Dealers will be able to access and update previously submitted price and disposition data.

(vi) Annual reports for a calendar year must be postmarked or received by February 10 of the following year. Contact the Regional Administrator (see Table 1 to § 600.502) for the address of NMFS Statistics.

* * * * *

(3) *At-sea purchasers, receivers, or processors.* All persons, except persons on Atlantic herring carrier vessels, purchasing, receiving, or processing any Atlantic herring, summer flounder, Atlantic mackerel, squid, butterfish, scup, or black sea bass at sea for landing at any port of the United States must submit information identical to that required by paragraph (a)(1) of this section and provide those reports to the Regional Administrator or designee by the same mechanism and on the same frequency basis.

* * * * *

[FR Doc. 04–6476 Filed 3–19–04; 10:00 am]

BILLING CODE 3510–22–S

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 031124287–4060–02; I.D. 031704C]**

## Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 Feet (18.3 m) Length Overall and Longer Using Hook-and-line Gear in the Bering Sea and Aleutian Islands

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher vessels 60 feet (18.3 m) length overall (LOA) and longer using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allocation of 2004 total allowable catch (TAC) of Pacific cod allocated for catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in this area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 18, 2004, until 1200 hrs, A.l.t., August 15, 2004.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, (907) 586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2004 final harvest specification for groundfish of the BSAI (69 FR 9242, February 27, 2004), allocated a directed fishing allowance for Pacific cod of 182 metric tons to catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI for the period 1200 hrs, A.l.t., January 1, 2004, through 1200 hrs, A.l.t., June 10, 2004. See § 679.20(c)(3)(iii), § 679.20(c)(5), and § 679.20(a)(7)(i)(A) and (C).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season allocation of the 2004 Pacific cod TAC allocated as a directed fishing allowance to catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI.

### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent the Agency from responding to the most recent fisheries data in a timely fashion and would delay the closure the A season allocation of Pacific cod specified for catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: March 17, 2004.

**John H. Dunnigan,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 04–6475 Filed 3–18–04; 3:08 pm]

BILLING CODE 3510–22–S

# Proposed Rules

Federal Register
Vol. 69, No. 56
Tuesday, March 23, 2004

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 THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[REG–166012–02]**

**RIN 1545–BB82**

### Notional Principal Contracts; Contingent Nonperiodic Payments; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains corrections to proposed regulations that were published in the **Federal Register** on February 26, 2004 (69 FR 8886) that relate to the inclusion into income or deduction of a contingent nonperiodic payment provided for under a notional principal contract (NPC).

**FOR FURTHER INFORMATION CONTACT:** Kate Sleeth, (202) 622–3920 (not toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

The notice of proposed rulemaking and notice of public hearing that are the subject of these corrections are under section 446 of the Internal Revenue Code.

#### Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing (REG–166012–02) contain errors that may prove to be misleading and are in need of clarification.

#### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG–166012–02), which were the subject of FR Doc. 04–4151, is corrected as follows:

1. On page 8886, column 1, in the heading, the subject line ''National Principle Contracts; Contingent Nonperiodic Payments'' is corrected to read ''Notional Principle Contracts; Contingent Nonperiodic Payments''.

**§ 1.446–3 [Corrected]**

2. On page 8897, column 1, § 1.446–3 (g)(7)(v), *Example 8,* line 7, the language ''($734,347–363,693), the difference between'' is corrected to read ''($734,347–$363,693), the difference between''.

3. On page 8897, column 1, § 1.446–3 (g)(7)(viii), *Example 8,* line 3, the language ''at 11.0% times $5,000,000, or $5,500,000. W'' is corrected to read ''at 11.0% times $50,000,000, or $5,500,000. W''.

**Cynthia E. Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).*

[FR Doc. 04–6468 Filed 3–22–04; 8:45 am]

**BILLING CODE 4830–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[IL218–01b, FRL–7635–6]**

### Approval and Promulgation of Air Quality Implementation Plans; Illinois; Definition of Volatile Organic Material and Volatile Organic Compound

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve Illinois' October 31, 2003 request to revise the definition for volatile organic material (VOM) and volatile organic compound (VOC) to incorporate exemptions for several nonreactive compounds from the definition of VOM and VOC and thereby, from regulation as ozone precursors. These requested state implementation plan (SIP) revisions were made in response to, and consistent with, EPA's action to add these chemical compounds to the list of chemicals that are exempted from the definition of VOC. In the Final Rules section of this **Federal Register**, EPA is approving the state's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments in response to that direct final rule, EPA plans to take no further action on this proposed rule. If EPA receives significant adverse comments, in writing, which EPA has not addressed, EPA will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

**DATES:** EPA must receive written comments on or before April 22, 2004.

**ADDRESSES:** Send written comments to:

J. Elmer Bortzer, Acting Chief, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments may also be submitted electronically or through hand delivery/courier, please follow the detailed instructions described in part(I)(B)(1)(i) through (iii) of the Supplementary Information section of the direct final rule published in the rules section of this **Federal Register**.

You may inspect copies of the documents relevant to this action during normal business hours at the following location:

Criteria Pollutant Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Please contact Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767. *dagostino.kathleen@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

#### Where Can I Find More Information About This Proposal And The Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: March 1, 2004.

**Jo Lynn Traub,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 04–6425 Filed 3–22–04; 8:45 am]

**BILLING CODE 6560–50–P**

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## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

## 48 CFR Part 36

## Federal Acquisition Regulation; Application of the Brooks Act to Mapping Services

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Request for comments.

**SUMMARY:** The Federal Acquisition Regulatory Council (FAR Council) is considering whether guidance in the Federal Acquisition Regulation (FAR) addressing the application of the Brooks Act to mapping services should be amended. The FAR currently requires application of the Brooks Act's qualifications based selection process to certain types of mapping services while precluding application in other instances. The FAR Council requests that interested parties provide comments.

**DATES:** Interested parties should submit comments in writing to the FAR Secretariat at the address shown below on or before May 24, 2004.

**ADDRESSES:** Submit written comments to— General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—*MappingNotice@gsa.gov*.

Please submit comments only and cite ''mapping notice'' in all correspondence related to this case.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501–4755 for information pertaining to status or publication schedules. The TTY Federal Relay Number for further information is 1–800–877–8973. For clarification of content, contact Ms. Cecelia Davis, Procurement Analyst, at (202) 219–0202. Please cite ''mapping notice.''

**SUPPLEMENTARY INFORMATION:**

### Background

The selection procedures currently prescribed by the FAR for the acquisition of mapping vary depending on the nature of the mapping service. In particular, FAR 36.601–4(a)(4) states that mapping associated with the research, planning, development, design, construction, or alteration of real property is considered to be an architectural and engineering (A&E) service and must be procured using the processes at FAR 36.601, which implements Public Law 92–582, as amended, also known as the ''Brooks Architect-Engineers Act.'' Under the Act, which is codified in chapter 11 of title 40 of the United States Code, contracts are negotiated based on the demonstrated competence and qualifications of prospective contractors to perform the services at a fair and reasonable price.

FAR 36.601–4(a)(4) further states that mapping services that are not connected to traditionally understood or accepted A&E activities are not incidental to such A&E activities or have not, in themselves, traditionally been considered A&E services, shall be procured pursuant to provisions in FAR parts 13, 14, and 15. These FAR parts, used for the procurement of most goods and services, allow agencies to employ sealed bids or competitive negotiations (using streamlined procedures in certain instances) through either the consideration of only price or cost or both price/cost and non-cost factors, including the tradeoff of cost and non-cost factors.

The policy set forth in FAR 36.601–4(a)(4) for the handling of mapping services has been in effect since 1991. This policy is based, in large part, on the 1988 statutory changes to the Brooks Act.

FAR 36.601–4(a)(4) was most recently modified in 1999 to implement section 8101 of the Department of Defense Appropriations Act, 1999 (Public Law 105–262). Section 8101 stated that the National Imagery and Mapping Agency (NIMA), with limited exception, must use the procedures in FAR subpart 36.6 when using fiscal year 1999 funds to award contracts for mapping, charting, and geodesy activities, rather than the provisions in FAR parts 13, 14, and 15. The FAR coverage in effect at the time section 8101 was enacted made specific reference to NIMA as exemplifying the type of mapping services that must not be procured pursuant to FAR subpart 36.6. Consistent with section 8101, the Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) amended FAR 36.601–4(a)(4) to remove the reference to NIMA. *See* FAR case 98–023; Item V (64 FR 32746, June 17, 1999). Because the FAR rule only removed the reference to NIMA, as an example, and did not change the FAR policies relating to application of the Brooks Act to mapping, the CAAC and DARC determined that the rule did not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577 and, therefore, publication for public comment was not required prior to issuing a final rule.

After the amendment to FAR 36.601–4(a)(4) was published in the **Federal Register**, the Office of Federal Procurement Policy received a series of letters from interested parties. In particular, some mapping industry representatives stated that the revision created confusion for the Federal procurement community. They considered the rule to be a major narrowing of the application of the Brooks Act.

At least one commenter stated that Congress intended to apply the Brooks Act to a wide scope of mapping services and cited to House Report 105–746, which called upon the FAR drafters to:

> * * * define ''Surveying and mapping'' [subject to Brooks Act's qualifications based selection process] in such a manner as to include contracts and subcontracts for services for Federal agencies for collecting, storing, retrieving, or disseminating graphical or digital data depicting natural or man made physical features, phenomena and boundaries of the earth and any information related thereto including but not limited to surveys, maps, charts, remote sensing data and images and aerial photographic services.

The commenter requested that FAR 36.601–4(a)(4) be amended to apply the Brooks Act to a broader range of mapping services. At a minimum, the commenter asked that the public be given an opportunity to comment on the issue.

The FAR Council does not consider the removal of the reference to NIMA in the 1999 FAR amendments to constitute a shift in longstanding policy regarding the application of the Brooks Act to mapping services. However, the FAR Council has decided to seek public comment on the mapping policies articulated in FAR 36.601–4(a)(4) so it, the CAAC, and the DARC may review the effectiveness of current policy in selecting quality firms to perform mapping services and consider if a FAR change should be pursued.

Accordingly, respondents are encouraged to discuss advantages and drawbacks of the current regulatory coverage in FAR 36.601–4(a)(4) as it pertains to the acquisition of mapping

and suggest alternative new provisions, if any, that they believe would be more appropriate. Any suggested FAR revisions should be accompanied by a rationale that explains the potential benefit of the revision for customers and taxpayers.

Dated: March 17, 2004.

**Ralph de Stefano,**

*Acting Director, Acquisition Policy Division.*

[FR Doc. 04–6418 Filed 3–22–04; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF DEFENSE

## 48 CFR Parts 207, 212, 225, and 252

**[DFARS Case 2003–D087]**

## Defense Federal Acquisition Regulation Supplement; Contractors Accompanying a Force Deployed

**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 address issues related to contract performance outside the United States. The proposed rule contains a clause for use in contracts that require contractor employees to accompany a force engaged in contingency, humanitarian, peacekeeping, or combat operations.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before May 24, 2004, to be considered in the formation of the final rule.

**ADDRESSES:** Respondents may submit comments directly via the Internet 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 2003–D087 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. Amy Williams, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003-D087.

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

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602–0328.

**SUPPLEMENTARY INFORMATION:**

### A. Background

This rule proposes amendments to the DFARS to add policy relating to contracts that require contractor employees to accompany a force engaged in contingency, humanitarian, peacekeeping, or combat operations outside the United States. The proposed changes will enable the uniform treatment of contractors that accompany a deployed force, and will enable combatant commanders to rapidly adjust contract requirements in response to changing conditions on the battlefield.

In addition, as a result of the DFARS Transformation initiative, this rule proposes to move text from DFARS 225.802–70 to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI was published at 69 FR 8145 on February 23, 2004. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dpap/dfars/transf.htm.* A draft version of the PGI text referenced in this proposed rule is available at *http://www.acq.osd.mil/dpap/dfars/changes.htm.*

DoD particularly seeks comment on the following aspects of the proposed rule:

- Paragraphs (p) and (q) of the proposed clause, which permit the Combatant Commander to provide direction to the contractor.
- The authority and liability of the Government for providing support services, such as medical or legal services, to contractor personnel (section 225.7402–1 of the proposed 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 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 applies only to contracts that require contractor employees to accompany a force engaged in contingency, humanitarian, peacekeeping, or combat operations outside the United States. 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 subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D087.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any new information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Although the proposed clause requires contractors to maintain (1) a current plan on file showing how the contractor would replace employees who are unavailable for deployment or who need to be replaced during deployment, and (2) a current list of all employees in the area of operations in support of the military force, DoD believes that these requirements are usual and customary and do not exceed what a contractor would maintain in the normal course of business. DoD invites comment on whether these requirements constitute an information collection requirement that imposes a burden as defined at 5 CFR 1320.3(b).

### List of Subjects in 48 CFR Parts 207, 212, 225, and 252

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, DoD proposes to amend 48 CFR Parts 207, 212, 225, and 252 as follows:

1. The authority citation for 48 CFR Parts 207, 212, 225, and 252 continues to read as follows:

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

## PART 207—ACQUISITION PLANNING

2. Section 207.105 is amended by adding paragraph (b)(19)(E) to read as follows:

**207.105 Contents of written acquisition plans.**

* * * * *

(b) * * *

(19) * * *

(E) Ensure that the requirements of DoD Instruction 3020.37, Continuation of Essential DoD Contractor Services During Crises, are addressed.

## PART 212—ACQUISITION OF COMMERCIAL ITEMS

3. Section 212.301 is amended by adding paragraph (f)(vii) to read as follows:

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

* * * * *

(f) * * *

(vii) Use the clause at 252.225–70XX, Contractors Accompanying a Force Deployed for Contingency, Humanitarian, Peacekeeping, or Combat Operations, as prescribed in 225.7402–2.

## PART 225—FOREIGN ACQUISITION

4. Section 225.802–70 is revised to read as follows:

**225.802–70 Contracts for performance outside the United States and Canada.**

Follow the procedures at PGI 225.802–70 when placing a contract requiring performance outside the United States and Canada. Also see Subpart 225.74, Defense Contractors Outside the United States.

5. Subpart 225.74 is revised to read as follows:

## Subpart 225.74—Defense Contractors Outside the United States

Sec.

225.7401 General.
225.7402 Contractors accompanying a force deployed for contingency, humanitarian, peacekeeping, or combat operations.
225.7402–1 Government support of contractor personnel accompanying a force.
225.7402–2 Contract clause.
225.7403 Antiterrorism/force protection.
225.7403–1 General.
225.7403–2 Contract clause.

**225.7401 General.**

(a) If the acquisition requires performance of work in a foreign country by U.S. personnel or a third country contractor, follow the procedures at PGI 225.7401(a).

(b) For work performed in Germany, eligibility for logistics support or base privileges of contractor employees is governed by U.S.-German bilateral agreements. Follow the procedures in Army in Europe Regulation 715–9, available at *http://www.chrma.hqusareur.army.mil/docper.*

**225.7402 Contractors accompanying a force deployed for contingency, humanitarian, peacekeeping, or combat operations.**

**225.7402–1 Government support of contractor personnel accompanying a force.**

(a) Contractors shall generally provide their own in-country support for their personnel.

(b) If the use of Government-provided support is to be authorized or required when the contractor is accompanying a force, the exact support to be authorized or required shall be set forth in each contract or in the operation order of the combatant commander. For examples of such support, see PGI 225.7402–1(b).

**225.7402–2 Contract clause.**

Use the clause at 252.225–70XX, Contractors Accompanying a Force Deployed for Contingency, Humanitarian, Peacekeeping, or Combat Operations, in solicitation and contracts for services, construction, or supplies, when contract performance requires that contractor employees accompany, or be available to accompany, a force engaged in contingency, humanitarian, peacekeeping, or combat operations outside the United States.

**225.7403 Antiterrorism/force protection.**

**225.7403–1 General.**

Information and guidance pertaining to DoD antiterrorism/force protection policy for contracts that require performance or travel outside the United States can be obtained from the following offices:

(a) For Navy contracts: Naval Criminal Investigative Service (NCIS), Code 24; telephone, DSN 228–9113 or commercial (202) 433–9113.

(b) For Army contracts: HQDA (DAMO–ODL)/ODCSOP; telephone, DSN 225–8491 or commercial (703) 695–8491.

(c) For Marine Corps contracts: CMC Code POS–10; telephone, DSN 224–4177 or commercial (703) 614–4177.

(d) For Air Force contracts: HQ AFSFC/SFPA; telephone, DSN 945–7035/36 or commercial (210) 925–7035/36.

(e) For Combatant Command contracts: The appropriate Antiterrorism Force Protection Office at the Command Headquarters.

(f) For defense agency contracts: The appropriate agency security office.

(g) For additional information: Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, ASD(SOLIC); telephone, DSN 255–0044 or commercial (703) 695–0044.

**225.7403–2 Contract clause.**

Use the clause at 252.225–7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, in solicitations and contracts that require performance or travel outside the United States, except for contracts with—

(a) Foreign governments;

(b) Representatives of foreign governments; or

(c) Foreign corporations wholly owned by foreign governments.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 252.225–70XX is added to read as follows:

**252.225–70XX Contractors Accompanying a Force Deployed for Contingency, Humanitarian, Peacekeeping, or Combat Operations.**

As prescribed in 225.7402–2, use the following clause:

**Contractors Accompanying a Force Deployed for Contingency, Humanitarian, Peacekeeping, or Combat Operations (XXX 2004)**

(a) *Definitions.* As used in this clause—

*Combatant Commander* is the commander of a unified or specified combatant command established pursuant to 10 U.S.C. 161, or any subordinate commander given authority by that Combatant Commander to issue direction to contractors in a specified geographical area or for a specific functional area.

*Contingency operation* means a military operation that—

(1) Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(2) Results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of 10 U.S.C., chapter 15 of 10 U.S.C., or any other provision of law during a war or during a national emergency declared by the President or Congress (10 U.S.C. 101(a)(13)).

*Humanitarian or peacekeeping operation* means a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing (10 U.S.C. 2302(8) and 41 U.S.C. 259(d)).

(b) *General.* (1) Performance of this contract may require deployment of contractor personnel in support of deployed military forces involved in humanitarian, peacekeeping, contingency, or combat operations.

(2) Contract performance in support of such forces is inherently dangerous. The Contractor accepts the risks associated with required contract performance in such operations.

(c) *Support.* (1) Unless specified elsewhere in the contract or as provided in paragraph (c)(2) of this clause, the Contractor is responsible for all support required for contractor personnel engaged in this contract.

(2) The Government at its sole discretion may authorize or may require the use of certain Government-provided logistical or in-country support.

(d) *Compliance with laws and regulations.* The Contractor shall comply with and ensure that its employees are familiar with and comply with all—

(1) United States, host country, and local laws;

(2) Treaties and international agreements (e.g., Status of Forces Agreements, Host Nation Support Agreements, and Defense Technical Agreements);

(3) United States regulations, directives, instructions, policies, and procedures that are applicable to the Contractor in the area of operations;

(4) Orders, directives, and instructions issued by the Combatant Commander relating to force protection, security, health, safety, or relations and interaction with local nationals; and

(5) The Uniform Code of Military Justice where applicable.

(e) *Contractor personnel.* (1) The Contracting Officer may direct the Contractor to remove and replace any contractor personnel who jeopardize or interfere with mission accomplishment or who fail to comply with or violate applicable requirements under this clause.

(2) The Contractor shall have a current plan on file showing how the Contractor would replace employees who are unavailable for deployment or who need to be replaced during deployment. The plan shall identify all personnel who are subject to military mobilization and shall detail how the position would be filled if the individual were mobilized. In addition, the plan shall identify all personnel who occupy a position that is designated as mission essential by the Contracting Officer. This plan shall be available for review by the Contracting Officer's representative.

(f) *Personnel data.* (1) The Contractor shall maintain with the designated Government official a current list of all employees in the area of operations in support of the military force. The Contracting Officer will designate the Government official to receive this data and the appropriate automated system(s) to use for this effort.

(2) The Contractor shall ensure that all employees on this list have at all times a current DD Form 93, Record of Emergency Data Card, on file with both the Contractor and the designated Government official.

(g) *Pre-deployment requirements.* The Contractor shall ensure that the following requirements are met prior to deploying an employee in support of deployed forces. Specific requirements for each category may be set forth in the statement of work or contract annex to the operation order. The Contractor shall ensure that—

(1) All applicable specified security and background checks are completed;

(2) All deploying personnel are medically and physically fit to endure the rigors of deployment in support of military operations and have received all required vaccinations;

(3) Deploying personnel possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the theater of operations;

(4) Deploying personnel have all necessary passports, visas, and other documents required for contractor personnel to enter and exit an area of operations; and

(5) Country and theater clearance is obtained for personnel.

(h) *Military clothing and protective equipment.* (1) Contractor personnel accompanying the force are prohibited from wearing military clothing unless specifically authorized by the Combatant Commander. However, contractor personnel may wear specific items required for safety and security such as ballistic or nuclear, biological, or chemical protective clothing.

(2) The CONUS Replacement Center, or the theater commander, at his discretion, may provide to the contractor personnel military-unique organizational clothing and individual equipment (OCIE) and training to ensure contractor personnel security and safety.

(3) In accordance with Government-Furnished Property clauses specified elsewhere in this contract, the Contractor shall ensure that all issued OCIE is returned to the point of issue.

(i) *Weapons.* (1) Contractor personnel may not possess privately owned firearms when in support of deployed forces unless specifically authorized by the Combatant Commander. The Contractor shall ensure employee compliance with this requirement.

(2) If the Combatant Commander authorizes the carrying of firearms, the military may issue weapons and ammunition to the Contractor for issuance to specified contractor employees. The Contractor shall ensure that its personnel who receive weapons are adequately trained, are not barred from possession of a firearm by 18 U.S.C. 922(d)(9) or (g)(9), and adhere to all guidance and orders issued by the Combatant Commander regarding possession, use, safety, and accountability of weapons and ammunition. Upon redeployment or revocation by the Combatant Commander of a contractor's authorization to issue firearms, the Contractor shall ensure that all Government-issued weapons and unexpended ammunition are returned as directed by the Contracting Officer.

(j) *Next of kin notification.* The Contractor shall be responsible for in-person notification of the employee designated next of kin of a deployed employee in the following circumstances:

(1) Death of the employee.

(2) An injury to the employee requiring evacuation.

(3) The employee is missing.

(4) The employee is captured.

(k) *Evacuation of bodies.* In the event of the death of a contractor employee, the Contractor is responsible for the evacuation of body from the point of identification to the location specified by the employee or next of kin, as applicable.

(l) *Evacuation.* If the Combatant Commander orders a mandatory evacuation of some or all personnel, the Government will provide assistance to the extent available to United States and third country employees. In the event of a non-mandatory evacuation order, the Contractor shall maintain personnel on location sufficient to meet contractual obligations under this contract.

(m) *Insurance.* The Contractor is responsible for all issues dealing with exclusions contained in an employee's personal insurance policies that may be provided through its compensation package as negotiated with that employee.

(n) *Processing and departure points.* The Contractor and its employees will use a Government, contractor, or military unit processing and point of departure and transportation mode as directed by the Contracting Officer or the Contracting Officer's representative.

(o) *Purchase of scarce commodities.* If the Combatant Commander has established an organization for an area of operations whose function is to determine that certain items are scarce commodities, the Contractor shall obtain the approval of that organization prior to procuring the item(s).

(p) *Changes.* (1) When the Contractor, in order to meet a contractual obligation, must accompany or travel to an area where a force is deployed for contingency, humanitarian, peacekeeping, or combat operations, the Contractor shall comply with instructions of the Combatant Commander relating to all transportation, logistical, and support requirements.

(2) If there is a conflict between the instructions issued by the Combatant Commander under paragraph (p)(1) of this clause and the existing terms of the contract, the instructions issued by the Combatant Commander take precedence over any existing terms.

(3) The Contractor may submit a request for equitable adjustment for any additional effort required or any loss of contractor-owned equipment occasioned by such direction.

(q) *Changes in emergencies.* (1) Normally, the Contracting Officer or the Contracting Officer's representative provides direction to the Contractor, and the Contractor provides direction to its employees. However, when the Contractor is accompanying the force outside the United States, if the Contracting Officer or the Contracting Officer's representative is not available and emergency action is required because of enemy or terrorist activity or natural disaster that causes an immediate possibility of death or serious injury to contractor personnel or military personnel, the ranking military commander in the immediate area of operations may direct the Contractor or contractor employee to undertake any action as long as those actions do not require the contractor employee to engage in armed conflict with an enemy force.

(2) The Contractor may submit a request for equitable adjustment for any additional effort required or any loss of contractor-owned equipment occasioned by such direction.

(r) *Subcontracts.* The Contractor shall incorporate the substance of this clause, including this paragraph (r), in all subcontracts that require subcontractor employees to accompany or to be available to accompany a force engaged in contingency, humanitarian, peacekeeping or combat operations outside the United States.

(End of clause)

**252.225–7043 [Amended]**

7. Section 252.225–7043 is amended in the introductory text by removing

''225.7402'' and adding in its place ''225.7403–2''.

[FR Doc. 04–6236 Filed 3–22–04; 8:45 am]

BILLING CODE 5001–08–P

## DEPARTMENT OF DEFENSE

### 48 CFR Part 224

**[DFARS Case 2003–D038]**

### Defense Federal Acquisition Regulation Supplement; Protection of Privacy and Freedom of Information; Correction

**AGENCY:** Department of Defense (DoD).

**ACTION:** Correction.

**SUMMARY:** DoD is issuing a correction to the preamble to the proposed rule published at 69 FR 8152–8153, February 23, 2004, pertaining to protection of privacy and freedom of information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–0350.

#### Correction

In the issue of Monday, February 23, 2004, on page 8153, in the first column, the second paragraph of the BACKGROUND section is corrected by revising the second sentence to read as follows: ''The rule deletes DFARS 224.102, which specifies that the Privacy Act (5 U.S.C. 552a) does not apply to certain contractor records.''

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

[FR Doc. 04–6240 Filed 3–22–04; 8:45 am]

BILLING CODE 5001–08–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### 49 CFR Part 575

**[Docket No. NHTSA–99–5100]**

**RIN 2127–AG49**

### Consumer Information Regulations; Seat Belt Positioners

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

**ACTION:** Withdrawal of rulemaking.

**SUMMARY:** This document withdraws a notice of proposed rulemaking published in 1999 in response to a petition for rulemaking from the American Academy of Pediatrics. After considering the comments on the NPRM and the advancements that have been attained in the testing of child passenger protection devices, the agency has decided not to proceed with the NPRM's proposed labeling requirement. Before taking further action in this area, the agency would like to expand its knowledge base with data from up-to-date tests of current belt positioners, using the advanced test protocols and child test dummies available today. Because NHTSA will not be able to conclude its analysis of the issues of this rulemaking in the near future, we have decided to withdraw the August 1999 NPRM.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Mike Huntley, NHTSA Office of Rulemaking, at (202) 366–0029.

For legal issues, you may call Deirdre Fujita, Office of Chief Counsel, (202) 366–2992.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

#### Background

This document withdraws a rulemaking that began in response to a January 31, 1996 petition from the American Academy of Pediatrics (AAP) that requested that the agency regulate aftermarket seat belt positioners under Federal Motor Vehicle Safety Standard (FMVSS) No. 213, ''Child Restraint Systems'' (49 CFR 571.213). AAP stated in its petition that, because seat belt positioners are generally marketed as child occupant protection devices, the products should be subject to the same scrutiny and testing that child restraint systems undergo. AAP was concerned that some seat belt positioners ''appear to interfere with proper lap and shoulder harness fit by positioning the lap belt too high on the abdomen, the shoulder harness too low across the shoulder, and by allowing too much slack in the shoulder harness.'' Accordingly, AAP believed that the devices should be subject to a safety standard so that they would be required to meet a minimum level of performance.

On August 13, 1999 (64 FR 44164, Docket No. 99–5100), NHTSA granted the petition and published a notice of proposed rulemaking (NPRM) that sought to regulate seat belt positioners by way of a consumer information regulation. The NPRM discussed the results of a study [1] that the agency had conducted in 1994 on three seat belt positioners that were then on the market. In the study, the agency dynamically tested the belt positioning devices under the conditions then-specified for testing child restraints under FMVSS No. 213. A Hybrid II 3-year-old and 6-year-old dummy were used (which, in 1994, were the state-of-the-art dummies used to test child restraints), and a Hybrid III 5th percentile female adult dummy. NHTSA restrained the dummies in lap/shoulder belts with, and without, the devices, and compared the results. In many of the tests with the 3-year-old dummy, the positioners reduced belt performance and contributed toward excessive head injury criterion (HIC) measurements (HIC values were greater than 1000). In one case, the measured chest acceleration exceeded the FMVSS No. 213 limit of 60 g's. The devices generally performed adequately with the 6-year-old dummy with respect to HIC, in that the performance criteria of FMVSS No. 213 were not exceeded. However, one positioner had chest g measurements exceeding the FMVSS No. 213 limit in both frontal and offset tests. In each case, there was some reduction in the performance of the vehicle belt system restraining the dummy.[2] After reviewing these results, the agency proposed to require seat belt positioners to be labeled as not suitable for children under age 6.

The NPRM requested comments on four issues. The first issue was whether there was a safety need for the rulemaking action. There were no real-world data indicating that positioners were causing or exacerbating injuries. The second issue pertained to whether the devices should be labeled with a warning against using them with children under age 6. Third was whether the devices should be regulated by FMVSS No. 213. Then-existing child test dummies were not instrumented to measure abdominal loads, and there was no injury criterion developed that delineated between acceptable and unacceptable abdominal loading. The fourth issue related to the feasibility of adopting a performance requirement for seat belt positioners and the performance criteria that would distinguish between acceptable and unacceptable performance.

NHTSA received approximately 14 comments to the NPRM. Commenters

[1] ''Evaluation of Devices to Improve Shoulder Belt Fit,'' DOT HS 808 383, Sullivan and Chambers, August 1994.

[2] HIC values greater than 1000 were observed with two of the devices during 5 of 6 tests with the 5th percentile female dummy.

believed that, even absent the ability to quantify a safety problem using existing crash data, seat belt positioning devices should be regulated by means of a labeling and/or performance standard. Several were concerned that consumers mistakenly think that the products are regulated in the same way as booster seats and provide comparable protection. Almost all of the commenters said that there should be a label regarding the proper use of the devices. In opposition, a manufacturer of a belt positioner questioned ''the logic behind requiring a warning label without a testing standard.'' Almost all believed that belt positioners should be differentiated from booster seats, and that regulating the devices under FMVSS No. 213 could mislead consumers into thinking that the two devices were interchangeable. Most of the commenters supported having a performance requirement for seat belt positioners to assess how the devices would perform in a crash. However, some commenters stated that criteria needed to assess the suitability of a seat belt positioner in providing crash protection to a child (*e.g.*, limits on abdominal and lumbar spinal forces) are largely undeveloped.

After the NPRM was published, the Transportation Recall Enhancement, Accountability and Documentation Act of 2000 (the TREAD Act) (November 1, 2000, Pub. L. 106–414, 114 Stat. 1800) was enacted, which among other things, directed NHTSA to initiate a rulemaking for the purpose of improving the safety of child restraints. The agency's initiation of rulemaking resulted in a final rule, issued in June 2003, that amended FMVSS No. 213 to incorporate advanced child test dummies in the testing of child restraints and to revise the test conditions of the standard to better represent current model passenger vehicles. 68 FR 37620; June 24, 2003; Docket No. NHTSA–03–15351. New state-of-the-art Hybrid III test dummies representing a 12-month-old, 3-year-old and 6-year-old child were incorporated into the standard, as well as a weighted 6-year-old dummy.

NHTSA's work developing a Hybrid III test dummy representing a 10-year-old child was underway at the time of the TREAD Act, but was not far enough along for the dummy to be included in that rulemaking. Now, however, developmental work on the dummy is nearly complete.

**Agency Decision**

After considering the comments on the August 13, 1999 NPRM and the advancements that have been attained in the testing of child passenger protection devices, the agency has decided not to proceed with the labeling requirement proposed in the NPRM. Before taking further action in this area, the agency would like to augment the technical basis of this rulemaking by supplementing the data obtained from the 1994 study of three seat belt positioners with data from up-to-date tests of current belt positioners, using the advanced test protocols and child test dummies available today.

There still is no evidence of a real-world safety problem with seat belt positioners. However, NHTSA has been directed by ''Anton's Law'' (Pub. L. 107–318, 116 Stat. 2772, December 4, 2002) to initiate rulemaking to consider whether to establish injury performance criteria and seat belt fit performance requirements for belt guidance devices. Accordingly, rather than requiring labeling at this time, the agency has initiated a targeted test program with the advanced child test dummies, including the Hybrid III 10-year-old child test dummy, to assess the need for and feasibility of developing performance requirements for belt positioners.

We are especially interested in the potential use of the 10-year-old dummy in evaluating forces that a seat belt positioner could redirect to a child's abdominal and lumbar areas in a crash. That dummy has a molded seated pelvis with anterior superior iliac spine load cell attachment locations for measuring lap belt forces. The dummy's lumbar and pelvis can also be adjusted to slouched or upright postures, so the dummy can be used to assess performance of the belts and belt positioners with slouching children. Children whose legs are too short to allow them to bend their knees when sitting upright against the vehicle seat back will slouch down when seated directly on the cushion to bend their knees. ''Study of Older Child Restraint/Booster Seat Fit and NASS Injury Analysis,'' Klinich *et al.*, DOT HS 808 248, November 1994. This phenomenon, to which Klinich *et al.* refer as the ''slouch factor,'' will affect placement of the lap belt portion of the seat belt on the abdomen. (Discussion of the slouch factor's contribution to poor belt fit can also be found at 64 FR at 44169, columns 2 and 3.) We believe that the test program will provide useful data that will enhance our ability to determine what regulatory approach, if any, would be most appropriate to address belt fit on older children.

One anticipated use of the data will be to assess how labeling can be made most effective at inducing parents to restrain children in a way that is appropriate for those children. After reviewing the comments on the NPRM, NHTSA became concerned that the labeling proposed in the NPRM could be misconstrued by some parents as an agency recommendation that it would be acceptable to restrain 6-year-old children in a vehicle belt system if a belt-positioner were used. Such a conclusion would be contrary to the recommendations of the agency that 6-year-olds are best restrained when in a belt-positioning booster.[3] Any labeling that may eventually be required must be careful not to induce parents to forego restraining their child in the safest manner possible.

Given the complexity of the issues, the testing that will be conducted pursuant to Anton's Law, and the limited resources of the agency, NHTSA will not be able to conclude its analysis of the issues of this rulemaking in the near future. We have therefore decided to withdraw the August 1999 NPRM. Notwithstanding this withdrawal, it is noted that seat belt positioners are items of motor vehicle equipment and therefore their manufacturers are subject to the requirements in 49 U.S.C. 30119 and 30120 concerning the recall and remedy of products with safety-related defects.

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, 30166 and Pub. L. 106–414, 114 Stat. 1800; delegation of authority at 49 CFR 1.50.

Issued on March 17, 2004.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 04–6397 Filed 3–22–04; 8:45 am]

BILLING CODE 4910–59–P

[3] NHTSA recommends that children who have outgrown child safety seats should be properly restrained in a booster seat until they are at least 8 years old, unless they are 4′9″ tall.

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**RIN 1018–AJ26**

## Endangered and Threatened Wildlife and Plants; Extension of Amended Special Regulations for the Preble's Meadow Jumping Mouse

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; extension of comment period and notice of public hearing.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are extending the comment period on a proposed rule

that would permanently extend the amended special regulations governing take of the threatened Preble's meadow jumping mouse (*Zapus hudsonius preblei*). Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period, and will be fully considered in the final rule. We also are holding a public hearing to receive oral comments on this proposed rule.

**DATES:** Comments must be received on or before April 12, 2004, to receive consideration. (*see* ''Public Hearings and Meetings'' section for time and location of the public hearing).

**ADDRESSES:** Submit written comments to the Colorado Ecological Services Field Office, U.S. Fish and Wildlife Service, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215, or by facsimile to 303–275–2371. You may hand deliver written comments to our Colorado Ecological Services Field Office at the address given above. The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service's Colorado Ecological Services Field Office at the address given above.

**FOR FURTHER INFORMATION CONTACT:** In Colorado, contact Susan Linner, Field Supervisor, at the above address or telephone (303) 275–2370. In Wyoming, contact Brian Kelly, Field Supervisor, 4000 Airport Parkway, Cheyenne, Wyoming, at telephone (307) 772–2374.

**SUPPLEMENTARY INFORMATION:**

## Background

On May 22, 2001, the Service adopted special regulations governing take of the threatened Preble's meadow jumping mouse (*Zapus hudsonius preblei*), which provide exemption from take provisions under section 9 of the Endangered Species Act for certain activities related to rodent control, ongoing agricultural activities, landscape maintenance, and existing uses of water. On October 1, 2002, the Service amended those regulations to provide exemptions for certain activities related to noxious weed control and ongoing ditch maintenance activities. On February 24, 2004, we published a proposed rule in the **Federal Register** (69 FR 8359) to permanently extend these special regulations, as amended, and solicited public comments. Please refer to the proposed rule for background information, a summary of previous Federal actions, and provisions of the special regulations. We are now extending the public comment period and holding a public hearing on this proposed rule.

## Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. In some circumstances, we will withhold a respondent's identity from the rulemaking record, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses available for public inspection in their entirety (*see* **ADDRESSES** section).

## Public Hearing and Meetings

On March 9, 2004, we received a request for a public hearing on the proposed extension of the amended special rule. In response to this request, we will hold a public hearing on Thursday, April 1, 2004, from 6 p.m. until 8 p.m. at the Platte County Public Library, 904 9th Street, Wheatland, Wyoming.

Anyone wishing to make an oral comment or statement for the record at the public hearing listed above is encouraged (but not required) to also provide a written copy of the statement and present it to us at the hearing. Oral and written statements receive equal consideration. In the event there is a large attendance, the time allotted for oral statements may be limited.

## Author

The primary author of this notice is Mary Jennings, Wyoming Field Office, telephone 307–772–2374.

**Authority:** Authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 17, 2004.

**Mary G. Henry,**

*Acting Regional Director, Denver, Colorado.*

[FR Doc. 04–6416 Filed 3–22–04; 8:45 am]

BILLING CODE 4310–55–P

# Notices

Federal Register

Vol. 69, No. 56

Tuesday, March 23, 2004

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

### Forest Service

### New Mexico Collaborative Forest Restoration Program Technical Advisory Panel

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The New Mexico Collaborative Forest Restoration Program Technical Advisory Panel will meet in Albuquerque, New Mexico. The purpose of the meeting is to provide recommendations to the Regional Forester, USDA Forest Service Southwestern Regional, on which forest restoration grant proposals submitted in response to the Collaborative Forest Restoration Program Request For Proposals best meet the objectives of the Community Forest Restoration Act (Title VI, Pub. L. 106–393).

**DATES:** The meeting will be held April 26–30, 2004, beginning at 1 p.m. on Monday, April 26 and ending at approximately 4 p.m. on Friday, April 30.

**ADDRESSES:** The meeting will be held at the Courtyard by Marriott, Journal Center, 5151 Journal Center Blvd., Albuquerque, NM 87109, telephone (505) 823–1919. Written comments should be sent to Walter Dunn, at Cooperative and International Forestry Staff, USDA Forest Service, 333 Broadway SE., Albuquerque, NM 87102. Comments may also be sent via email to *wdunn@fs.fed.us,* or via facsimile to Walter Dunn at (505) 842–3165.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Cooperative and International Forestry Staff, USDA Forest Service, 333 Broadway SE., Albuquerque, or during the Panel meeting at the Courtyard by Marriott, Journal Center, 5151 Journal Center Blvd., Albuquerque, NM. Visitors are encouraged to call ahead to the Courtyard by Marriott, Journal Center, 5151 Journal Center Blvd., Albuquerque, NM 8709, telephone (505) 823–1919 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Walter Dunn, Designated Federal Official, at (505) 842–3425, Elaine Waterbury, at (505) 842–3881, or Angela Sandoval, at (505) 842–3289, Cooperative and International Forestry Staff, USDA Forest Service, 333 Broadway SE., Albuquerque, NM 87102.

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:** The meeting is open to the public. Council discussion is limited to Forest Service staff and Council members. However, persons who wish to bring Collaborative Forest Restoration Program Grant Review matters to the attention of the Council may file written statements with the Council staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by April 26, 2004, will have the opportunity to address the Council at those sessions.

Dated: March 17, 2004.

**Abel M. Camarena,**

*Deputy Regional Forester.*

[FR Doc. 04–6414 Filed 3–22–04; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Tehama County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comment, (4) Chairman Report, (5) Reports from Committees, (6) Approving Project Proposals, (7) Review New Member Applications, (8) General Discussion, (9) Next Agenda.

**DATES:** The meeting will be held on April 8, 2004 from 9 a.m. and end at approximately 12 p.m.

**ADDRESSES:** The meeting will be held at the Lincoln Street School, Conference Room A, 1135 Lincoln Street, Red Bluff, CA. Individuals wishing to speak or propose agenda items must send their names and proposals to Jim Giachino, DFO, 825 N. Humboldt Ave., Willows, CA 95988.

**FOR FURTHER INFORMATION CONTACT:** Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, P.O. Box 164, Elk Creek, CA 95939. (530) 968–5329; e-mail *ggaddini@fs.fed.us.*

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by April 7, 2004 will have the opportunity to address the committee at those sessions.

Dated: March 16, 2004.

**James F. Giachino,**

*Designated Federal Official.*

[FR Doc. 04–6436 Filed 3–22–04; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration (EDA), Commerce.

**ACTION:** To give all interested parties an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD FEBRUARY 20, 2004–MARCH 19, 2004

| Firm name | Address | Date petition accepted | Product |
|---|---|---|---|
| Payson Casters, Inc. | 2323 Delaney Road, Gurnee, IL 60031 | 2/20/2004 | Casters and caster parts |
| Hallmark Sweet, Inc. | 49 Pearl Street, Attleboro | 3/1/2004 | Precious metal beads, chain and jewelry, jewelry findings |
| It Straps On Inc., dba Core Products | 17578 Hard Hat Drive, Covington, LA 70435. | 3/2/2004 | Stainless steel straps |
| Biddle Precision Components, Inc. | 701 South Main Street, Sheridan, IN 46060. | 3/2/2004 | Precision machined parts—hydraulic directional control valve spools, threaded plumbing tube systems, hydraulic pistons, hydraulic transmission parts |
| Peter Curtis d.b.a. Curtis Furniture Company. | 25465 NY State Route 342, Evans Mills, NY 13637. | 3/2/2004 | Wood furniture |
| Kenwalt Die Casting Corporation | 8719 Bradley Avenue, Sun Valley, CA 91352. | 3/2/2004 | Aluminum and zinc castings |
| Aero-Med Molding Technologies, Inc. | 50 Westfield Avenue, Ansonia, CA 06401. | 3/5/2004 | Parts of aircraft seats, trays, bowls, tumblers, cups and parts of educational learning devices |
| Kentucky Ceramics, LLC | 731 Brent Street, Louisville, KY 40204 | 3/9/2004 | Tableware and kitchenware |
| Burgess Manufacturing of OK, Inc. | 1250 Roundhouse Road, Guthrie, OK 73044. | 3/10/2004 | Wooden pellets |
| Creative Foam Corporation | 300 North Alloy Drive, Fenton, MI 48430. | 3/11/2004 | Plastic foam products, *i.e.* door and dashboard seals, pool floats, and medical foam devices |
| Vanson Leathers, Inc. | 951 Broadway, Fall River, MA 02724 | 3/12/2004 | Leather jackets and coats |

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm. Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: March 16, 2004.

**Anthony J. Meyer,**

*Coordinator, Trade Adjustment and Technical Assistance.*

[FR Doc. 04–6415 Filed 3–22–04; 8:45 am]

**BILLING CODE 3510–24–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves

**AGENCY:** Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

**ACTION:** Notice of intent to evaluate and notice of availability of final evaluation findings.

**SUMMARY:** The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the New Jersey Coastal Management Program; the Maryland Coastal Management Program; the Florida Coastal Management Program; the Maine Coastal Management Program and the Wells National Estuarine Research Reserve, Maine; the South Slough National Estuarine Research Reserve, Oregon; and the Wisconsin Coastal Management Program.

The Coastal Zone Management Program evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, and regulations at 15 CFR part 923, subpart L. The National Estuarine Research Reserve evaluations will be conducted pursuant to sections 312 and 315 of the CZMA and regulations at 15 CFR part 921, subpart E and part 923, subpart L.

The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a State has met the national objectives, adhered to its Coastal Management Program document or Reserve final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings will be held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of the public meetings during the site visits.

The New Jersey Coastal Management Program evaluation site visit will be held May 10–14, 2004. Two public meetings will be held during the week. The first public meeting will be on Wednesday, May 12, 2004, at 2 p.m., in the Classroom at the Jacques Cousteau National Estuarine Research Reserve, 130 Great Bay Boulevard, Tuckerton, New Jersey. The second public meeting will be on Thursday, May 13, 2004, at 7 p.m., at the Marine Sciences Consortium, Sandy Hook Field Station,

Building #22, Main Conference Room, Fort Hancock, New Jersey.

The Maryland Coastal Management Program evaluation site visit will be held May 10–14, 2004. One public meeting will be held during the week. The public meeting will be on Monday, May 10, 2004, from 7 p.m. to 9 p.m., at the Chesapeake Bay Program Office, Joe Macknis Memorial Conference Room, 410 Severn Avenue, Suite 116, Annapolis, Maryland.

The Florida Coastal Management Program evaluation site visit will be held May 17–21, 2004. One public meeting will be held during the week. The public meeting will be on Monday, May 17, 2004, at 6 p.m., at the Department of Environmental Protection, Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, Tallahassee, Florida.

The Maine Coastal Management Program and Wells National Estuarine Research Reserve, Maine, joint evaluation site visit will be held June 7–11, 2004. Two public meetings will be held during the week. The first public meeting will be on Tuesday, June 8, 2004, at 6 p.m., at the Wells National Estuarine Research Reserve, Mather Auditorium, 342 Laudholm Farm Road, Wells, Maine. The second public meeting will be on Thursday, June 10, 2004, at 7 p.m., at the Camden Public Library, Main Street, Camden, Maine.

The South Slough National Estuarine Research Reserve, Oregon, evaluation site visit will be held June 14–18, 2004. One public meeting will be held during the week. The public meeting will be on Thursday, June 17, 2004, at 6:30 p.m., at the North Bend Library, 1800 Sherman Avenue, North Bend, Oregon.

The Wisconsin Coastal Management Program evaluation site visit will be held June 21–25, 2004. One public meeting will be held during the week. The public meeting will be held on Monday, June 21, 2004, at 5:30 p.m., at the Northern Great Lakes Visitor Center, Multipurpose Room, 29270 County G, Ashland, Wisconsin.

Copies of States' most recent performance reports, as well as OCRM's notifications and supplemental request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted for each Program until 15 days after the last public meeting held for that Program. Please direct written comments to: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, N/ORM7, 10th Floor, Silver Spring, Maryland 20910. When the evaluations are completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

Notice is hereby given of the availability of the final evaluation findings for the Alaska and Guam Coastal Management Programs and the Kachemak Bay National Estuarine Research Reserve, Alaska. Sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended, require a continuing review of the performance of coastal states with respect to approval of coastal management programs and the operation and management of NERRs.

The State of Alaska and territory of Guam were found to be implementing and enforcing their federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA section 303(2)(A)–(K), and adhering to the programmatic terms of their financial assistance awards. The Kachemak Bay NERR was found to be adhering to programmatic requirements of the NERR System. Copies of these final evaluation findings may be obtained upon written request from: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, N/ORM7, 10th Floor, Silver Spring, Maryland 20910.

**FOR FURTHER INFORMATION CONTACT:** Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, N/ORM7, 10th Floor, Silver Spring, Maryland 20910, (301) 713–3155, extension 118.

Federal Domestic Assistance Catalog 11.419; Coastal Zone Management Program Administration.

Dated: March 16, 2004.

**Jamison S. Hawkins,**

*Deputy Assistant Administrator, Ocean Services and Coastal Zone Management.*

[FR Doc. 04–6419 Filed 3–22–04; 8:45 am]

**BILLING CODE 3510–08–P**

## DEPARTMENT OF DEFENSE

### Defense Human Resources Activity; Proposed Collection; Comment Request

**AGENCY:** Federal Voting Assistance Program (FVAP), DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Washington Headquarters Services announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received May 24, 2004.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to the Department of Defense, Federal Voting Assistance Program, 1155 Defense Pentagon, Washington, DC 20301–1155, ATTN: Ms. Elaine Perna Tucker.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Federal Voting Assistance Program at (703) 588–1584 or 1–(800) 438–8683.

*Title and OMB Number:* Post-election Voting Survey of Overseas Citizens and Post-election Voting Survey of Local Election Officials: OMB Number 0704–0125.

*Needs and Uses:* The information collection requirement is necessary to meet a requirement of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986 (42 U.S.C. 1973ff). UOCAVA requires a report to the President and Congress on the effectiveness of assistance under the Act, a statistical analysis of voter participation, and a description of State-Federal cooperation.

*Affected Public:* Individuals or Households: State or Local Government.

*Annual Burden Hours:* 391.

*Number of Respondents:* 2,243.

*Responses per Respondent:* 1.

*Average Burden per Response:* 10 minutes.

*Frequency:* Quadrennially.

**SUPPLEMENTARY INFORMATION:**

### Summary of Information

UOCAVA requires the states to allow Uniformed Services personnel, their family members, and overseas citizens

to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal offices. The Act covers members of the Uniformed Services and the merchant marine to include the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service, and their eligible dependents, Federal civilian employees overseas, and overseas U.S. citizens not affiliated with the Federal Government. FVAP conducts the post-election survey on a statistically random bass to determine participation rates that are representative of all citizens covered by the Act, measure State-Federal cooperation, and evaluate the effectiveness of the overall absentee voting program. The information collected is used for overall program evaluation, management and improvement, and to compile the congressionally mandated report to the President and Congress.

Dated: March 17, 2004.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 04–6392 Filed 3–22–04; 8:45 am]

BILLING CODE 5001–06–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Board of Visitors Meeting

**AGENCY:** Defense Acquisition University, DoD.

**ACTION:** Board of Visitors meeting.

**SUMMARY:** The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at Defense Acquisition University, Fort Belvoir, VA. The purpose of this meeting is to report back to the BoV on continuing items of interest.

**DATES:** May 5, 2004 from 0900–1500.

**ADDRESSES:** Packard Conference Center, Defense Acquisition University, Bldg. 184, Fort Belvoir, VA 22060.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christen Goulding at 703–805–5133.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Ms. Christen Goulding at (703) 805–5133.

Dated: March 17, 2004.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 04–6390 Filed 3–22–04; 8:45 am]

BILLING CODE 5001–06–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Strategic Advisory Group Meeting of the U.S. Strategic Command

**AGENCY:** Department of Defense, USSTRATCOM.

**ACTION:** Notice of closed meeting.

**SUMMARY:** The Strategic Advisory Group (SAG) will meet in a closed session on April 22 and 23, 2003. The mission of the SAG is to provide timely advice on scientific, technical, intelligence, and policy-related issues to the Commander, U.S. Strategic Command during the development of the Nation's war plans. Full development of the topics will require discussion of information classified in accordance with Executive Order 12958, dated April 17, 1995. Access to this information must be strictly limited to personnel having the requisite security clearances and specific need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact on national defense.

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., section 552b(c)), this meeting will be closed.

**DATES:** April 22 and 23, 2004.

**ADDRESSES:** USSTRATCOM, 901 SAC Boulevard, Suite 1F7, Offutt Air Force Base, NE 68113–6030.

**FOR FURTHER INFORMATION CONTACT:** Connie Druskis, SAG, (402) 294–4102.

**SUPPLEMENTARY INFORMATION:** Jerome Mahar, Joint Staff, (703) 614–6465.

Dated: March 17, 2004.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 04–6391 Filed 3–22–04; 8:45 am]

BILLING CODE 5001–06–M

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Meeting of the Chief of Naval Operations (CNO) Executive Panel

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice of closed meeting.

**SUMMARY:** The CNO Executive Panel Expeditionary Strike Study Group will provide consensus advice to the Chief of Naval Operations (CNO). The meeting is a directed follow-up report to the CNO regarding the Study Group's advice and recommendations delivered in a December 5, 2003, closed meeting. The meeting will consist of discussions relating to appraisals of expeditionary strike capabilities within the context of broader U.S. national capabilities and strategic planning.

**DATES:** The meeting will be held on Friday, April 2, 2004, from 11:30 a.m. to 12 p.m.

**ADDRESSES:** The meeting will be held at the Chief of Naval Operations office, Room 4E542, 2000 Navy Pentagon, Washington, DC 20350–2000.

**FOR FURTHER INFORMATION CONTACT:** Commander Kevin Wilson, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311, (703) 681–4906.

**SUPPLEMENTARY INFORMATION:** Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), these matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order.

Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Dated: March 18, 2004.

**S.K. Melancon,**

*Paralegal Specialist, Office of the Judge Advocate General, Alternate Federal Register Liaison Officer.*

[FR Doc. 04–6524 Filed 3–22–04; 8:45 am]

BILLING CODE 3810–FF–P

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Meeting of the Naval Research Advisory Committee

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice of closed meetings.

**SUMMARY:** The Naval Research Advisory Committee (NRAC) Panel on Venture Capital Technology met to identify emerging standards and technologies in the technology sector that the Department of the Navy should incorporate in its technology roadmap

for providing state-of-the-art capabilities to the Fleet/Force.

**DATES:** The meetings were held on Wednesday, March 17, and Thursday, March 18, 2004, from 8 a.m. to 5 p.m.

**ADDRESSES:** The meetings were held at the Space and Naval Warfare Systems Center San Diego, 53560 Hull Street, San Diego, CA.

**FOR FURTHER INFORMATION CONTACT:** Dennis Ryan, Program Director, Naval Research Advisory Committee, 800 North Quincy Street, Arlington, VA 22217–5660, (703) 696–6769.

**SUPPLEMENTARY INFORMATION:** This notice is provided in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). All sessions of the meetings contained proprietary information and classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order. The proprietary, classified and non-classified matters to be discussed were so inextricably intertwined as to preclude opening any portion of the meetings. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy determined in writing that all sessions of the meetings must be closed to the public because they were concerned with matters listed in 5 U.S.C. section 552b(c)(1) and (4).

Due to an unavoidable delay in administrative processing, the 15 days advance notice could not be provided.

Dated: March 17, 2004.

**S.K. Melancon,**

*Paralegal Specialist, Office of the Judge Advocate General, Alternate Federal Register Liaison Officer.*

[FR Doc. 04–6525 Filed 3–22–04; 8:45 am]

**BILLING CODE 3810–FF–P**

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before April 22, 2004.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Melanie Kadlic, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Melanie_Kadlic@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: March 17, 2004.

**Angela C. Arrington,**

*Leader, Regulatory Information Management Group, Office of the Chief Information Officer.*

### Federal Student Aid

*Type of Review:* New.

*Title:* eZ-Audit: Electronic Submission of Financial Statements and Compliance Audits.

*Frequency:* Annually.

*Affected Public:* Not-for-profit institutions (primary), State, local, or tribal gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 4,000.

*Burden Hours:* 4,000.

*Abstract:* EZ-Audit will support the electronic submission of financial statements and compliance audits as required by 34 CFR 668.23 for all institutions participating in the Title IV, FSA programs.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2210. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian.reese@ed.gov*. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at his e-mail address *Joe Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 04–6401 Filed 3–22–04; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### Office of Postsecondary Education; Overview Information; Institute of International Public Policy; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004

Catalog of Federal Domestic Assistance (CFDA) Number: 84.269A.

**DATES:** *Applications Available:* April 5, 2004.

*Deadline for Transmittal of Applications:* May 14, 2004.

*Deadline for Intergovernmental Review:* July 14, 2004.

*Eligible Applicants:* Consortia consisting of one or more of the following entities: (1) An institution eligible for assistance under part B of Title III of the Higher Education Act of 1965, as amended (HEA); (2) an institution of higher education that serves substantial numbers of African American or other underrepresented minority students; and (3) an institution of higher education with programs in training foreign service professionals.

*Estimated Available Funds:* $1,626,330.

*Maximum Award:* We will reject any application that proposes a budget exceeding $1,626,330 for a single budget period of 12 months. The Assistant Secretary for the Office of Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

*Estimated Number of Awards:* 1.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months.

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* To provide a grant that establishes an Institute for International Public Policy that will conduct a program to significantly increase the number of African Americans and other underrepresented minorities in the international service, including private international voluntary organizations and the foreign service of the United States.

*Program Authority:* 20 U.S.C. 1131–1131f.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, and 86.

**Note:** Because there are no program specific regulations for the Institute for International Public Policy Program, applicants are encouraged to read the authorizing statute in sections 621–628 of part C, Title VI, of the HEA.

**II. Award Information**

*Type of Award:* Discretionary grants.

*Estimated Average Size of Awards:* $1,626,330.

*Maximum Award:* We will reject any application that proposes a budget exceeding $1,626,330 for a single budget period of 12 months. The Assistant Secretary for the Office of Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

*Estimated Number of Awards:* 1.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months.

**III. Eligibility Information**

1. *Eligible Applicants:* Consortia consisting of one or more of the following entities: (1) An institution eligible for assistance under Part B of Title III of the Higher Education Act of 1965, as amended (HEA); (2) an institution of higher education that serves substantial numbers of African American or other underrepresented minority students; and (3) an institution of higher education with programs in training foreign service professionals.

2. *Cost Sharing or Matching:* The matching requirement is described in section 621(e) of the HEA. The statute states that the applicant's share of the total cost of carrying out a program supported by a grant under this section must be at least one-half of the amount of the grant. The non-Federal share of the cost may be provided either in-kind or in cash.

**IV. Application and Submission Information**

1. *Address to Request Application Package:* Ms. Tanyelle Richardson, International Education Programs Service, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8521. Telephone: (202) 502–7626 or by e-mail: *tanyelle.richardson@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

*Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 60 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions. However, you may single space all text in charts, tables, figures and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, and graphs.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract or the appendices. However, you must include your complete response to the selection criteria in the application narrative.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

*Applications Available:* April 5, 2004.

*Deadline for Transmittal of Applications:* May 14, 2004.

The dates and times for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this program. The application package also specifies the hours of operation of the e-Application Web site.

We do not consider an application that does not comply with the deadline requirements.

*Deadline for Intergovernmental Review:* July 14, 2004.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Instructions and requirements for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this program. Application Procedures: The Government Paperwork Elimination Act (GPEA) of 1998 (Pub. L. 105–277) and the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107) encourage us to undertake initiatives to improve our grant processes. Enhancing the ability of individuals and entities to conduct business with us electronically is a major part of our response to these Acts. Therefore, we are taking steps to adopt the Internet as our chief means of conducting transactions in order to improve services to our customers and to simplify and expedite our business processes.

Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

We are requiring that applications for grants under Institute for International Public Policy—CFDA Number 269A be submitted electronically using the Electronic Grant Application System (e-

Application) available through the Department's e-GRANTS system. The e-GRANTS system is accessible through its portal page at: *http://e-grants.ed.gov.*

If you are unable to submit an application through the e-GRANTS system, you may submit a written request for a waiver of the electronic submission requirement. In your request, you should explain the reason or reasons that prevent you from using the Internet to submit your application. Address your request to: Tanyelle Richardson, U.S. Department of Education, 1990 K Street, NW., room 6017, Washington, DC 20006–8521. Please submit your request no later than two weeks before the application deadline date.

If, within two weeks of the application deadline date, you are unable to submit an application electronically, you must submit a paper application by the application deadline date in accordance with the transmittal instructions in the application package. The paper application must include a written request for a waiver documenting the reasons that prevented you from using the Internet to submit your application.

Pilot Project for Electronic Submission of Applications: We are continuing to expand our pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. Institute for International Public Policy—CFDA Number 269A is one of the programs included in the pilot project. If you are an applicant under Institute for International Public Policy you must submit your application to us in electronic format or receive a waiver.

The pilot project involves the use of e-Application. If you use e-Application, you will be entering data online while completing your application. You may not e-mail an electronic copy of a grant application to us. The data you enter online will be saved into a database. We shall continue to evaluate the success of e-Application and solicit suggestions for its improvement.

If you participate in e-Application, please note the following:

- When you enter the e-Application system, you will find information about its hours of operation. We strongly recommend that you do not wait until the application deadline date to initiate an e-Application package.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524) and all necessary assurances and certifications.
- Your e-Application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
- Within three working days after submitting your electronic application, fax a signed copy of the application for Federal Education assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.
2. The institution's Authorizing Representative must sign this form.
3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.
4. Fax the signed ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

1. You are a registered user of e-Application and you have initiated an e-Application for this competition; and

2. (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time) on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under For Further Information Contact (*see* VII. Agency Contact) or (2) the e-GRANTS help desk at 1–888–336–8930. You may access the electronic grant application for Institute for International Public Policy at: *http://e-grants.ed.gov*.

## V. Application Review Information

*Selection Criteria:* The selection criteria for this program are from section 75.210 of EDGAR and are as follows: (a) meeting the purpose of the authorizing statute (20 points), (b) need for project (15 points), (c) quality of the management plan (15 points), (d) significance (10 points), (e) quality of project design (10 points), (f) quality of project personnel (10 points), (g) adequacy of resources (10 points), and (h) quality of the project evaluation (10 points). Applicants should review section 75.210 of EDGAR for a complete description of these criteria.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. The applicant is required to use the electronic data instrument EELIAS system to complete the final report.

4. *Performance Measures:* One performance measure has been developed to evaluate the overall effectiveness of the Institute for International Public Policy program: the percentage of Title VI graduates who find employment in higher education, government service, and national security.

## VII. Agency Contact

*For Further Information Contact:* Ms. Tanyelle Richardson, International Education Programs Service, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8521. Telephone: (202) 502–7626 or by e-mail: *tanyelle.richardson@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) or request to the program contact person listed in this section.

## VIII. Other Information

*Electronic Access to This Document:* You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *www.gpoaccess.gov/nara/index.html.*

Dated: March 18, 2004.

**Sally L. Stroup,**

*Assistant Secretary, Office of Postsecondary Education.*

[FR Doc. 04–6462 Filed 3–22–04; 8:45 am]

BILLING CODE 4000–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP04-98-001]**

### Columbia Gulf Transmission Company; Notice of Compliance Filing

March 16, 2004.

Take notice that on March 10, 2004, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets:

First Revised Original Sheet No. 235
Original Sheet No. 235A
Fourth Revised Sheet No. 209B

Columbia Gulf states that it is making this filing to comply with the Commission's January 26, 2004, Order (January 26 Order) in the above referenced docket.

Columbia Gulf states that copies of the filing have been mailed to all firm customers, interrptible customers, and affected state commissions.

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 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.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–651 Filed 3–22–04; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP03-57-001]**

### El Paso Natural Gas Company; Notice of Compliance Filing

March 16, 2004.

Take notice that on March 10, 2004, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1-A, the following tariff sheets, to become effective April 10, 2004:

Tenth Revised Sheet No. 29
First Revised Sheet No. 322
First Revised Sheet No. 323

El Paso states that the tariff sheets implement the pro forma incremental fuel charge provisions accepted by the Commission applicable to El Paso's Bondad Expansion Facilities.

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 on or before the date as indicated below. 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 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:* March 26, 2004.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–652 Filed 3–22–04; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP04–213–000]**

### MIGC, Inc.; Notice of Tariff Filing

March 16, 2004.

Take notice that on March 10, 2004, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No.1, the following tariff sheets, to become effective May 1, 2004:

Second Revised Sheet No. 32
Fourth Revised Sheet No. 66A
Original Sheet No. 66B
Fifth Revised Sheet No. 69
Fourth Revised Sheet No. 70
First Revised Sheet No. 70A
First Revised Sheet No. 82A
Fifth Revised Sheet No. 85

MIGC asserts that the purpose of this filing is to update MIGC's tariff to combine revisions which were previously approved in separate proceedings, and to incorporate the correction of a minor word processing error. MIGC states that these proposed

revisions are necessary to finalize MIGC's compliance with FERC Order No. 637 in Docket No. RP00–42 and this application does not represent any new changes to MIGC's tariffs.

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 § 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. 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.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–650 Filed 3–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP99–176–099]**

### Natural Gas Pipeline Company of America; Notice of Negotiated Rates

March 16, 2004.

Take notice that on March 11, 2004, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Original Sheet No. 26D.04, to be effective April 1, 2004.

Natural states that the purpose of this filing is to implement two new negotiated rate transactions entered into by Natural and Nicor Gas Company, under Natural's Rate Schedule FTS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff.

Natural states that copies of the filing has been mailed to all parties on the Commission's official service list in Docket No. RP99–176.

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 § 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. 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.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–644 Filed 3–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IS04–179–000]**

### Texaco Petrochemical Pipeline LLC; Notice Requesting Briefs

March 16, 2004.

On February 27, 2004, the Commission issued an order in the above captioned docket requesting briefs on a jurisdictional issue raised by Texaco Petrochemical Pipeline's proposal to cancel its tariff for the transportation of ethylene. *See* Texaco Petrochemical Pipeline LLC, 106 FERC ¶ 61,186 (2004). Specifically, the Commission requested briefs on whether the Commission has jurisdiction over the transportation of ethylene by oil pipelines. Initial briefs were due 30 days after the February 27th Order issued. Since the 30th day falls on March 28, 2004, a Sunday, interested parties must intervene and file initial briefs no later than March 29, 2004. Reply briefs are due April 8, 2004, thereafter.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–647 Filed 3–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP03–162–010]**

### Trailblazer Pipeline Company; Notice of Compliance Filing

March 16, 2004.

Take notice that on March 10, 2004, Trailblazer Pipeline Company (Trailblazer) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective March 1, 2004:

Sixth Revised Sheet No. 1
Substitute Eleventh Revised Sheet No. 5
Substitute Eleventh Revised Sheet No. 6
Substitute Fourth Revised Sheet No. 7
Substitute Original Sheet No. 7A

Trailblazer states that the purpose of this filing is to implement lower rates for Trailblazer consistent with an Offer of Settlement and Stipulation and Agreement filed by Trailblazer on September 22, 2003 in Docket No. RP03-162, as approved by a Commission Order issued January 23, 2004 106 FERC 61,034. Trailblazer states that the lower rates will be effective March 1, 200. Trailblazer explains that this filing supersedes a similar filing made by Trailblazer on February 27, 2004, reflecting that the Settlement is no longer contested as of March 1, 2004.

Trailblazer states that copies of the filing are being mailed to all parties on the service list, Trailblazer's customers, and interested state commissions.

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 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.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–649 Filed 3–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP04–80–000]**

### WPS–ESI Gas Storage, LLC; Notice Of Application for Section 284.224 Blanket Certificate

March 16, 2004.

Take notice that on March 11, 2004, WPS–ESI Gas Storage, LLC filed an application, pursuant to § 284.224 of the Commission's regulations, as a Hinshaw natural gas storage entity in Michigan not subject to Commission jurisdiction by reason of section 1(c) of the Natural Gas Act (NGA). WPS–ESI Gas Storage requests a blanket certificate authorizing it to engage in the transportation or sale of natural gas that is subject to the Commission's NGA jurisdiction to the same extent that and in the same manner that intrastate pipelines are authorized to engage in such activities, transactions and services by Part 284, subparts C and D of the regulations. WPS–ESI Gas Storage also applies for authorization to charge market-based, firm and interruptible rates for such services because it asserts that it lacks the necessary market power in performing gas storage services to be able to charge rates in excess of amounts that its competitors charge for comparable storage services in the relevant market (or which that market would pay for alternatives for storage) for a significant period of time.

WPS–ESI Gas Storage explains that it owns and operates the Kimball 27 Gas Storage Field, which is an underground Niagaran gas reservoir storage facility with a working gas capacity of 3.049 Bcf that is located in St. Clair County, Michigan. WPS–ESI Gas Storage presently provides storage services at Kimball 27 subject to regulation by the Michigan Public Service Commission.

WPS–ESI Gas Storage states that a copy of this filing has been served on the interested state 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 § 385.214 or § 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before the date as indicated below. 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 website at *http://www.ferc.gov* using the eLibrary. 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.

*Intervention and Protests Date:* March 26, 2004.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–645 Filed 3–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL04–89–000, et al.]**

### Salmon River Electric Cooperative, Inc., et al.; Electric Rate and Corporate Filings

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

**1. Salmon River Electric Cooperative, Inc.**

[Docket Nos. EL04–89–000 and TS04–254–000]

March 15, 2004.

Take notice that on March 9, 2004, Salmon River Electric Cooperative, Inc. (Salmon River) filed a request for waiver of the requirements of Order No. 888, Order No. 889, Order No. 2003, and Order No. 2004 pursuant to 18 CFR 35.28(d) and (f) and 358.1(d) and of the Commission's regulations. Salmon River also requests waiver of 18 CFR 35.28(d)(ii) and 35.28(f)(3)(ii)'s 60-day notice requirement. Salmon River states that their filings are available for public inspection at its offices in Challis, Idaho.

*Comment Date:* March 30, 2004.

**2. Sempra Energy Trading Corp.**

[Docket Nos. ER03–1413–003 and ER94–1691–028]

March 15, 2004.

Take notice that on March 9, 2004, Sempra Energy Trading Corp. (SET) tendered for filing an amendment to SET's market-based rate tariff to include the market behavior rules adopted by the Commission in its order amending market-based rate tariff's and authorizations, *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 (2003), *reh'g pending*.

*Comment Date:* March 30, 2004.

**3. Sierra Pacific Power Company**

[Docket No. ER04–362–001]

March 8, 2004.

Take notice that on March 3, 2004, Sierra Pacific Power Company (Sierra) tendered for filing revisions to the Amended and Restated Operating Agreement No. 2 between Sierra and Mt. Wheeler Power, Inc., designated as Supplement No. 2 to Rate Schedule FERC No. 33. Sierra states that the proposed revisions consist of additional language to permit Sierra to interconnect a wind project generator to Mt. Wheeler's Gondor 230kV substation bus. Sierra has requested that the Commission accept the amendment and permit service in accordance therewith effective November 1, 2003.

*Comment Date:* March 24, 2004.

**4. Southern California Edison Company**

[Docket No. ER04–625–000]

March 15, 2004.

Take notice that on March 9, 2004, Southern California Edison Company (SCE) tendered for filing a Letter Agreement between SCE and the Blythe Energy, LLC (Blythe Energy). SCE states that the purpose of the Letter Agreement is to provide an interim arrangement pursuant to which SCE will commence the required biological and cultural studies and certain other tasks required to prepare an application for a Certificate of Public Convenience and Necessity from the California Public

Utilities Commission in anticipation of constructing, at Blythe Energy's request, a 230 kV transmission line from Western Area Power Administration's Buck Blvd. Substation to SCE's 230kV substation facilities at Metropolitan Water District's Julian Hinds Pumping Plant Substation.

SCE states that copies of this filing were served upon the Public Utilities Commission of the State of California and Blythe Energy.

*Comment Date:* March 30, 2004.

**5.Milford Power Company, LLC**

[Docket No. ER04–628–000]

March 15, 2004.

Take notice that on March 9, 2004, Milford Power Company, LLC (Milford Power) tendered for filing an amendment to its market based rate tariff to provide for sales of ancillary services, reassignment of transmission capacity and resales of firm transmission rights. Milford Power requests waiver of the notice requirements of 18 CFR 5.3 to permit an effective date of March 10, 2004.

*Comment Date:* March 30, 2004.

**6. Soyland Power Cooperative, Inc.**

[Docket No. ER04–629–000]

March 15, 2004.

Take notice that on March 9, 2004, Soyland Power Cooperative, Inc. (Soyland) tendered for filing with the Commission proposed changes to its Rate Schedule A, designated as Supplement No. 2 to its Rate Schedules. Soyland requests an effective date of January 1, 2004, for the proposed change to its Rate Schedule A. Soyland also requests a waiver of the Commission's regulations. Soyland states that Rate Schedule A is the formulary rate under which Soyland recovers the costs associated with its service to its Members pursuant to the Wholesale Power Contract that Soyland has with each Member.

*Comment Date:* March 30, 2004.

**7. Salmon River Electric Cooperative, Inc.**

[Docket No. ER04–630–000]

March 15, 2004.

Take notice that on March 9, 2004, Salmon River Electric Cooperative, Inc. (Salmon River) filed with the Commission, pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824d, and part 35 of the Commission's regulations, 18 CFR Part 35, (1) Pole Replacement and Back-up Agreement between Salmon River and Bonneville Power Administration Transmission Business Line designated as Rate Schedule FERC No. 1; (2) Joint Use Agreement between Salmon River and Lost River Electric Cooperative designated as Rate Schedule FERC No. 2; (3) Maintenance and Back-up Agreement between Salmon River and Bonneville Power Administration designated as Rate Schedule FERC No. 3; (4) two Electric Service Agreements for Transmission Services between Salmon River and Lois von Morganroth designated as Rate Schedules FERC Nos. 4 and 5; and (5) Operation and Maintenance Agreement between Salmon River and Cyprus Thompson Creek Mining Company designated as Rate Schedule FERC No. 6. Salmon River requests that the Commission grant all waivers necessary to allow the rate schedules to have effective dates retroactive to the effective date of the service agreement or to the date Salmon River became subject to the Commission's jurisdiction, as applicable. Salmon River states that its filing is available for public inspection at its offices in Challis, Idaho.

Salmon River states that a copy of the filing was served upon Salmon River's customers subject to the Rate Schedules and the Idaho Public Utilities Commission.

*Comment Date:* March 30, 2004.

**Standard Paragraph**

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (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.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–643 Filed 3–22–04; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EC04-72-000, et al.]**

## Commonwealth Energy Corporation, et al.; Electric Rate and Corporate Filings

March 16, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

**1. Commonwealth Energy Corporation and Commerce Energy Group, Inc.**

[Docket No. EC04-72-000]

Take notice that on March 11, 2004, Commonwealth Energy Corporation (Commonwealth) and Commerce Energy Group, Inc. (Commerce Energy) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act (FPA) for Commission authorization to implement the intra-corporate reorganization described more fully in the application, and for expedited action.

*Comment Date:* April 1, 2004.

**2. Midwest Generation, LLC, Nesbitt Asset Recovery, Series C-1, Nesbitt Asset Recovery, Series C-2, Nesbitt Asset Recovery, Series C-3, Nesbitt Asset Recovery, Series C-4**

[Docket No. EC04-73-000]

Take notice that on March 12, 2004, Midwest Generation, LLC; Nesbitt Asset Recovery, Series C-1; Nesbitt Asset Recovery, Series C-2; Nesbitt Asset Recovery, Series C-3; and Nesbitt Asset Recovery, Series C-4 (collectively, the Applicants) filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for authorization of the disposition of jurisdictional facilities in connection with the termination of a sale and leaseback transaction involving the Collins Generating Station, a 2,698-MW generating plant located in Morris, Illinois.

*Comment Date:* April 2, 2004.

**3. MSW Energy Holdings LLC, MSW Acquisition LLC, United American Energy Holdings Corp., Highstar Renewable Fuels LLC, Highstar Renewable Fuels I LLC, Highstar Renewable Fuels II LLC**

[Docket No. EC04-74-000]

Take notice that on March 12, 2004, MSW Energy Holdings LLC, MSW Acquisition LLC, United American Energy Holdings Corp., Highstar Renewable Fuels LLC, Highstar Renewable Fuels I LLC and Highstar Renewable Fuels II LLC (collectively, the Applicants) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby the Applicants would affect a change in control over the American Ref-Fuel Company of Essex County, American Ref-Fuel Company of Hempstead, American Ref-Fuel Company of Delaware Valley, L.P., the SEMASS Partnership ARC Project Companies and UAE Mecklenburg Cogeneration L.P.

*Comment Date:* April 2, 2004.

**4. Union Power Partners, L.P.**

[Docket No. ER01-930-004]

Take notice that on March 11, 2004, Union Power Partners, L.P. (UPP) tendered for filing its triennial market power analysis in compliance with the Commission orders granting UPP market-based rate authority.

UPP states that copies of this filing were served upon those parties on the official service list in Docket No. ER01-930.

*Comment Date:* April 1, 2004.

**5. Panda Gila River, L.P.**

[Docket No. ER01-931-004]

Take notice that on March 11, 2004, Panda Gila River, L.P. (Gila River) tendered for filing its triennial market power analysis in compliance with the Commission Orders granting Gila River market-based rate authority.

Gila River states that copies of this filing were served upon those parties on the official service list in Docket No. ER01-931.

*Comment Date:* April 1, 2004.

**6. California Independent System Operator Corporation**

[Docket No. ER03-1046-003]

Take notice that on March 11, 2004, the California Independent System Operator Corporation (ISO) submitted a filing in compliance with the Commission's Order on Proposed Tariff Amendment No. 54 issued on October 22, 2003, in Docket No. ER03-1046-003, 105 FERC ¶61,091.

The ISO states that it has served copies of this filing upon all entities that are on the official service list for the docket.

*Comment Date:* April 1, 2004.

**7. The Dayton Power and Light Company**

[Docket No. ER04-77-002]

Take notice that on March 12, 2004, The Dayton Power and Light Company (Dayton), on behalf of Cincinnati Gas and Electric Company (CG&E) and Columbus Southern Power Company (CSP) (together CCD) submitted a compliance filing pursuant to the Commiision's letter order issued February 11, 2004, in Docket Nos. ER04-77-000 and 001.

*Comment Date:* April 2, 2004.

**8. New England Power Pool**

[Docket No. ER04-110-001]

Take notice that on March 11, 2004, the New England Power Pool (NEPOOL) Participants Committee submitted a compliance filing pursuant to the Commission's order issued January 28, 2004, in *New England Power Pool*, 106 FERC ¶61,051 (2004).

The NEPOOL Participants Committee states that copies of these materials were sent to the NEPOOL Participants, Non-Participant Transmission Customers and the New England state governors and regulatory commissions.

*Comment Date:* April 1, 2004.

**9. PacifiCorp**

[Docket No. ER04-287-001]

Take notice that on March 11, 2004, PacifiCorp submitted for filing a refund report pursuant to Section 35.19a of the Commission's regulations, 18 CFR 35.19a (2003), and a Commission order issued on February 4, 2004, inDocket No. ER04-287-000.

*Comment Date:* April 1, 2004.

**10. American Transmission Systems, Incorporated**

[Docket No. ER04-618-001]

Take notice that on March 10, 2004, American Transmission Systems, Incorporated (ATSI) tendered for filing an amendment to their March 4, 2004, filing in Docket No. ER04-618-000.

*Comment Date:* March 31, 2004.

**11. Public Service Company of New Mexico**

[Docket No. ER04-631-000]

Take notice that on March 10, 2004, Public Service Company of New Mexico (PNM) tendered for filing a Construction and Interconnection Agreement between PNM and the City of Farmington, New Mexico (Farmington), designated as Service Agreement No. 222 under PNM Electric Tariff, Second Revised Volume No. 4, to provide for the construction and interconnection of facilities necessary to interconnect Farmington(s proposed 230 kV transmission line from an associated (Farmington owned) 230/115 kV substation to the San Juan Generating Station 230 kV transmission switchyard (jointly owned by PNM and Tucson Electric Power Company), located in northwestern New Mexico.

PNM states that copies of the filing have been sent to Farmington, the New Mexico Public Regulation Commission, and the New Mexico Attorney General.

*Comment Date:* March 31, 2004.

**12. American Transmission Systems, Incorporated**

[Docket No. ER04-633-000]

Take notice that on March 10, 2004, American Transmission Systems, Incorporated (ATSI), filed an Agreement for Construction, Operation, Modification and Compensation of Delivery Point with the City of Cleveland. ATSI requests an effective date for the agreement of March 1, 2004.

ATSI states that copies of this filing have been served on the City of Cleveland, the Midwest ISO, and the public utility commissions of Ohio and Pennsylvania.

*Comment Date:* March 31, 2004.

**13. PPL Electric Utilities Corporation**

[Docket No. ER04-634-000]

Take notice that on March 10, 2004, PPL Electric Utilities Corporation (PPL Electric) filed Interconnection Agreements between PPL Electric and the following Pennsylvania Boroughs: Borough of Blakely, Borough of Catawissa, Borough of Duncannon, Borough of Hatfield, Borough of Lansdale, Borough of Lehighton, Borough of Mifflinburg, Borough of Olyphant, Borough of Quakertown, Borough of St. Clair, Borough of Schuylkill Haven, Borough of Watsontown and Borough of Weatherly (the Boroughs).

PPL Electric has served a copy of this filing on each of the Boroughs.

*Comment Date:* March 31, 2004.

**14. Praxair Plainfield, Inc.**

[Docket No. ER04-635-000]

Take notice that on March 10, 2004, Praxair Plainfield, Inc. (Plainfield) filed an application requesting acceptance of its proposed Market-Based Rate Tariff (Tariff), waiver of certain regulations, and blanket approvals. Plainfield requested authorization to engage in

wholesale sales of energy, capacity, and firm transmission rights to eligible customers at market-based rates, and to reassign transmission capacity rights at negotiated rates.

*Comment Date:* March 31, 2004.

**15. NorthWestern Energy**

[Docket No. ER04-636-000]

On March 10, 2004, NorthWestern Energy, a division of NorthWestern Corporation, filed with the Commission pursuant to sections 35.3 and 35.13 of the Commission's regulations, 18 CFR 35.3 and 35.13, an amendment to its Rate Schedule WS-1 which (1) reflects the name change from Northwestern Public Service Company to NorthWestern Energy and other designation requirements of Order No. 614, and (2) adds a termination date of 11:59 p.m. January 5, 2008.

*Comment Date:* March 31, 2004.

**16. NYSD Limited Partnership, Warrensburg Hydro Power Limited Partnership, Sissonville Limited Partnership, Adirondack Hydro-Fourth Branch, LLC**

[Docket No. ER04-637-000]

Take notice that on March 12, 2004, NYSD Limited Partnership, (NYSD) Warrensburg Hydro Power Limited Partnership, Sissonville Limited Partnership, and Adirondack Hydro-Fourth Branch, LLC, pursuant to section 35.15, 18 CFR 35.15 (2003), of the Commission's regulations, filed with the Commission a Notice of Cancellation of market-based rate authority under each applicant's FERC Electric Tariff No. 1, effective October 1, 2003.

*Comment Date:* April 2, 2004.

**17. Entergy Services, Inc.**

[Docket No. ER04-638-000]

Take notice that on March 11, 2004, Entergy Services, Inc., (collectively, Entergy) on behalf of the Entergy Operating Companies, Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, Entergy) filed revisions to the Transmission Service Rate formulas under Entergy's Open Access Transmission Tariff.

Entergy states that it has mailed a copy of this filing to each of its transmission customers.

*Comment Date:* April 1, 2004.

**18. Total Gas & Electricity, (PA) Inc.**

[Docket No. ER04-639-000]

Take notice that on March 11, 2004, Total Gas & Electricity, Inc. (Total) tendered for filing a Notice of Cancellation of its Rate Schedule FERC No. 1 to be effective March 1, 2004.

*Comment Date:* April 1, 2004.

**19. Total Gas & Electricity, Inc.**

[Docket No. ER04-640-000]

Take notice that on March 11, 2004, Total Gas & Electricity, Inc. (Total) tendered for filing a Notice of Cancellation of its Rate Schedule FERC No. 1 to be effective March 1, 2004.

*Comment Date:* April 1, 2004.

**Standard Paragraph**

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ≥FERRIS≥ link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502-8222 or TTY, (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.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–653 Filed 3–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. ER04–48–000, RT04–01–000, ER04–434–000, ER99–4392–000 and RM01–12–000]**

## Southwest Power Pool, Inc., Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design; Notice of Technical Conference

March 11, 2004.

As announced in the Notice of Technical Conference issued on February 18, 2004, a technical conference will be held on March 19, 2004, to discuss with states and market participants in the SPP region reasonable timetables for RTO development activities to benefit customers within the region. Members of the Commission will attend and participate in the discussion.

The conference will focus on the issues identified in the agenda, which is appended to this notice as Attachment A. However, participants/stakeholders may present their views on other important issues that relate to the development of the Regional Transmission Organization.

The conference will begin at 9 a.m. Central Time and will adjourn at about 1 p.m. Central Time. The conference will be held at the Hyatt Regency DFW, inside the Dallas/Ft. Worth Airport in Dallas, Texas. This conference is open for the public to attend, and registration is not required; however, in-person attendees are asked to register for the conference on-line by close of business on Wednesday, March 17 at *http://www.ferc.gov/whats-new/registration/smd-0319-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'' 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. Interested persons should make arrangements as soon as possible by visiting the Capitol Connection Web site at *http://www.capitolconnection.gmu.edu* and clicking on ''FERC.'' If you have any questions contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100).

For more information about the conference, please contact Sarah McKinley at (202) 502–8004 or *sarah.mckinley@ferc.gov.*

**Magalie R. Salas,**
*Secretary.*

## Appendix A—Agenda

9–9:10 am—Opening Remarks
Pat Wood, III, Chairman, Federal Energy Regulatory Commission
9:10–10:15 am—SPP RTO Issues, Plan, Timeline
Southwest Power Pool Inc. Presenters:
Nick Brown, President and CEO
Stacy Duckett, Vice President, General Counsel and Corporate Secretary
Bruce Rew, Director of Engineering
10:15–11:15 am—Stakeholder Issues
Trudy Harper, President, Tenaska Power Services Co.
Robert A. O'Neil, Principal, Miller, Balis & O'Neil, P.C. Representing Golden Spread Electric Cooperative
The Honorable Tom Sloan, Representative of the 45th District, Kansas State Legislature
R. Harry Dawson, General Manager, Oklahoma Municipal Power Authority
Ricky Bittle, Vice President, Planning, Rates and Dispatch, Arkansas Electric Cooperative Corporation
John H. Butts, General Manager, East Texas Electric Cooperative, Inc.
James R. Stanton, Director of Market Design, Calpine
Richard Spring, Vice President, Transmission Services, Kansas City Power & Light Company
11:15–11:30 am—Break
11:30–12:30 pm—State Issues/Regional State Committee Discussion with State Commissioners and Representatives, Other conference attendees and SPP
12:30–1 pm—Next Steps

[FR Doc. E4–646 Filed 3–22–04; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Sunshine Act Meeting Notice

March 17, 2004.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b.

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission.

**DATE AND TIME:** March 24, 2004, 10 a.m.

**PLACE:** Room 2C, 888 First Street, NE., Washington, DC 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

**Note**—Items listed on the agenda may be deleted without further notice.

**FOR FURTHER INFORMATION CONTACT:** Magalie R. Salas, Secretary, Telephone (202) 502–8400. For a recording listing items stricken from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

### 854th—Meeting March 24, 2004, Regular Meeting, 10 a.m.

### Administrative Agenda

A–1.
DOCKET# AD02–1, 000, Agency Administrative Matters
A–2.
DOCKET# AD02–7, 000, Customer Matters, Reliability, Security and Market Operations

**Markets, Tariffs and Rates—Electric**

E–1.
DOCKET# RT04–2, 000, ISO New England Inc., Bangor Hydro-Electric Company, Central Maine Power Company, NSTAR Electric & Gas Corporation, on behalf of its affiliates: Boston Edison Company, Commonwealth Electric Company, Cambridge Electric Light Company and Canal Electric Company,
New England Power Company, Northeast Utilities Service Company, on behalf of its operating company affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company and Holyoke Water Power Company,
The United Illuminating Company and Vermont Electric Power Company
OTHER#S ER04–116, 000, ISO New England Inc., Bangor Hydro-Electric Company, Central Maine Power Company, NSTAR Electric & Gas Corporation, on behalf of its affiliates: Boston Edison Company, Commonwealth Electric Company, Cambridge Electric Light Company and Canal Electric Company,
New England Power Company, Northeast Utilities Service Company, on behalf of its operating company affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company and Holyoke Water Power Company,
The United Illuminating Company and Vermont Electric Power Company
ER04–157 000 Bangor Hydro-Electric Company, Central Maine Power Company, NSTAR Electric & Gas Corporation, on behalf of its affiliates: Boston Edison Company, Commonwealth Electric Company, Cambridge Electric Light Company and Canal Electric Company,
New England Power Company, Northeast Utilities Service Company, on behalf of its operating company affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company and HolyokeWater Power Company,
The United Illuminating Company, VermontElectric Power Company, Central VermontPublic Service Corporation and GreenMountain Power Corporation
ER04–157, 000, Bangor Hydro-Electric Company, Central Maine Power Company, NSTAR Electric & Gas Corporation, on behalf of its affiliates: Boston Edison Company, Commonwealth Electric Company, Cambridge Electric Light Company and Canal Electric Company,
New England Power Company, Northeast Utilities Service Company, on behalf of its operating company affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company and Holyoke Water Power Company,
The United Illuminating Company, Vermont Electric Power Company, Central Vermont Public Service Corporation and Green Mountain Power Corporation
EL01–39, 000, The Consumers of New England v. New England Power Pool
E–2.
DOCKET# ER04–321, 000, Gilroy Energy Center, LLC
OTHER#S ER04–321, 001, Gilroy Energy Center, LLC
ER04–323, 000, Los Esteros Critical Energy Facility, LLC
ER04–323, 001, Los Esteros Critical Energy Facility, LLC
ER04–324, 000, Creed Energy Center, LLC
ER04–324, 001, Creed Energy Center, LLC
ER04–325, 000, Goose Haven Energy Center, LLC
ER04–325, 001, Goose Haven Energy Center, LLC
E–3.
DOCKET# ER04–231, 000, Conectiv Bethlehem, LLC
OTHER#S ER04–231, 001, Conectiv Bethlehem, LLC
E–4.
DOCKET# ER04–509, 000, Delmarva Power & Light Company
E–5.
OMITTED
E–6.
DOCKET# ER04–539, 000, PJM Interconnection, L.L.C.
E–7.
DOCKET# ER04–554, 000, Southern Company Services, Inc.
OTHER#S ER03–386, 002, Southern Company Services, Inc.
ER03–386, 004, Southern Company Services, Inc.
E–8.
OMITTED
E–9.
DOCKET# ER04–459, 000, Southern Company Services, Inc.

E–10.
DOCKET# ER04–121, 000, ISO New England Inc.
E–11.
DOCKET# ER04–497, 000, MidAmerican Energy Company
OTHER#S ER04–497, 001, MidAmerican Energy Company
E–12.
DOCKET# ER99–4392, 004, Southwest Power Pool, Inc.
E–13.
OMITTED
E–14.
DOCKET# ER97–2353, 004, New York State Electric & Gas Corporation
OTHER#S ER97–2353, 005, New York State Electric & Gas Corporation
ER97–2353, 006, New York State Electric & Gas Corporation
ER97–2353, 012, New York State Electric & Gas Corporation
E–15.
DOCKET# ER02–2014, 006, Entergy Services, Inc.
OTHER#S ER02–2014, 007, Entergy Services, Inc.
ER02–2014, 011, Entergy Services, Inc.
E–16.
DOCKET# ER04–106, 001, Midwest Independent Transmission System Operator, Inc.
E–17.
DOCKET# ER02–1326, 008, PJM Interconnection L.L.C.
E–18.
OMITTED
E–19.
DOCKET# ER97–2355, 005, Southern California Edison Company
OTHER#S ER98–1261, 002, Southern California Edison Company
ER98–1685, 001, Southern California Edison Company
E–20.
DOCKET# ER02–2007, 001, American Electric Power Service Corporation
E–21.
OMITTED
E–22.
OMITTED
E–23.
DOCKET# ER03–404, 001, PJM Interconnection L.L.C.
OTHER#S ER03–404, 002, PJM Interconnection L.L.C.
ER03–404, 003, PJM Interconnection L.L.C.
E–24.
DOCKET# EL00–95, 087, *San Diego Gas & Electric Company* v. *Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange*
OTHER#S EL00–98, 074, Investigation of Practices of the California Independent System Operator Corporation & the California Power Exchange
E–25.
DOCKET# ER03–1126, 001, Morgan Stanley Capital Group Inc.
E–26.
OMITTED
E–27.
OMITTED
E–28.
OMITTED
E–29.
DOCKET# ER03–1115, 002, Pacific Gas and Electric Company
OTHER#S ER03–1115, 001, Pacific Gas and Electric Company
E–30.
DOCKET# ER03–31, 004, United Illuminating Company
OTHER#S ER03–31, 003, United Illuminating Company
E–31.
DOCKET# EL04–56, 000, *New York Municipal Power Agency* v. *New York State Electric & Gas Corporation*
E–32.
DOCKET# EL98–66, 000, *East Texas Electric Cooperative, Inc.* v. *Central and South West Services, Inc., Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company*
E–33.
OMITTED
E–34.
OMITTED
E–35.
DOCKET# ER02–485, 003, Midwest Independent Transmission System Operator, Inc.
E–36.
DOCKET# EL03–166, 000, Powerex Corporation (f/k/a British Columbia Power Exchange Corp.)
OTHER#S EL03–199, 000, Powerex Corporation (f/k/a British Columbia Power Exchange Corp.)
E–37.
DOCKET# EL02–129, 000, Southern California Water Company
E–38.
DOCKET# ER03–549, 003, Southern California Edison Company
E–39.
DOCKET# EL03–209, 000, *Pinnacle West Energy Corporation* v. *Nevada Power Company*
OTHER#S EL03–213, 000, *Southern Nevada Water Authority* v. *Nevada Power Company*
E–40.
OMITTED
E–41.
DOCKET# ER02–1672, 002, Western Area Power Administration
E–42.
OMITTED
E–43.
DOCKET# EL00–95, 045, *San Diego Gas & Electric Company* v. *Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange*
OTHER#S EL00–98, 042, Investigation of Practices of the California Independent System Operator Corporation & the California Power Exchange

**Markets, Tariffs and Rates—Gas**

G–1.
DOCKET# RP04–171, 000, Portland Natural Gas Transmission System
G–2.
DOCKET# PR04–3, 000, Enbridge Pipelines (Alabama Intrastate) L.L.C.
G–3.
DOCKET# RP00–479, 003, Trailblazer Pipeline Company
OTHER#S RP00–624, 003, Trailblazer Pipeline Company
G–4.
DOCKET# RP01–245, 000, Transcontinental Gas Pipe Line Corporation
G–5.
DOCKET# RP00–152, 003, Northern Natural Gas Company
G–6.
DOCKET# RP99–301, 076, ANR Pipeline Company
G–7.
OMITTED
G–8.
DOCKET# RP04–119, 001, Dominion Transmission, Inc.
G–9.
DOCKET# RP04–94, 001, Northern Natural Gas Company
G–10.
DOCKET# RP03–262, 002, Natural Gas Pipeline Company of America
G–11.
DOCKET# RP95–408, 052, Columbia Gas Transmission Corporation
G–12.
DOCKET# RP99–301, 095, ANR Pipeline Company
G–13.
OMITTED
G–14.
DOCKET# RP00–241, 010, *Public Utilities Commission of the State of California* v. *El Paso Natural Gas Company, El Paso Merchant Energy-Gas, L.P., and El Paso Merchant Energy Company*
G–15.
DOCKET# RP03–70, 005, Gas Transmission Northwest Corporation (formerly PG&E Gas Transmission, Northwest Corporation)
OTHER#S RP03–70, 004, Gas Transmission Northwest Corporation (formerly PG&E Gas Transmission, Northwest Corporation)
RP04–217, 000, *Calpine Energy Services, LP* v. *Gas Transmission Northeast Corporation*
G–16.
OMITTED
G–17.
DOCKET# RP04–92, 000, Georgia Public Service Commission
G–18.
DOCKET# OR96–2, 000, *ARCO Products Co. a Division of Atlantic Richfield Company, Texaco Refining and Marketing Inc., and Mobil Oil Corporation* v. *SFPP*
OTHER#S OR92–2, 002, *Ultramar Diamond Shamrock Corporation and Ultramar, Inc.* v. *SFPP*
OR96–2, 002, SFPP, L.P.
OR96–10, 000, *ARCO Products Co. a Division of Atlantic Richfield Company, Texaco Refining and Marketing Inc., and Mobil Oil Corporation* v. *SFPP*
OR96–10, 002, SFPP, L.P.
OR96–15, 000, *Ultramar Diamond Shamrock Corporation and Ultramar, Inc.* v. *SFPP*

OR96–17, 000, *Ultramar Diamond Shamrock Corporation and Ultramar, Inc.* v. *SFPP*
OR96–17, 002, SFPP, L.P.
OR97–2, 000, *Ultramar Diamond Shamrock Corporation and Ultramar, Inc.* v. *SFPP*
IS98–1, 000, SFPP, L.P.
OR98–1, 000, *ARCO Products Co. a Division of Atlantic Richfield Company, Texaco Refining and Marketing Inc., and Mobil Oil Corporation* v. *SFPP*
OR98–2, 000, *Ultramar Diamond Shamrock Corporation and Ultramar, Inc.* v. *SFPP*
OR98–13, 000, *Tosco Corporation* v. *SFPP*
OR00–4, 000, *ARCO Products Co. a Division of Atlantic Richfield Company, Texaco Refining and Marketing Inc., and Mobil Oil Corporation* v. *SFPP*
OR00–7, 000, *Navajo Refining Corporation* v. *SFPP*
OR00–9, 000, *Ultramar Diamond Shamrock Corporation and Ultramar, Inc.* v. *SFPP*
OR00–10, 000, *Refinery Holding Company* v. *SFPP*
OR98–1, 000, *Tosco Corporation* v. *SFPP*
OR00–9, 000, *Tosco Corporation* v. *SFPP*

G–19.
DOCKET# RP98–52, 051, Southern Star Central Gas Pipeline, Inc.
OTHER#S SA98–33, 003, Pioneer Natural Resources USA, Inc.
GP98–4, 006, Amoco Production Co.
GP98–3, 006, OXY USA, Inc.
GP98–13, 006, ExxonMobil
GP98–16, 006, Union Pacific Resources Inc.

G–20.
OMITTED

G–21.
DOCKET# RP00–331, 004, Algonquin Gas Transmission Company
OTHER#S RP00–331, 005, Algonquin Gas Transmission Company
RP01–23, 006, Algonquin Gas Transmission Company
RP01–23, 007, Algonquin Gas Transmission Company
RP03–176, 002, Algonquin Gas Transmission Company
RP03–176, 003, Algonquin Gas Transmission Company

**Energy Projects—Hydro**

H–1.
OMITTED

H–2.
DOCKET# P–1927, 019, PacifiCorp

H–3.
DOCKET# P–20, 026, PacifiCorp
OTHER#S P–472, 025, PacifiCorp
P–2401, 049, PacifiCorp

H–4.
OMITTED

H–5.
DOCKET# P–2852, 018, New York State Electric & Gas Corporation

**Energy Projects—Certificates**

C–1.
DOCKET# CP03–301, 000, Colorado Interstate Gas Company
OTHER#S CP03–302, 000, Cheyenne Plains Gas Pipeline Company
CP03–302, 001, Cheyenne Plains Gas Pipeline Company
CP03–302, 002, Cheyenne Plains Gas Pipeline Company
CP03–303, 000, Cheyenne Plains Gas Pipeline Company
CP03–304, 000, Cheyenne Plains Gas Pipeline Company

C–2.
DOCKET# CP93–541, 013, Young Gas Storage Company, Ltd.

C–3.
DOCKET# CP04–30, 000, Transcontinental Gas Pipe Line Corporation

C–4.
DOCKET# CP03–331, 000, EnergyNorth Natural Gas, Inc.

C–5.
DOCKET# CP04–12, 000, TransColorado Gas Transmission Company

C–6.
DOCKET# CP04–55, 000, Northwest Pipeline Corporation and Teresen Sumas Inc.

C–7.
DOCKET# CP01–416, 002, Sierra Production Company

C–8.
DOCKET# CP01–409, 000, Tractebel Calypso Pipeline, LLC
OTHER#S CP01–409, 001, Tractebel Calypso Pipeline, LLC
CP01–409, 002, Tractebel Calypso Pipeline, LLC
CP01–410, 000, Tractebel Calypso Pipeline, LLC
CP01–410, 001, Tractebel Calypso Pipeline, LLC
CP01–410, 002, Tractebel Calypso Pipeline, LLC
CP01–411, 000, Tractebel Calypso Pipeline, LLC
CP01–411, 001, Tractebel Calypso Pipeline, LLC
CP01–411, 002, Tractebel Calypso Pipeline, LLC
CP01–444, 000, Tractebel Calypso Pipeline, LLC
CP01–444, 001, Tractebel Calypso Pipeline, LLC
CP01–444, 002, Tractebel Calypso Pipeline, LLC

C–9.
DOCKET# CP04–24, 000, Gulf South Pipeline Company, LP and Prism Gas Systems, Inc.

C–10.
DOCKET# CP01–69, 002, Petal Gas Storage, L.L.C.

C–11.
OMITTED

C–12.
DOCKET# CP03–353, 000, Columbia Gas Transmission Corporation, Energy Corporation of America and Eastern American Energy Corporation
OTHER#S CP03–355, 000, Columbia Gas Transmission Corporation, Energy Corporation of America and Eastern American Energy Corporation

C–13.
DOCKET# CP04–58, 000, Sound Energy Solutions

The Capitol Connection offers the opportunity for remote listening and viewing of the meeting. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on 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 click on ''FERC''.

**Magalie R. Salas,**
*Secretary.*
[FR Doc. 04–6505 Filed 3–18–04; 4:09 pm]
BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Sunshine Act; Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons to Attend

March 17, 2004.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission.

**DATE AND TIME:** March 24, 2004 (Within a relatively short time after the regular Commission Meeting).

**PLACE:** Room 3M 4A/B, 888 First Street NE., Washington, DC 20426.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Non-Public Investigations and Inquiries, Enforcement Related Matters, and Security of Regulated Facilities.

**FOR FURTHER INFORMATION CONTACT:** Magalie R. Salas, Secretary. Telephone (202) 502–8400.

Chairman Wood and Commissioners Brownell, Kelliher, and Kelly voted to hold a closed meeting on March 24, 2004. The certification of the General Counsel explaining the action closed the meeting is available for public inspection in the Commission's Public Reference Room at 888 First Street NW., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary and her assistant, the General Counsel and members of her staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who will advise the Commissioners in the matters discussed will also be present.

**Magalie R. Salas,**
*Secretary.*
[FR Doc. 04–6506 Filed 3–18–04; 4:09 pm]
BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RM98–1–000]**

### Records Governing Off-the Record Communications; Public Notice

March 16, 2004.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or prohibited off-the-record communication relevant to the merit's of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of prohibited and exempt communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers. These filings are 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 for TTY, contact (202) 502–8659.

| Docket No. | Date filed | Presenter or requester |
|---|---|---|
| Prohibited: | | |
| 1. CP04–58–000 | 3–9–04 | Evelyn Kida, *et al.*[1] |
| 2. ER02–2458–000, *et al.* | 3–11–04 | Christine C. Ryan. |
| 3. Project No. 460–000 | 3–16–04 | Corey Gordon. |
| Exempt: | | |
| 1. CP04–12–000 | 3–8–04 | Teresa Pfifer. |
| 2. CP03–75–000 | 3–09–04 | Laura Turner. |
| 3. Project No. 2030–036 | 3–11–04 | Garland Brunoe. |

[1]This communication is one among numerous form letters sent to the Commission by the Greenpeace, USA organization. Only representative samples of these prohibited non-decisional documents are posted in this docket on the Commission's eLibrary system (*http://www.ferc.gov*).

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–648 Filed 3–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7639–2; EDocket ID No. OAR–2004–0016]**

### Agency Information Collection Activities: Proposed Collection; Comment Request; Part 71 Federal Operating Permit Regulations, EPA ICR Number 1713.05, OMB Control Number 2060–0336

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection. This ICR is scheduled to expire on October 31, 2004. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before May 24, 2004.

**ADDRESSES:** Submit your comments, referencing docket ID number OAR–2004–0016, to EPA online using EDocket (our preferred method), by e-mail to ''*a-and-r-docket@epa.gov*,'' or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** A. Scott Voorhees, Ph.D., Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C304–04, Research Triangle Park, NC 27711; telephone number: 919–541–5348; fax number: 919–541–5509; e-mail address: *voorhees.scott@epa.gov.*

**SUPPLEMENTARY INFORMATION:** The EPA has established a public docket for this ICR under Docket ID number OAR–2004–0016, which 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 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 Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,''

then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice. The EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov./edocket.*

*Affected entities:* Entities potentially affected by this action are those which must apply for and obtain a federally issued operating permit under title V of the Clean Air Act (Act). These, in general, include sources which are defined as ''major'' under any title of the Act.

*Title:* Part 71 Federal Operating Permit Regulations.

*Abstract:* The part 71 program is a Federal operating permits program that is being implemented for sources located in Indian Country, Outer Continental Shelf sources, and also in those areas without acceptable part 70 programs. Title V of the Clean Air Act imposes on States the duty to develop, administer and enforce operating permit programs which comply with title V and requires EPA to stand ready to issue Federal operating permits when States fail to perform this duty. Section 502(b) of the Act requires EPA to promulgate regulations setting forth provisions under which States will develop operating permit programs and submit them to EPA for approval. Pursuant to this section, EPA promulgated 40 CFR part 70 on July 21, 1992 (57 FR 32250) which specifies the minimum elements of State operating permit programs.

Pursuant to regulations promulgated by EPA on February 19, 1999 (64 FR 8247), EPA has authority to establish part 71 programs within Indian Country, and EPA began administering the program in Indian country on March 22, 1999. Since many Indian tribes lack the resources and capacity to develop operating permit programs, EPA is currently administering and enforcing part 71 programs in the areas that comprise Indian Country in order to protect the air quality of areas under tribal jurisdiction.

The EPA intends to protect tribal air quality through the development of implementation plans, permits programs, and other means, including direct assistance to tribes in developing comprehensive and effective air quality management programs. The EPA will consult with tribes to identify their particular needs for air program development assistance and will provide ongoing assistance as necessary.

The EPA will also issue permits to ''outer continental shelf'' (OCS) sources (sources located in offshore waters of the United States) pursuant to the requirements of section 328(a) of the Act. For sources beyond 25 miles (40 km) of the States' seaward boundaries, EPA is the permitting authority, and the provisions of part 71 will apply to the permitting of those OCS sources. Permits for sources located within 25 miles of a State's seaward boundaries are issued by the Administrator (or a State or local agency which has been delegated the OCS program in accordance with 40 CFR part 55 of this chapter) pursuant to the part 70 or part 71 program which is effective in the corresponding onshore area.

Investigation of the OCS ICR indicates currently there are only two OCS sources which fall under the jurisdiction of the Federal program. There are approximately 95 sources in Indian Country that require part 71 permits.

The EPA has the authority to establish a partial part 71 program in limited geographical areas of a State if EPA has approved a part 70 program (or combination of part 70 programs) for the remaining areas of the State. The EPA will promulgate a part 71 program for a permitting authority if EPA finds that a permitting authority is not adequately administering or enforcing its approved program and it fails to correct the deficiencies that precipitated EPA's finding.

The EPA may use part 71 in its entirety or any portion of the regulations as needed. Similarly, EPA may use only portions of the regulations to correct and issue a State permit without, for example, requiring an entirely new application. Section 71.4(f) also authorizes EPA to exercise its discretion in designing a part 71 program. The EPA may promulgate a part 71 program based on the national template described in part 71 or may modify the national template by adopting appropriate portions of a State's program as part of the Federal program for that State, provided the resulting program is consistent with the requirements of title V.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

*Burden Statement:* The projected cost for implementing the part 71 program for the 3 years from November 1, 2004, until October 31, 2007, is approximately $1.1 million in annualized direct costs to sources. These costs represent the direct administrative costs for 95 major sources, for a cost of $11,711 per source. The Agency expects Federal costs will be $720,000 ($7,564 per source). The Agency anticipates administering a part 71 program for approximately 95 sources in Indian Country and the Outer Continental Shelf. For a part 71 permit program in place after withdrawing part 70 program approval, and which is fully delegated by the Agency, the expected Federal cost would be $450,000 ($283 per source). These costs provide an upper and lower bound to the expected cost of the part 71 regulation. The Agency anticipates that these burden estimates will change as the number of State and Local operating permitting programs to be administered by the Agency as Federal programs changes over time. These changes to the burden estimate will be reflected in the ICR document. Burden means the total time,

effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 10, 2004.

**Richard A. Wayland,**

*Acting Director, Information Transfer and Program, Implementation Division.*

[FR Doc. 04–6429 Filed 3–22–04; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7639–1; EDocket ID No. OAR–2004–0016]**

## Agency Information Collection Activities: Proposed Collection; Comment Request; Part 70 Operating Permit Regulations, EPA ICR Number 1713.06, OMB Control Number 2060–0243

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection. This ICR is scheduled to expire on October 31, 2004. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before May 24, 2004.

**ADDRESSES:** Submit your comments, referencing docket ID number OAR–2004–0015, to EPA online using EDOCKET (our preferred method), by e-mail to ''*a-and-r-docket@epa.gov*,'' or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Grecia Castro, Office of Air Quality Planning and Standards, Mail Code C304–04, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–1351; fax number: (919) 541–5509; e-mail address: *castro.grecia@epa.gov.*

**SUPPLEMENTARY INFORMATION:** The EPA has established a public docket for this ICR under Docket ID number OAR–2004–0015, which is available for public viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the 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 Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice. The EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov./edocket.*

*Affected entities:* Entities potentially affected by this action are those which must apply for and obtain an operating permit under title V of the Clean Air Act (Act). These, in general, include sources which are defined as ''major'' under any title of the Act.

*Title:* Part 70 Operating Permits Regulations.

*Abstract:* Title V of the Act requires States to develop and implement a program for issuing operating permits to all sources that fall under any Act definition of major and certain other non-major sources that are subject to Federal air quality regulations. The Act further requires EPA to develop regulations that establish the minimum requirements for those State operating permits programs and to oversee implementation of the programs. The EPA regulations setting forth requirements for the operating permits programs are at part 70, title 40, chapter I of the Code of Federal Regulations.

In implementing title V of the Act and EPA's part 70 operating permits regulations, State and local permitting agencies must develop programs and submit them to EPA for approval (section 502(d)) and sources subject to the program must develop operating permit applications and submit them to the permitting authority within 1 year after program approval (section 503). Permitting authorities will then issue permits (section 503(c)) and thereafter enforce, revise, and renew those permits at no more than 5-year intervals (section 502(d)). Permit applications and proposed permits will be provided to, and are subject to review by, EPA (section 505(a)). All information submitted by a source and the issued permit shall also be available for public review except for confidential information which will be protected from disclosure (section 503(e)). Sources will semi-annually submit compliance monitoring reports to the permitting authorities (section 504(a)). The EPA has the responsibility to oversee implementation of the program and to administer a Federal operating permits program in the event a program is not approved for a State (section 502(d)(3)) or if EPA determines the permitting authority is not adequately administering its approved program (section 502(i)(4)). The activities to carry out these tasks are considered mandatory and necessary for implementation of title V and the proper operation of the operating permits program. This notice provides updated burden estimates from a previously approved ICR. An agency may not

conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

*Burden Statement:* The projected cost for implementing the part 70 program from October 31, 2004, until October 31, 2007, are approximately 5.1 million annual burden hours at an annual cost of approximately 171 million dollars. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The burden hours breakout will be around 1.1 million hours for 112 permitting authorities and about 4 million hours for 17,626 sources. The costs break out to be 40.7 million dollars per year for 112 permitting authorities and 130 million dollars per year for 17,626 sources. During the period of this ICR, permitting authorities (in addition to general administration of the program) primarily will be issuing the remaining permits required by the program (around 1,300), processing revisions for permits that have already been issued, renewing permits whose 5-year terms will expire, and reviewing semiannual, or more frequent, monitoring reports and annual compliance certifications for issued permits. Sources in the part 70 program primarily will be interacting with the permitting authority on permit issuance, be it an initial permit, renewal permit or permit revision; preparing applications for permit renewal or for revisions, as needed; preparing semiannual, or more frequent, monitoring and deviation reports, and annual compliance certification reports; and carrying out periodic monitoring that was created as a result of the program.

Dated: March 10, 2004.

**Richard A. Wayland,**

*Acting Director, Information Transfer and Program Implementation Division.*

[FR Doc. 04–6430 Filed 3–22–04; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[OPPT–2003–0004; FRL–7350–3]**

## Access to Confidential Business Information by Battelle Memorial Institute

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

**ACTION:** Notice.

**SUMMARY:** EPA has authorized its contractor Battelle Memorial Institute (BMI), of Columbus, Ohio, access to information which has been submitted to EPA under sections 4, 5, 6, 8(a), 11, and 21 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

**DATES:** Access to the confidential data will occur no sooner than March 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: *TSCA–Hotline@.epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Notice Apply to Me?*

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under TSCA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*B. How Can I Get Copies of this Document and Other Related Documents?*

1. *Docket.* EPA has established an official public docketfor this action under docket identification (ID) number OPPT–2003–0004. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include 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 EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or 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 Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

### II. What Action is the Agency Taking?

Under Contract Number EP–W–04–020, BMI of 505 King Avenue, Columbus, OH, will assist EPA in statistical and technical support for the assessment of toxic substances. BMI will also provide statistical, mathematical, high production volume, field data collection and technical analysis support and planning for EPA's Office

of Pollution Prevention and Toxics (OPPT) programs, such as Lead Programs and other technology andexposure-related studies.

Under Contract Number EP–W–04–021, BMI of 505 King Avenue, Columbus, OH, will assist EPA in statistical and technical support for the assessment of toxic substances. BMI will also provide statistical, mathematical, field data collection, physical testing, technical analysis support, and planning for OPPT programs, such as Lead Programs and other technology and exposure-related studies.

In accordance with 40 CFR 2.306(j), EPA has determined that under Contract Numbers EP–W–04–020 and EP–W–04–021, BMI will require access to CBI submitted to EPA under sections 4, 5, 6, 8(a), 11, and 21 of TSCA, to perform successfully the duties specified under the contract.

BMI personnel will be given information submitted to EPA under sections 4, 5, 6, 8(a), 11, and 21 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8(a), 11, and 21 of TSCA, that the Agency may provide BMI access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under these contracts will take place at EPA Headquarters and BMI's site located at 505 King Avenue, Columbus, OH. BMI personnel will be required to adhere to all provisions of EPA's *TSCA Confidential Business Information Security Manual*.

Clearance for access to TSCA CBI under Contract Numbers EP–W–04–020 and EP–W–04–021 may continue until March 2, 2009. Access will commence no sooner than March 30, 2004.

BMI personnel have signed nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

**List of Subjects**

Environmental protection, Confidential business information.

Dated: March 15, 2004.

**Brion Cook,**

*Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 04–6432 Filed 3–22–04; 8:45 am]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–6649–8]**

## Notice of Intent To Prepare an Environmental Impact Statement (EIS) on the Federal Funding, Construction, Operation and Monitoring of the Restoration Project Titled: Mississippi River Reintroduction Into Bayou Lafourche

**AGENCY:** Region 6 of the U.S. Environmental Protection Agency (EPA).

**ACTION:** Issuance of Notice of Intent to prepare an Environmental Impact Statement (EIS).

**SUMMARY:** EPA Region 6 is preparing an EIS on the proposed Mississippi River Reintroduction Into Bayou Lafourche project. The proposed project is intended to enhance freshwater flows in Bayou Lafourche to nourish and protect marshes of the Barataria and Terrebonne Basins and meet human water supply needs. EPA has determined that the proposed multiple use and multiple benefit wetlands restoration effort is a Major Federal Action significantly affecting the human environment. The purpose of the EIS is to provide information and analysis for decisions on the project in accordance with the policies and purposes of the National Environmental Policy Act.

**SUPPLEMENTARY INFORMATION:** The Coastal Wetland Planning, Protection, and Restoration Act (CWPPRA), Pub. L. 101–646, provides funding for projects intended to restore and protect sensitive Louisiana coastal areas and establishes a multi-agency task force to consider, develop, and implement such projects. The Mississippi River Reintroduction Into Bayou Lafourche is one such proposed project. The EPA is designated the Federal member of the CWPPRA Task Force to carry out the project. As proposed, the project would significantly increase the flow of water from the Mississippi River into Bayou Lafourche, historically a natural distributary channel of the River. By human action, the Bayou was cut off from the River with construction of the existing flood protection levee. Over time, it was recognized that precipitation alone into the bayou system was not adequate to meet the human or natural ecosystem needs. The project proposes to significantly increase Mississippi River water flow through a structure constructed through or over the flood protection levee of the River at Donaldsonville, Louisiana. The water would then flow down the bayou and connected waterways toward the Gulf of Mexico and into adjacent wetlands, increasing input of freshwater, nutrients and some sediments. Portions of the Ascension, Assumption, Lafourche, and Terrebonne Parishes are included in the proposed project area. The proposed project also includes installation of emergency water level management measures in the bayou such as inflatable weirs. Drainage systems associated with the bayou will be analyzed for impacts. Evaluation studies carried out for use in project development included alternative water sources; existing bayou conditions and basic reintroduction scenarios; surveys of elevations and cross-sections; hydrologic modeling of flows and of salinity; baseline ecological field studies; surveys of flora and fauna of bayou; transportation and utilities infrastructure; potential dredging options; value-engineering study; and cost evaluations. Impacts on the natural and the human environment, including economics and culture, will be evaluated in the EIS.

*Alternative Actions:* The proposed action includes significantly increasing Mississippi River flows into Bayou Lafourche through a head works structure at the head of Bayou Lafourche. Alternatives to be considered include an array of pumping station and siphon configurations, numerous conveyance channel improvements, and, an alternative channel alignment upstream of Donaldsonville. The EPA is seeking public input on the proposed alternatives and any possible new alternatives.

*Public Scoping Meetings:* The EPA will hold public meetings at several locations along the Bayou to receive public input on the scope of issues to be addressed in the Draft EIS and to identify significant issues associated with the proposed project. Interested individuals, groups, agencies and public officials will be encouraged to participate. Meeting locations and dates include: South Central Plan Commission Building, Gray LA, 6:30 p.m., April 22; Central Catholic High School Gymnasium, Donaldsonville LA, 6:30 p.m., April 26; Larose Civic Center, Larose LA, 6:30 p.m., April 27; Napoleonville Civic Center, Napoleonville LA, 12:30 p.m., April 28; Municipal Auditorium, Thibodaux LA, 6:30 p.m., April 28. Notices will be placed in regional, local and periodic newspapers thirty days in advance. Information will be provided for potential newspaper, public radio and television announcements.

**DATES:** The estimated date for release of the Draft EIS is Fall, 2005. EPA will publish a Notice of Availability (NOA) in the **Federal Register** stating where the Draft EIS will be available for review, the date of Public Hearing on the Draft EIS and a deadline for submission of written comments.

**FOR FURTHER INFORMATION, TO SUBMIT SCOPING COMMENTS, OR TO BE PLACED ON THE EIS MAILING LIST, CONTACT:** Ms. Jeanene Peckham, U.S. EPA, Water Quality Protection Division Field Office, 707 Florida Blvd, Suite B–21, Baton Rouge, LA, 70801. Telephone: 225–389–0736; or e-mail: *peckham.jeanene@epa.gov.*

*Responsible Official:* Richard E. Greene, Regional Administrator.

Dated: March 17, 2004.

**Anne Norton Miller,**

*Director, OFA.*

[FR Doc. 04–6471 Filed 3–22–04; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7638–4]**

### Proposed CERCLA Administrative Cost Recovery Settlement; Amber Oil Site, Milwaukee, WI

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement which includes compromise of past response costs incurred in connection with the Amber Oil site in Milwaukee, Wisconsin with the following settling parties: Ametek, Inc.; Arvin Meritor, Inc.; A–C Compressor, Corp.; Besly Products Corporation; Carlson Tool and Manufacturing Corp.; Charter Wire Div of Charter Manufacturing; Detroit Edge Tool Co.; Eco-Tech of Milwaukee, Inc.; Elenco Carbide Tool Corporation; Emerson Electric Co.; EOG Environmental, Inc.; Everbrite, LLC; The Falk Corporation; Graco Inc.; General Portable Products LLC (Briggs & Stratton Power Products LLC); Hafemeister Machine Corp.; Helgesen Industries; Ingersoll Equipment Co. Inc.; International Paper; International Truck and Engine Corporation; INX International Ink Co.; J&L Fiber Services, Inc.; Karl Schmidt Unisia, Inc.; Kettle Moraine Coatings, Inc.; Kingsbury, Inc.; Madison Kipp Corp; Manitowoc; Manitowoc Tool & Manufacturing; Menasha Corporation; Mercury Marine; The Metal Ware Corporation; Miller Brewing Company; Neenah Foundry Company; Nordco; Oshkosh Marine Supply Company; Oshkosh Truck Corporation; Peterson Industries LLC; Pierce Manufacturing Inc.; Precision Gears, Inc.; Regal-Beloit Corporation; Rietschle Thomas; Rollex Corporation; Rollmeister, Inc.; Seats, Inc.; Simplicity Manufacturing, Inc.; Sta-Rite Industries, Inc.; Stroh Die Casting Co., Inc.; Triangle Tool Corporation; Tulip Corporation; Union Pacific Railroad; Valleycast, Inc.; Vilter Manufacturing Corporation; The Vollrath Co., LLC; Waukesha Electric Systems, Inc.; and Weasler Engineering Inc. The settlement requires the settling parties to perform a removal action at the site estimated to cost approximately $900,000, and reimburse U.S. EPA Hazardous Substance Superfund for $15,000 of U.S. EPA's costs incurred before March 31, 2003, its costs incurred since April 1, 2003 to the signing of the consent order, and the cost of U.S. EPA to oversee the clean-up by the fifty-five settling parties. Past costs (U.S. EPA costs incurred prior to April 1, 2003) in the amount of $155,591 are being compromised in consideration of the settling parties' commitment to perform the removal and pay the costs described above. The settlement includes a covenant not to sue the settling parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The U.S. EPA's response to any comments received will be available for public inspection at the site record repository in the West Allis Public Library, 7421 West Nation Avenue, Milwaukee, Wisconsin, and at the U.S. EPA Record Center, Room 714, U.S. EPA, 77 West Jackson Boulevard, Chicago, Illinois.

**DATES:** Comments must be submitted to U.S. EPA on or before April 22, 2004.

**ADDRESSES:** The proposed settlement is available for public inspection at the U.S. EPA Record Center, Room 714, 77 West Jackson Boulevard, Chicago, Illinois. A copy of the proposed settlement may be obtained from U.S. EPA Record Center, Room 714, U.S. EPA, 77 West Jackson Boulevard, Chicago, Illinois or by calling tel. #(312)–353–5821. Comments should reference the Amber Oil site in Milwaukee, Wisconsin and EPA Docket No. V–W–'04–C–780 and should be addressed to Mr. Jerome Kujawa, U.S. EPA Office of Regional Counsel (C–14J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jerome Kujawa, U.S. EPA Office of Regional Counsel (C–14J) at 77 West Jackson Boulevard, Chicago, IL 60604 or at tel.#(312)–886–6731.

Dated: February 27, 2004.

**Richard C. Karl,**

*Acting Director, Superfund Division, Region 5, U.S. Environmental Protection Agency.*

[FR Doc. 04–6428 Filed 3–22–04; 8:45 am]

BILLING CODE 6560–50–P

## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

### Workshop on Biosecurity

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth an announcement of a public workshop on Laboratory Biosecurity: A Culture of Responsibility, and describes the purpose of the workshop.

*Dates, Address and Time:* April 12, 2004, Bethesda, Maryland. The meeting will be held in Room E1/E2 of the Natcher Conference Center, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892 from 1 p.m. to approximately 4 p.m.

*Type of Meeting:* Open.

*Who Should Attend:* This workshop is relevant to all biological laboratory settings, from research to clinical laboratories, including laboratories which are not involved in work with select agents.

*Public Comments:* The purpose of this workshop is to solicit comments on the successes and challenges associated with implementing biosecurity procedures and protocols. The outcome of the discussion may help identify good practices and help guide recommendations. Of particular interest is public comment on the following issues:

- What information should be contained in a BMBL chapter on biosecurity in order to provide sufficient guidance to assess biosecurity risk and develop a risk-management plan?
- What do you need in the way of outreach to facilitate putting a biosecurity program in place?
- Does your facility feel confident to implement risk management decisions?

- What, in your institution, is the best way to conduct biosecurity training and what should it consist of?
- What is the role for Institutional Biosafety Committees in biosecurity at your facility?
- To what extent has the cost of implementing biosecurity procedures had an impact on your facility/institution? Do existing facilities make retrofitting to accommodate biosecurity difficult? Have you found alternative methods to achieve compliance?
- What personnel requirements are applied toward biosecurity at your facility? Are these measures appropriate for small institutions? Do you have suggestions for compliance guidance in this area?
- Can you provide examples of how low cost measures have been put in place that have precluded the need for ''high-tech'' solutions? An example might be a protocol for assuring personnel reliability, instead of mounting and monitoring cameras.)
- How best can biosecurity measures be instituted in clinical microbiological labs so as to avoid interfering with patient care?
- What have been the positive impacts of biosecurity implementation in your institution?
- What have been the negative impacts of biosecurity implementation in your institution?
- If you represent a company that has not yet incorporated biosecurity as part of its overall business plan, how difficult would it be to do so, and how would it impact business planning and intellectual property protection?

The public comment time is designed for substantive commentary on the successes and challenges of biosecurity implementation at laboratory facilities. Please submit a request for the opportunity to make an oral public comment five (5) days in advance of the meeting. The time for oral public comments will be limited to no more than 5 minutes per person. Written comments are also welcome and will be distributed at the meeting if provided electronically at least five (5) days in advance of the meeting. Please submit your request to make an oral comment or copy of written comments to: Rachel E. Levinson, OSTP, at *levinson@ostp.eop.gov*, or fax your request/comments to (202) 456–6027.

**FOR FURTHER INFORMATION CONTACT:** For further information, please call (202) 456–6130, prior to 3 p.m. on Friday, April 9, 2004. Please note that public seating for this meeting is limited and is available on a first-come, first-served basis.

**SUPPLEMENTARY INFORMATION:**

## Background

The publication entitled, ''Biosafety in Microbiological and Biomedical Laboratories,'' better known as the BMBL, is a publication of the U.S. Department of Health and Human Services Centers for Disease Control and Prevention (CDC) and the National Institutes of Health (NIH) that outlines recommended safety practices for research and clinical laboratories and research animal facilities. It describes the combinations of standard and special microbiological practices, safety equipment, and facilities constituting Biosafety Levels 1–4, which are recommended for work with a variety of infectious agents in various laboratory settings. The recommendations in the BMBL are advisory. They are intended to provide a voluntary guide or code of practice as well as goals for upgrading operations. They also are offered as a guide and reference in the construction of new laboratory facilities and in the renovation of existing facilities.

The most current version, the Fourth Edition, was published in May 1999. The 4th edition of the BMBL was the first edition to address laboratory security concerns. Appendix F of the BMBL was updated in December 2002 to provide assistance to facility managers with meeting the Select Agent regulatory mandate of 42 Code of Federal Regulation (CFR) 73. These guidelines are intended for laboratories where select agents are used. Appendix F (Dec. 2002) provides a summary of issues that should be considered when evaluating laboratory security in facilities that utilize Select Agents. An electronic copy of the BMBL 4thed. is available at: *http://www.cdc.gov/od/ohs/biosfty/bmbl4/bmbl4toc.htm*.

In September 2003, CDC and NIH initiated efforts to update the BMBL. This revision process occurs every 5-years extending over an 18–24 month period. Completion of the 5th edition is anticipated by Summer 2005. This new edition will include for the first time a chapter on biosecurity.

This workshop is an opportunity for the public to provide input into the chapter on biosecurity, as well as an appendix providing supplementary information related to select agents. Public comments on the successes and challenges in implementing biosecurity will be taken into consideration when drafting the new chapter.

Dated: March 18, 2004.

**Stanley S. Sokul,**

*Counsel, Office of Science and Technology Policy.*

[FR Doc. 04–6517 Filed 3–22–04; 8:45 am]

**BILLING CODE 3170–01–P**

# EXPORT-IMPORT BANK OF THE UNITED STATES

## Sunshine Act Meeting

**ACTION:** Notice of a partially open meeting of the Board of Directors of the Export-Import Bank of the United States.

**TIME AND PLACE:** Thursday, April 1, 2004 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

**OPEN AGENDA ITEM:** Extension of Ex-Im Bank's Environmental Procedures & Guidelines and the Nuclear Procedures & Guidelines.

**PUBLIC PARTICIPATION:** The meeting will be open to the public participation for Item No. 1 only.

**FOR FURTHER INFORMATION CONTACT:** Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Tele. No. 202–565–3957).

**Peter B. Saba,**

*General Counsel.*

[FR Doc. 04–6573 Filed 3–19–04; 12:45 pm]

**BILLING CODE 6690–01–M**

# FEDERAL MARITIME COMMISSION

**[Petition No. P4–04]**

## Petition of FEDEX Trade Networks Transport & Brokerage, Inc. for Exemption From the Tariff Publishing Requirements of Sections 8 and 10 of the Shipping Act of 1984, as Amended; Notice of Filing

This is to provide notice of filing and to invite comments on or before April 2, 2004, with regard to the Petition described below.

FedEx Trade Networks Transport & Brokerage, Inc. (''Petitioner'') has petitioned, pursuant to Section 16 of the Shipping Act of 1984, 46 U.S.C. app. § 1715, for an exemption from the tariff publishing and adherence requirements of the Shipping Act in order to permit Petitioner to depart from the provisions of its tariff and enter into confidential agreements for ocean transportation services with shippers.

In order for the Commission to make a thorough evaluation of the Petition, interested persons are requested to submit comments on the Petition no later than April 2, 2004. Comments on this Petition shall consist of an original and 15 copies, be directed to the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001, and be served on Petitioner's counsel

Warren L. Dean, Jr., Thompson Coburn LLP., 1909 K Street, NW., Suite 600, Washington, DC 20006–1167. It is also requested that a copy of the comment be submitted in electronic form (WordPerfect, Word or ASCII) on diskette or e-mailed to *secretary@fmc.gov.*

The Petition will be posted on the Commission's homepage at *http://www.fmc.gov/Docket%20Log/Docket%20Log%20Index.htm.* All comments on the Petition will also be posted on the Commission's homepage at this location. Copies of the Petition also may be obtained by sending a request to the Office of the Secretary by regular mail, e-mail, or by calling (202) 523–5725.

Interested parties may also make oral presentations in this proceeding. At the discretion of individual Commissioners, interested persons may request one-on-one meetings at which they may make presentations describing their views on the Petition. All meetings shall be completed before the close of the comment period. A summary or transcript of each oral presentation will be included in the record and must be submitted to the Secretary of the Commission within 5 days of the meeting. Persons wishing to make oral presentations should contact the Office of the Secretary to secure contact names and numbers for individual Commissioners.

Comments submitted in response to this Notice shall be limited to the merits of this Petition. Commenters shall not use this as an opportunity to submit further comments or replies to Petition Nos. P3–03, P5–03, P7–03, P8–03, P9–03, P1–04 and P2–04 or any replies thereto. The comment period in these petitions is closed and the Commission's rules at 46 CFR 502.74 prohibit replies to replies.

Parties participating in this proceeding may elect to receive service of the Commission's issuances in this proceeding through e-mail in lieu of service by U.S. mail. A party opting for electronic service shall advise the Office of the Secretary in writing and provide an e-mail address where service can be made. Such request should be directed to *secretary@fmc.gov.*

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 04–6394 Filed 3–22–04; 8:45 am]

BILLING CODE 6730–01–P

## FEDERAL MARITIME COMMISSION

### Sunshine Act Meeting

**TIME AND DATE:** 10 a.m.—March 31, 2004.

**PLACE:** 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

**STATUS:** A portion of the meeting will be open to the public and the remainder of the meeting will be closed.

**MATTERS TO BE CONSIDERED:** The open portion of the meeting:

1. *Docket No. 04–02*—Optional rider for proof of additional NVOCC financial responsibility.

The closed portion of the meeting:

1. *Petition No. P3—99*–Petition of China Ocean Shipping (Group) Company for a partial exemption from the Controlled Carrier Act.

2. *Petition No. P4–03*—Petition of China Shipping Container Lines Co., Ltd. for permanent full exemption from the first sentence of section 9(C) of the Shipping Act of 1984.

3. *Petition No. P6–03*—Petition of SINOTRANS Container Lines Co., Ltd. (SINOLINES) for a full exemption from the first sentence of section 9(c) of the Shipping Act of 1984, as amended.

4. *Docket No. 98–14*—Shipping restrictions, requirements and practices of the People's Republic of China.

**CONTACT PERSON FOR MORE INFORMATION:** Bryant L. VanBrakle, Secretary, (202) 523–5725.

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 04–6634 Filed 3–19–04; 3:13 pm]

BILLING CODE 6730–01–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 April 6, 2004.

**A. Federal Reserve Bank of Chicago** (Patrick Wilder, Managing Examiner) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

*1. Mark Bradley Richardson*, Thetford Center, Vermont, and Kimberly Ann Richardson, Atlanta, Georgia, as trustees of the 1988 Irrevocable Trust of Coyn V. Richardson; to acquire additional voting shares of Cowden Bancorp, Inc., Springfield, Illinois, and thereby indirectly acquire Community Banks of Shelby County, Cowden, Illinois.

**B. Federal Reserve Bank of Kansas City** (James Hunter, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

*1. Gary D. and Donna L. Bunch*, both of Edmond, Oklahoma; to retain control of Exchange Bancshares of Moore, Inc., Moore, Oklahoma, and thereby indirectly retain voting shares of Exchange National Bank, Moore, Oklahoma.

Board of Governors of the Federal Reserve System, March 17, 2004.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 04–6411 Filed 3–22–04; 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 *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 April 16, 2004.

**A. Federal Reserve Bank of Chicago** (Patrick Wilder, Managing Examiner) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

*1. Community State Bank Employee Stock Ownership Plan and Trust*, Union Grove, Wisconsin; to increase it ownership to at least 31.90 percent of the voting shares of Union Bancorporation, Inc., Union Grove, Wisconsin, and thereby indirectly acquire Community State Bank, Union Grove, Wisconsin.

Board of Governors of the Federal Reserve System, March 17, 2004.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 04–6412 Filed 3–22–04; 8:45 am]

**BILLING CODE 6210–01–S**

## FEDERAL TRADE COMMISSION

**[File No. 012 3248]**

## Creative Health Institute, Inc., et al.; Analysis to Aid Public Comment

**AGENCY:** Federal Trade Commission

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before April 16, 2004.

**ADDRESSES:** Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed in the Supplementary Information section.

**FOR FURTHER INFORMATION CONTACT:** Heather Hippsley or Shira Modell, FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3285 or 326–3116.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 17, 2004), on the World Wide Web, at *http://www.ftc.gov/os/2004/03/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

### Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Creative Health Institute, Inc., and Kyl L. Smith, individually and as an officer of the corporation.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves practices relating to the advertising and promotion of Focus Factor, a dietary supplement containing, among other things, vitamins, minerals, botanicals, and amino acids. Marketing materials for Focus Factor claimed that the product enhanced brain function and improved the focus, memory, mood, concentration, and energy of children, adults, and seniors.

According to the FTC complaint, the respondents failed to have substantiation for their claims that Focus Factor: (a) Improves the focus, memory, and concentration of healthy adults; (b) alleviates stress and combats the fatigue, irritability and mood swings that healthy adults experience; (c) makes children and teenagers feel more alert, focused, and mentally sharp; (d) improves students' ability to concentrate and their academic performance; (e) improves senior citizens' memory, mental clarity, and energy; (f) improves adults' ability to absorb information in books and to recall facts, figures and names; and (g) works in as little as one to ten days.

The complaint also alleges that the respondents failed to disclose that certain of the endorsers who appeared in advertising for Focus Factor had material connections with the product.

The proposed consent order contains provisions designed to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the order prohibits claims that Focus Factor or any substantially similar product (defined as any ingestible dietary supplement containing one or more specified ingredients): (a) Improves the focus, memory, and concentration of healthy adults; (b) alleviates stress, fatigue, irritability and mood swings in healthy adults; (c) makes children and teenagers feel more alert, focused, and mentally sharp; (d) improves students' ability to concentrate and their academic performance; (e) improves senior citizens' memory, mental clarity, and energy; (f) improves adults' ability to absorb information in books and to recall facts, figures and names; or (g) works in as little as one to ten days, unless the claims are substantiated by competent and reliable scientific evidence.

Part II requires that the respondents possess competent and reliable scientific evidence to support any future claims about the benefits, performance, or efficacy of any food, drug, or dietary supplement for: (a) The brain or any

mental functions or processes (including, but not limited to cognitive function, memory, focus, learning or concentration); (b) stress, anxiety, energy, mood or behavior; (c) academic or business performance; (d) longevity, age-related memory impairment or dementia; or (e) the treatment, cure, mitigation, alleviation of the symptoms, prevention or reduction in the risk of any mental, brain, or central nervous system disease or disorder.

Part III requires disclosure of any material connection that exists between an endorser and the respondents or any other person or entity involved in marketing or selling the food, drug or dietary supplement that is the subject of the endorsement.

Part IV permits any representation for any product that is permitted in labeling for such product by the FDA pursuant to the Nutrition Labeling and Education Act of 1990, and any representation for any drug that is permitted in labeling for such drug under any tentative or final standard promulgated by the FDA or under any new drug application approved by the FDA.

Part V states that nothing in the order shall be constituted as a waiver of the respondents' rights to engage in speech protected by the First Amendment to the Constitution.

Part VI provides for the payment of $60,000 to the Commission.

Part VII requires the respondents to retain certain records for five (5) years after the last date of dissemination of any representation covered by the order: (1) All advertisements and promotional materials containing the representation; (2) all materials relied upon in disseminating the representation; and (3) all evidence in respondents' possession or control that contradicts, qualifies, or calls into question the representation or the basis for the representation.

Part VIII requires the respondents for ten (10) years to provide copies of the order to personnel having responsibilities relating to the subject matter of the order, and to obtain signed copies acknowledging receipt of the order.

Part IX requires that the Commission be notified of changes in corporate structure that might affect compliance obligations arising under the order.

Part X requires that the individual respondent notify the Commission for five (5) years of any changes in employment that might affect his compliance obligations arising under the order.

Part XI requires the respondents to file compliance reports with the Commission.

Part XII provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 04–6460 Filed 3–22–04; 8:45 am]

**BILLING CODE 6750–01–M**

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## FEDERAL TRADE COMMISSION

**[File No. 012 3248]**

## Vital Basics, Inc., et al.; Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before April 16, 2004.

**ADDRESSES:** Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed in the Supplementary Information section.

**FOR FURTHER INFORMATION CONTACT:** Heather Hippsley or Shira Modell, FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3285 or 326–3116.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 17, 2004), on the World Wide Web, at ''*http://www.ftc.gov/os/2004/03/index.htm.*'' A paper copy can be obtained from the FTC Public Reference Room, Room 130–H 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

### Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Vital Basics, Inc., and Robert B. Graham and Michael B. Shane, individually and as officers of the corporation.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves practices relating to the advertising and promotion of two products: Focus Factor and V-Factor Natural Pack. Focus Factor is a dietary supplement containing, among other things, vitamins, minerals, botanicals, and amino acids. Marketing materials for Focus Factor claimed that the product enhanced brain function, and improved the focus, memory, mood, concentration, and energy of children, adults, and seniors. V-Factor Natural

Pack is a dietary supplement containing, among other things, yohimbine and L-arginine that was marketed as a men's sexual performance enhancer.

According to the FTC complaint, the respondents failed to have substantiation for their claims that Focus Factor: (a) Improves the focus, memory, and concentration of healthy adults; (b) alleviates stress and combats the fatigue, irritability and mood swings that healthy adults experience; (c) makes children and teenagers feel more alert, focused, and mentally sharp; (d) improves students' ability to concentrate and their academic performance; (e) improves senior citizens' memory, mental clarity, and energy; (f) improves adults' ability to absorb information in books and to recall facts, figures and names; and (g) works in as little as one to ten days.

The complaint further alleges that the respondents failed to have substantiation for their claims that V-Factor Natural Pack is safe for virtually all men, and falsely represented that a clinical study of the V-Factor Natural Pack conducted by Dr. Carlon Colker proves that V-Factor is safe and is effective at improving sexual response and function.

Finally, the complaint alleges that the respondents: (1) Failed to disclose that certain of the consumer and expert endorsers who appeared in advertising for Focus Factor had material connections with the companies and individuals marketing the product, and that other consumer endorsements were solicited by the promise of a free 6-month supply of Focus Factor to those individuals whose testimonials were used in the company's advertising; and (2) misrepresented that certain radio infomercials were independent radio programs, not paid commercial advertising.

The proposed consent order contains provisions designed to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the order prohibits representations that Focus Factor or any substantially similar product (defined as any ingestable dietary supplement containing one or more specified ingredients): (a) Improves the focus, memory, and concentration of healthy adults; (b) alleviates stress, fatigue, irritability and mood swings in healthy adults; (c) makes children and teenagers feel more alert, focused, and mentally sharp; (d) improves students' ability to concentrate and their academic performance; (e) improves senior citizens' memory, mental clarity, and energy; (f) improves adults' ability to absorb information in books and to recall facts, figures and names; or (g) works in as little as one to ten days, unless the claims are substantiated by competent and reliable scientific evidence.

Part II requires that the respondents possess competent and reliable scientific evidence to support any future claims about the safety, performance, benefits, or efficacy of any food, drug, or dietary supplement for: (a) The brain or any mental functions or processes (including, but not limited to cognitive function, memory, focus, learning or concentration), stress, anxiety, energy, mood or behavior, academic or business performance, longevity, age-related memory impairment or dementia; (b) sexual response, function, enhancement, or performance; or (c) the treatment, cure, mitigation, or prevention, of any disorder. Although the order does not prohibit the trade name ''Focus Factor,'' it does require the respondents to have competent and reliable scientific evidence to substantiate any covered claims conveyed directly or by implication through the use of the product name.

Part III requires that the respondents possess competent and reliable scientific evidence to support any future claims that V-Factor Natural Pack or any product containing yohimbine is safe.

Part IV prohibits any misrepresentation of the existence, contents, validity, results, conclusions, or interpretations of any test or study, in connection with the marketing of sale of any product or program.

Part V requires disclosure of any material connection that exists between an endorser and the respondents or any other person or entity involved in marketing or selling the product or program that is the subject of the endorsement.

Part VI prohibits the creation or dissemination of any advertisement that misrepresents that it is not a paid advertisement, and requires that specific disclosures be included in any video or radio advertisement that is at least fifteen minutes in length.

Part VII permits any representation for any product that is permitted in labeling for such product by the FDA pursuant to the Nutrition Labeling and Education Act of 1990.

Part VII provides for the payment of $1 million to the Commission.

Part IX requires the respondents to retain certain records for five (5) years after the last date of dissemination of any representation covered by the order: (1) All advertisements and promotional materials containing the representation; (2) all materials relied upon in disseminating the representation; and (3) all evidence in respondents' possession or control that contradicts, qualifies, or calls into question the representation or the basis for the representation.

Part X requires the respondents for ten (10) years to provide copies of the order to personnel having responsibilities relating to the subject matter of the order, and to obtain signed copies acknowledging receipt of the order.

Part XI requires that the Commission be notified of changes in corporate structure that might affect compliance obligations arising under the order.

Part XII requires that the individual respondents notify the Commission for five (5) years of any changes in employment that might affect their compliance obligations arising under the order.

Part XIII requires the respondents to file compliance reports with the Commission.

Part XIV provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 04–6461 Filed 3–22–04; 8:45 am]

BILLING CODE 6750–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Notice of Establishment

The Secretary of Health and Human Services (HHS) has determined that the establishment of the National Science Advisory Board for Biosecurity (Committee) is necessary and in the public interest in connection with the duties of the Administration and that such duties can best be performed through the advice and counsel of such a group.

This Committee shall advise the Secretary of Health and Human Services; the Director, National Institutes of Health; and the heads of all federal departments and agencies that conduct or support life sciences research. The Committee will advise on and recommend specific strategies for the efficient and effective oversight of dual use biological research, taking into consideration both national security

concerns and the needs of the research community.

The Committee will be composed of not more than 25 voting, non-government subject matter experts, as well as ex officio members from federal departments and agencies that conduct or support life science research. Members will be appointed by the Secretary, HHS, in consultation with the heads of federal departments and agencies represented on the Committee in ex officio capacity.

Unless renewed by appropriate action prior to its expiration, the Charter for the National Science Advisory Board for Biosecurity will expire two years from the date of establishment.

Dated: March 15, 2004.

**Elias A. Zerhouni,**

*Director, National Institutes of Health.*

[FR Doc. 04–6355 Filed 3–22–04; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Center for Research Resources Special Emphasis Panel; Science Education Partnership Award.

*Date:* June 29–30, 2004.

*Time:* June 29, 2004, 8 a.m. to adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Guo Zhang, PhD, MPH, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, 6701 Democracy Boulevard, Room 1064, Bethesda, MD 20817, 301–435–0812, *zhanggu@mail.nih.gov.*

(Catalogue of Federal Democratic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6366 Filed 3–22–04; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Research Resources; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Center for Research Resources Special Emphasis Panel, Comparative Medicine.

*Date:* March 30, 2004.

*Time:* 12 p.m. to Adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* One Democracy Plaza, 6701 Democracy Blvd., Bethesda, MD 20892.

*Contact Person:* Guo Zhang, PhD, MPH, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, 6701 Democracy Boulevard, 1 Democracy Plaza, Room 1064, Bethesda, MD 20814–9692, (301) 435–0812, *zhanggu@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Center for Research Resources Special Emphasis Panel, Conference Grants.

*Date:* March 31, 2004.

*Time:* 8 a.m. to Adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* One Democracy Plaza, Office of Review, 6701 Democracy Blvd., 9th Floor Conference Room, Bethesda, MD 20892.

*Contact Person:* Sheryl K. Brining, PhD, Director, Office of Review, National Center for Research Resources, National Institutes of Health, 6701 Democracy Boulevard, Rm. 1074, Bethesda, MD 20892–4874, (301) 435–0809, *sb44k@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Center for Research Resources Special Emphasis Panel; Clinical Research.

*Date:* April 1, 2004.

*Time:* 8 a.m. to Adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

*Contact Person:* Guo Zhang, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, 6701 Democracy Boulevard, Room 1064, Bethesda, MD 20817, 301–435–0812, *zhanggu@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6367 Filed 3–22–04; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, ''Blending Research and Practice''.

*Date:* April 14, 2004.

*Time:* 9 a.m. to 4 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Richard C. Harrison, Chief, Contract Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, 301–435–1437.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards; and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6356 Filed 3–22–04; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings:

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Innovative Partnerships in Type I Diabetes Research.

*Date:* March 29–30, 2004.

*Time:* 6:30 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

*Contact Person:* Michele L. Barnard, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Amphotericin Study.

*Date:* April 19, 2004.

*Time:* 1:30 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Maria E. Davila-Bloom, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Translation Research for the Prevention and Control of Diabetes.

*Date:* April 27–28, 2004.

*Time:* 6:30 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

*Contact Person:* Michele L. Barnard, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6357 Filed 3–22–04; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), little 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, ZAA1 BB (10) R01 Application Reviews.

*Date:* March 23, 2004.

*Time:* 10 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, NIAAA, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Dorita Sewell, PhD, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Office of Extramural Research, 5635 Fishers Lane, Bethesda, MD 20892–9304, (301) 443–2890, *dsewell@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting do to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Review of RO1 Application by ZAA1 BB (11).

*Date:* March 23, 2004.

*Time:* 2 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, NIAAA, 5635 Fishers Lane, 3041, Rockville MD 20892 (Telephone Conference Call).

*Contact Person:* Dorita Sewell, PhD, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Office of Extramural Research, 5635 Fishers Lane, Bethesda, MD 20892–9304, (301) 443–2890, *dsewell@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting do to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, ZAA1 BB (13) R21 Application Review.

*Date:* March 23, 2004.

*Time:* 3:30 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, NIAAA, 5635 Fishers Lane, 3043, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Dorita Sewell, PhD, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Office of Extramural Research, 5635 Fishers Lane, Bethesda, MD 20892–9304, (301) 443–2890, *dsewell@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Review of R21 Application.

*Date:* March 29, 2004.

*Time:* 2 p.m. to 3 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, NIAAA, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol, Abuse and Alcoholism, Bethesda, MD 20892–9304, (301) 443–2926, *skandasa@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, ZAA1 EE (11) Special Emphasis Panel Review of Grant Applications.
*Date:* April 5, 2004.
*Time:* 2 p.m. to 3:30 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, NIAAA, Fishers Lane, 6535 Fishers Lane, 3043, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Dorita Sewell, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol, Abuse and Alcoholism, National Institutes of Health, 6000 Executive Boulevard, Suite 409, Bethesda, MD 20892, 301–443–2890, *dsewell@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6359 Filed 3–22–04; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(b)(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, Services and Interventions Research Infrastructure Program.
*Date:* April 8, 2004.
*Time:* 9 a.m. to 2 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
*Contact Person:* Marina Broitman, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mbroitma@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, NIMH Research Career Awards.
*Date:* April 8, 2004.
*Time:* 10 a.m. to 12 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Bethesda, MD 20852 (Telephone Conference Call).
*Contact Person:* Houmam H. Araj, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9608, Bethesda, MD 20892–9608, 301–443–1340, *hara@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, T32 Reviews.
*Date:* April 8, 2004.
*Time:* 3:30 p.m. to 4:30 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Bethesda, MD 20852 (Telephone Conference Call).
*Contact Person:* Martha Ann Carey, PhD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301–443–1606, *mcarey@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6360 Filed 3–22–04; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel, Prenatal Programing of Reproductive Health and Disease.
*Date:* April 14, 2004.
*Time:* 8:30 a.m. to 2 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
*Contact Person:* Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–6884, *ranhandj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6361 Filed 3–22–04; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel 2004 Symposium on ''Pollutants and Heart Disease.''

*Date:* April 9, 2004.

*Time:* 1 p.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, EC–122, Research Triangle Park, NC 27709 (Telephone Conference Call).

*Contact Person:* RoseAnne M McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel, International Conference on Benzene-induced Leukemias.

*Date:* April 9, 2004.

*Time:* 2 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, EC–122, Research Triangle Park, NC 27709 (Telephone Conference Call).

*Contact Person:* RoseAnne M McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6364 Filed 3–22–04; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel, Student Travel to the Environmental Mutagen Society.

*Date:* April 6, 2004.

*Time:* 1 p.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, EC–122, Research Triangle Park, NC 27709 (Telephone Conference Call).

*Contact Person:* RoseAnne M McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel, ISEA 2004 Conference.

*Date:* April 6, 2004.

*Time:* 2 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, EC–122, Research Triangle Park, NC 27709 (Telephone Conference Call).

*Contact Person:* RoseAnne M. McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6365 Filed 3–22–04; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and

the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel, NeuroAIDS Studies.

*Date:* April 5, 2004.

*Time:* 8 a.m. to 5 p.m.

To review and evaluate grant applications.

*Place:* Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

*Contact Person:* Andrea Sawczuk, DDS, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/DHHS, 6001 Executive Boulevard, Room #3208, Bethesda, MD 20892, 301–496–0660, *sawczuka@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6368 Filed 3–22–04; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provision set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets for commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, SBIR–''Pharmacovigilance Database for Anti-Addiction Medications''.

*Date:* March 25, 2004.

*Time:* 2:30 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institutes of Health, Office of Extramural Affairs, NIH, 6101 Executive Boulevard, Room 220, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, ''Analytical Chemistry and Stability Testing of Treatment Drugs''.

*Date:* March 31, 2004.

*Time:* 9 a.m. to 4 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6369 Filed 3–22–04; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, ZRG1 CVS SBIR.

*Date:* March 19, 2004.

*Time:* 10 a.m. to 10:30 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select, 8120 Wisconsin Ave., Bethesda, MD 20814.

*Contact Person:* Delia Tang, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, 301–435–2506, *tangd@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Crystallography High End Instrumentation Panel.

*Date:* March 26, 2004.

*Time:* 2 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4178, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Skeletal Muscle Biology Exercise Physiology Member Conflict.

*Date:* April 2, 2004.

*Time:* 9 a.m. to 10 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Daniel f. McDonald, PhD, Scientific Review Administrator, Chief, Musculoskeletal, Oral, and Skin Sciences IRG, Center for Scientific Review, NIH, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435–1215, *mcdonald@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Gas Emissions and Detection.

*Date:* April 8, 2004.

*Time:* 1:30 p.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Sally Ann Amero, PhD, Scientific Review Administrator, Center for Scientific Review, Genetic Sciences Integrated Review Group, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7826, Bethesda, MD 20892, 301–435–1159, *ameros@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6358 Filed 3–22–04; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, April 1, 2004, 12 p.m. to April 1, 2004, 2 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on March 11, 2004, 69 FR 11646–11647.

The meeting will be held March 16, 2004. The meeting time and location remain the same. The meeting is closed to the public.

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6363 Filed 3–22–04; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Chemosensory Science.

*Date:* March 17, 2004.

*Time:* 12:30 p.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255, *kenshalod@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Adult Psychopathology

*Date:* March 23, 2004.

*Time:* 2 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 435–0902, *krausem@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Regulation of Neural Stem and Progenitor Cells.

*Date:* March 25, 2004.

*Time:* 2 p.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Lawrence Baizer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7850, Bethesda, MD 20892, (301) 435–1257, *baizerl@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, MDCN Fellowship Review Goup-B Glial Physiology.

*Date:* March 26, 2004.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

*Contact Person:* Carole L. Jelsema, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7850, Bethesda, MD 20892, (301) 435–1248, *jelsemac@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, ZRG1 PBC 5 Plant Physiology.

*Date:* March 30, 2004.

*Time:* 1:30 p.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Zakir Bengali, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, MSC 7842, Bethesda, MD 20892, (301) 435–1742.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Retinal Organization.

*Date:* March 30, 2004.

*Time:* 12: p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Marcia Steinberg, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5140, MSC 7840, Bethesda, MD 20892, (301) 435–1023, *steinberm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, SEP to Review BSPH/BSCH Overflow Applications.

*Date:* April 7, 2004.

*Time:* 8 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Radisson Barcello, 2121 P Street, NW., Washington, DC 20037.

*Contact Person:* Mark P. Rubert, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, (301) 435–1775, *rubertm@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, ZRG1 EMNR B (07) Diabetes and Obesity Model Systems.

*Date:* April 13, 2004.

*Time:* 3 p.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Ann A. Jerkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7892, Bethesda, MD 20892, (301) 435–4514, *jerkinsa@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel Imaging.
*Date:* April 14, 2004.
*Time:* 9 a.m. to 11 a.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
*Contact Person:* Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, (301) 435–1242, *driscolb@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel Cannabinoids.
*Date:* April 14, 2004.
*Time:* 3 p.m. to 4 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Marcia Litwack, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6206, MSC 7801, Bethesda, MD 20892, (301) 435–1719.

*Name of Committee:* Center for Scientific Review Special emphasis Panel, Visual Cortex.
*Date:* April 15, 2004.
*Time:* 2:30 p.m. to 4 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, (301) 435–1242, *driscolb@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Pneumococcal.
*Date:* April 15, 2004.
*Time:* 4 p.m. to 6 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Rolf Menzel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, (301) 435–0952, *menzelro@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel SBIR Neuro Tech.
*Date:* April 16, 2004.
*Time:* 8:30 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.
*Contact Person:* Michael A Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1265, *langm@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, AIDS Opportunistic Infections and Cancer.
*Date:* April 16, 2004.
*Time:* 11 a.m. to 2 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference).
*Contact Person:* Abraham P. Bautista, MS, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892, (301) 435–1506, *bautista@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Dental-Related SBIR/STTR Panel.
*Date:* April 19, 2004.
*Time:* 10 a.m. to 3 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Quality Hotel Courthouse Plaza, 1200 N. Courthouse Rd., Arlington, VA 22201.
*Contact Person:* J. Terrell Hoffeld, PhD, DDS, Dental Officer, UPHS, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892–7816, (301) 435–1781, *th88q@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, SBIR Skeletal Muscle Review.
*Date:* April 21, 2004.
*Time:* 2 p.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference).
*Contact Person:* Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health.

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6370 Filed 3–22–04; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Office of the Director, National Institutes of Health, Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee on Research on Women's Health.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* Advisory Committee on Research on Women's Health.
*Date:* April 1–2, 2004.
*Time:* 8 a.m. to 12:30 p.m.
*Agenda:* To provide advice to the Office of Research on Women's Health (ORWH) on appropriate research activities with respect to women's health and related studies to be undertaken by the national research institutes, to provide recommendations regarding ORWH activities, to meet the mandates of the office, and for discussion of scientific issues.
*Place:* National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.
*Contact Person:* Joyce Rudick, Director, Programs & Management, Office of Research on Women's Health, Office of the Director, National Institutes of Health, Building 1, Room 201, Bethesda, MD 20892, 301/402–1770.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page *http://www4.od.nih.gov/orwh/*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research

Loan Repayment Program for individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: March 16, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04–6362 Filed 3–22–04; 8:45 am]

**BILLING CODE 4140–01–M**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### 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 04–001.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.243.

*Due Date for Applications:* May 28, 2004.

**[Note:** Letters from State Single Point of Contact (SPOC) in response to E.O. 12372 are due July 27, 2004.]

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT), and Center for Mental Health Services (CMHS), announce the availability of FY 2004 funds for the Development of Comprehensive Drug/Alcohol and Mental Health Treatment Systems for Persons Who are Homeless (Short Title: Treatment for Homeless). A synopsis of this funding opportunity, as well as many other Federal Government funding opportunities, are also available at the Internet site: *www.grants.gov*.

For complete instructions, potential applicants must obtain a copy of SAMHSA's standard Services Grants Program Announcement, SVC–04 PA (MOD), and the PHS 5161–1 (Rev. 7/00) application form before preparing and submitting an application. The SVC–04 PA (MOD) describes the general program design and provides instructions for applying for all SAMHSA Services Grants, including the Treatment for Homeless program. 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. The services implemented through SAMHSA's Services Grants must incorporate the best objective information available regarding effectiveness and acceptability. In general, SAMHSA's Services Grants are appropriate for applicants seeking Federal support to implement substance abuse and mental health services that have a strong evidence-base for effectiveness. SAMHSA's Services Grants must be used primarily to support direct service delivery. SAMHSA expects that the services will be sustained beyond the term of the grant. Additional instructions and specific requirements for this funding opportunity are described below.

### I. Funding Opportunity Description

**Authority:** Section 506 of the Public Health Service Act, as amended, and subject to the availability of funds.

The purpose of Treatment for Homeless grants 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.

*Background:* It is estimated that up to 600,000 persons are homeless on any given night. Persons with substance abuse disorders have an elevated risk for homelessness and for being homeless for long periods. Persons who are homeless have an elevated risk of infectious diseases associated with substance abuse, such as HIV/AIDS and hepatitis. One-half of homeless adults have histories of alcohol abuse or dependence and one-third have histories of drug abuse. About 20–25% of homeless adults have lifetime histories of serious mental illness. Between 10–20% have a co-occurring SA/MH disorder. The ''Treatment for Homeless'' program began in FY 2001. Currently, there are 50 projects participating in this program.

### II. Award Information

*1. Estimated Funding Available/Number of Awards:* It is expected that $13.9 million will be available to fund 35 awards in FY 2004. The maximum allowable award is $400,000 in total costs (direct and indirect) per year for up to 5 years. Proposed budgets cannot exceed the allowable amount in any year of the proposed project. The actual amount available for the awards may vary, depending on unanticipated program requirements and the number and quality of the applications received. Annual continuations will depend on the availability of funds, grantee progress in meeting program goals and objectives, and timely submission of required data and reports.

*2. Funding Instrument:* Grant.

### III. Eligibility Information

*1. Eligible Applicants:* Eligibility is restricted by statute to community-based public and private nonprofit entities. These entities include county governments, city or township governments, Federally recognized Native American tribal governments, tribal organizations, community-based nonprofit organizations (including faith-based organizations), and community-based State entities, such as State colleges, universities and hospitals, that propose to provide services under this announcement to the community. States are not eligible to apply under this statute. Current Treatment for Homeless grantees are not eligible to apply under this funding announcement unless their grant ends in September 2004. These eligibility criteria supersede the criteria specified in Section III–1 of the SVC–04 PA (MOD).

Applications for SAMHSA Services Grants must include evidence of experience and credentials as described in Section III–3 of the SVC–04 PA (MOD). Applications that do not include the required evidence will be screened out and will not be reviewed.

*2. Cost Sharing or Matching* is not required.

*3. Other:* Applicants must also meet certain application formatting and submission requirements, or the application will be screened out and will not be reviewed. These requirements are described in Section

IV–2 below, as well as in the SVC–04 PA (MOD).

## IV. Application and Submission Information

*1. Address To Request Application Package*

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 (Treatment for Homeless) and the funding opportunity number (TI 04–001) 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 is also available electronically via SAMHSA's World Wide Web home page: *http://www.samhsa.gov* (Click on ''Grant Opportunities'') and the SVC–04 PA (MOD) is available electronically at *http://www.samhsa.gov/grants/2004/standard/Services/index.asp*.

When submitting an application, be sure to type ''TI 04–001, Treatment for Homeless'' in Item Number 10 on the face page of the application form. Also, SAMHSA applicants are required to provide a DUNS Number on the face page of the application. To obtain a DUNS Number, access the Dun and Bradstreet Web site at *www.dunandbradstreet.com* or call 1–866–705–5711.

Because grantees in the Treatment for Homeless program may use grant funds to provide direct substance abuse services, applicants are required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations, Form SMA 170. This form will be posted on SAMHSA's Web site with the NOFA and provided in the application kits available at NCADI.

*2. Content and Form of Application Submission*

Information including required documents, required application components, and application formatting requirements is available in the SVC–04 PA (MOD) in Section IV–2.

Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review.

—Use the PHS 5161–1 application.

—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 at least 1 week prior to the application deadline will not be reviewed.

—Information provided must be sufficient for review.

—Text must be legible.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Text in the Project Narrative cannot exceed 6 lines per vertical inch.

—Paper must be white paper and 8.5 inches by 11.0 inches in size.

—To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

• Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the SVC–04 PA (MOD).

• Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.

• Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

—The page limit for Appendices stated in the SVC–04 PA (MOD) cannot be exceeded.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

—The 10 application components required for SAMHSA applications should be included. These are:

• Face Page (Standard Form 424, which is in PHS 5161–1)

• Abstract

• Table of Contents

• Budget Form (Standard Form 424A, which is in PHS 5161–1)

• Project Narrative and Supporting Documentation

• Appendices

• Assurances (Standard Form 424B, which is in PHS 5161–1)

• Certifications (a form in PHS 5161–1)

• Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1)

• Checklist (a form in PHS 5161–1)

—Applications should comply with the following requirements:

• Provisions relating to confidentiality, participant protection and the protection of human subjects, as indicated in the SVC–04 PA (MOD).

• Budgetary limitations as indicated in Sections I, II, and IV–5 of the SVC–04 PA (MOD).

• Documentation of nonprofit status as required in the PHS 5161–1.

—Pages should be typed single-spaced with one column per page.

—Pages should not have printing on both sides.

—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 funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper, or 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.

*3. Submission Dates and Times*

Application must be received by May 28, 2004. You will be notified by postal mail that your application has been

received. Additional submission information is available in the SVC–04 PA (MOD) in section IV–3.

*4. Intergovernmental Review*

Applicants for this funding opportunity must comply with Executive Order 12372 (E.O.12372). E.O.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 (MOD) in section IV–4. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and is available at *www.whitehouse.gov/omb/grants/spoc.html*.

*5. Funding Restrictions*

Information concerning funding restrictions is available in the SVC–04 PA (MOD) in section IV–5.

**V. Application Review Information**

*1. Evaluation Criteria*

Applications will be reviewed against the Evaluation Criteria and requirements for the Project Narrative specified in the SVC–04 PA (MOD). The following information describes exceptions or limitations to the SVC–04 PA (MOD) and provides special requirements that pertain only to Treatment for Homeless grants. Applicants for Treatment for Homeless grants are required to discuss the following requirements in their application, in addition to the requirements specified in the SVC–04 PA (MOD).

1.1 In ''Section C: Proposed Implementation Approach'': Applicants must comprehensively describe how treatment services are linked with housing programs and other services for homeless persons, *e.g.*, primary health care.

1.2 In ''Section E: Evaluation and Data'': Applicants are not required to address the sixth bullet regarding 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.

1.3 Treatment for Homeless grantees are required to provide quarterly progress reports instead of the annual progress reports required by the SVC–04 PA (MOD).

1.4 Treatment for Homeless grantees are required to send the Project Director and the Evaluator to all grantee meetings.

1.5 Performance Measurement: All SAMHSA grantees are required to collect and report certain data, so that SAMHSA can meet its obligations under the Government Performance and Results Act (GPRA). Grantees of the Treatment for Homeless program will be required to report performance in several areas. Applicants must document their ability to collect and report the required data in ''Section E: Evaluation and Data'' of their applications. All Treatment for Homeless grant applicants must document their ability to collect and report data using the Targeted Capacity Expansion Client Level GPRA tool, which can be found at *www.csat-gpra.samhsa.gov* (click on ''Data Collection Tools/Instructions''), along with instructions for completing it. Hard copies are available in the application kits distributed by SAMHSA's National Clearinghouse for Alcohol and Drug Information. GPRA data must be collected at baseline (*i.e.*, the client's entry into the project), 6 months after the baseline, and 12 months after the baseline. Projects serving adolescents also must collect 3 month post-baseline data to capture the nuances of change particular to this population. GPRA data must be entered into the GPRA web system within 7 business days of the forms being completed. In addition, 80% of the participants must be followed up. GPRA data are to be collected and then entered into CSAT's GPRA Data Entry and Reporting System (*www.csat-gpra.samhsa.gov*). Training and technical assistance on data collecting, tracking, and follow-up, as well as data entry, will be provided by CSAT.

*2. Review and Selection Process*

Information about the review and selection process is available in the SVC–04 PA (MOD) in section V–2.

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.

**VI. Award Administration Information**

Award administration information, including award notices, administrative and national policy requirements, and reporting requirements are available in the SVC–04 PA (MOD) in section VI. SAMHSA's standard terms and conditions are available at *www.samhsa.gov/grants/2004/useful_info.asp*.

**VII. Agency Contacts for Additional Information**

*For questions concerning program issues, contact:* Joanne Gampel, M.A., SAMHSA/Center for Substance Abuse Treatment/DSCA, 5600 Fishers Lane, Rockwall II, Suite 8–140, Rockville, MD 20857; 301–443–7945; e-mail: *jgampel@samhsa.gov* or Gigi Belanger, SAMHSA/Center for Mental Health Services/DSSI, 5600 Fishers Lane, Room 11C–05, Rockville, MD 20857; 301–443–1391; e-mail: *gbelange@samhsa.gov*.

*For questions on grants management issues, contact:* Kathleen Sample, SAMHSA Division of Grants Management, 5600 Fishers Lane, Rockwall II, Suite 630, Rockville, MD 20857; 301–443–9667; e-mail *ksample@samhsa.gov*.

Dated: March 17, 2004.

**Margaret M. Gilliam,**

*Acting Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 04–6371 Filed 3–22–04; 8:45 am]

BILLING CODE 4162–20–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Funding Opportunity Title: National Training and Technical Assistance Center for Child and Adolescent Mental Health Cooperative Agreement (Short Title: NTTAC)

*Announcement Type:* Initial.

*Funding Opportunity Number:* SM 04–002.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.243.

*Due Date for Applications:* May 21, 2004.

**Note:** Letters from State Single Point of Contact (SPOC) in response to E.O. 12372 are due July 20, 2004.

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS) announces the availability of FY 2004 funds for a National Training and Technical Assistance Center for Child and Adolescent Mental Health (NTTAC) Cooperative Agreement. A synopsis of this funding opportunity, as well as many other Federal Government funding opportunities, is also available at the Internet site: *http://www.grants.gov*.

For complete instructions, potential applicants must obtain a copy of SAMHSA's standard Infrastructure

Grants Program Announcement (INF–04 PA [MOD]), and the PHS 5161–1 (Rev. 7/00) application form before preparing and submitting an application. The INF–04 PA (MOD) describes the general program design and provides instructions for applying for all SAMHSA Infrastructure Grants, including the NTTAC Cooperative Agreement. Additional instructions and specific requirements to the National Training and Technical Assistance Center for Child and Adolescent Mental Health Cooperative Agreement are described below.

## I. Funding Opportunity Description

**Authority:** Section 520 A of the Public Health Service Act, as amended and subject to the availability of funds.

The National Training and Technical Assistance Center for Child and Adolescent Mental Health (NTTAC) Cooperative Agreement is one of SAMHSA's Infrastructure Grants. SAMHSA's Infrastructure Grants provide funds to increase the capacity of mental health and/or substance abuse service systems to support programs and services. The NTTAC is a crucial link in CMHS's ongoing efforts to implement the President's New Freedom Commission on Mental Health Report. Therefore, activities carried out under this announcement must be focused on strengthening the capacity of States and communities to transform their mental health system to meet the complex needs of children and youth with, or at risk for, serious emotional disturbances and/or co-occurring substance abuse and mental health disorders and their families, within home- and community-based settings.

The NTTAC will serve as a national resource and training center to promote the planning and development of child and family-centered, culturally competent, and coordinated systems of care for children and adolescents with, or at risk for, a serious emotional disturbance and their families. The NTTAC will provide access to information and expertise on systems of care development, implementation, and policy issues through a variety of knowledge distribution approaches and technologies. Priority areas of focus will include: State planning and policy development to implement family-driven, comprehensive systems of care across child-serving systems; family and youth-centered care planning; financing strategies in public and private sectors; data management and accountability; workforce and leadership development; evidence-based practice; early intervention including screening and assessment; integration of care with primary health, child-care, schools, child welfare, juvenile justice, and substance abuse; cultural, racial, and geographic disparities; and technology coordination and dissemination. NTTAC will provide targeted technical assistance to State and local child-serving agencies, Indian tribes and tribal organizations, Pacific Island jurisdictions to provide support for integrated, responsive mental health delivery systems for children, adolescents and their families (with families being broadly defined to include a variety of caretakers such as grandparents and extended kinship relationships). These activities will serve to implement the following goals set out by the President's New Freedom Commission Report: create a comprehensive state mental health plan; promote the mental health of young children; advance evidence-based practices using dissemination and demonstration projects and create a public-private partnership to guide their implementation; improve and expand the workforce providing evidence-based mental health services and supports; develop and implement integrated electronic health record and personal health information systems; create individualized plans of care for children and their families; address cultural, racial, and geographic disparities; and promote early mental health screening, assessment and referral.

*Background:* The NTTAC will serve a key role in furthering Federal efforts begun over 15 years ago, and now reiterated in the President's New Freedom Commission Report, to promote the development of more accessible and appropriate home and community-based mental health and mental health service delivery systems for children, adolescents, and their families. Significant advances have been achieved in understanding and in communicating what comprises an effective network of services and supports. Outcome data on systems of care continue to show the system of care model decreases use of inpatient care, increases school attendance and performance, and decreases contacts with the juvenile justice system. Several States have adopted statutes mandating this kind of approach to treatment for children and adolescents with serious emotional disturbances and their families.

## II. Award Information

*1. Estimated Funding Available/ Number of Awards:* It is expected that up to a total of $3.45 million will be available to fund one NTTAC award in FY 2004. Of this total amount, approximately $250,000 is included to provide technical assistance for state capacity building to programs funded under the Child and Adolescent Mental Health and Substance Abuse State Infrastructure Grants, SM 04–006 and approximately $200,000 is included to address needs of grantees in the Safe Schools/Healthy Students initiative jointly funded through the Department of Education. An additional $150,000 may be available through agreement with another federal agency to support a position for an expert in issues related to child welfare and mental health. Application budgets should include these additional dollars, a corresponding plan for the staff position and related support incorporating the expert into project activities. The maximum allowable award is $3.6 million in total costs (direct and indirect) per year for up to five years. Proposed budgets cannot exceed the allowable amount in any year of the proposed project. Annual continuations will depend on the availability of funds, grantee progress in meeting program goals and objectives, and timely submission of required data and reports.

*2. Funding Instrument:* Cooperative Agreement.

*Role and Responsibilities of Federal Staff:* It is the responsibility of the Government Project Officer (GPO) who is overseeing the cooperative agreement to appropriately discharge his/her responsibilities to monitor the overall progress of the program. The GPO's role for this cooperative agreement includes: (1) Providing technical assistance to the grantee in implementing project activities throughout the course of the project; (2) reviewing and approving each stage of project activities; and (3) providing technical monitoring to permit oversight of the project activities. The project officer may conduct site visits to monitor the development of the training and technical assistance activities and/or engage consultants to advise on programmatic issues and conduct site visits.

*Role and Responsibilities of the Grantee:* The grantee is expected to participate and cooperate fully with CMHS staff in the implementation and evaluation of the project. Activities include: (1) Compliance with all aspects of the terms and conditions of the cooperative agreement; (2) cooperation with CMHS staff in accepting guidance and responding to requests for data; (3) participation on policy steering committee or other work groups established to facilitate accomplishment of the project goals; (4) authorship or co-authorship of publications to make

results of the project available to other programs impacting children's mental health.

**III. Eligibility Information**

*1. 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 prohibits grants to for-profit organizations. These eligibility criteria supersede the criteria specified in Section III–1 of the INF–04 PA (MOD).

*2. Cost Sharing or Matching* is not required.

*3. Other:* Applicants must also meet certain application formatting and submission requirements or the application will be screened out and will not be reviewed. These requirements are described in Section IV–2 below as well as in the INF–04 PA (MOD).

**IV. Application and Submission Information**

*1. Address to Request Application Package:* Complete application kits may be obtained from the National Mental Health Information Center at 1–800–789–2647. When requesting an application kit for this program, the applicant must specify the funding opportunity title (NTTAC) and number (SM 04–002). All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit. The PHS 5161–1 application form is also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov* (Click on ''Grant Opportunities'') and the INF–04 PA (MOD) is available electronically at *http://www.samhsa.gov/grants/2004/standard/Infrastructure/index.asp.*

When submitting an application, be sure to type ''SM 04–002/NTTAC'' in Item Number 10 on the face page of the application form. Also, SAMHSA applicants are required to provide a DUNS number on the face page of the application. To obtain a DUNS Number, access the Dun and Bradstreet Web site at *http://www.dunandbradstreet.com* or call 1–866–705–5711.

*2. Content and Form of Application Submission:* Information including required documents, required application components, and application formatting requirements is available in the INF–04 PA (MOD) in Section IV–2.

*Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications*

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review.

—Use the PHS 5161–1 application.

—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 at least 1 week prior to the application deadline will not be reviewed.

—Information provided must be sufficient for review.

—Text must be legible.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Text in the Project Narrative cannot exceed 6 lines per vertical inch.

—Paper must be white paper and 8.5 inches by 11.0 inches in size.

—To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

• Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the specific funding announcement.

• Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.

• Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

—The page limit for Appendices stated in the specific funding announcement cannot be exceeded. To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

—The 10 application components required for SAMHSA applications should be included. These are:

• Face Page (Standard Form 424, which is in PHS 5161–1)

• Abstract.

• Table of Contents.

• Budget Form (Standard Form 424A, which is in PHS 5161–1).

• Project Narrative and Supporting Documentation.

• Appendices.

• Assurances (Standard Form 424B, which is in PHS 5161–1).

• Certifications (a form in PHS 5161–1).

• Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1).

• Checklist (a form in PHS 5161–1).

—Applications should comply with the following requirements:

• Provisions relating to confidentiality, participant protection and the protection of human subjects, as indicated in the specific funding announcement.

• Budgetary limitations as indicated in Sections I, II, and IV–5 of the specific funding announcement.

• Documentation of nonprofit status as required in the PHS 5161–1.

—Pages should be typed single-spaced with one column per page.

—Pages should not have printing on both sides.

—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 funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper, or 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.

3. *Submission Dates and Times:* Applications must be received by May 21, 2004. You will be notified by postal mail that your application has been received. Additional submission information is available in the INF–04 PA (MOD) in Section IV–3.

4. *Intergovernmental Review:* Applicants for this funding opportunity must comply with Executive Order 12372 (E.O.12372). E.O.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 INF–04 PA (MOD) in Section IV–4. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and is available at *http://www.whitehouse.gov/omb/grants/spoc.html.*

5. *Funding Restrictions:* Information concerning funding restrictions is available in the INF–04 PA (MOD) in Section IV–5.

## V. Application Review Information

*1. Evaluation Criteria:* Applications will be reviewed against the Evaluation Criteria and requirements for the Project Narrative specified in the INF–04 PA (MOD). The following information describes exceptions or limitations to the INF–04 PA (MOD) and provides special requirements that pertain only to NTTAC grants. Applicants must discuss the following requirements in their applications, in addition to the requirements specified in the INF–04 PA (MOD):

*1.1 In ''Section A: Statement of Need'':* Applicants must address the need for training and technical assistance on children's mental health in States, territories and tribal nations, including the need for training and technical assistance addressing the priority focus areas referenced in Section I. ''Funding Opportunity Description''.

*1.2 In ''Section B: Proposed Approach'':*

a. Applicants must describe plans for implementing the following required activities in a manner that addresses the needs identified in Section A : training institutes, policy academies, leadership development, efforts to address cultural competence, and other training and technical assistance activities.

b. Applicants must provide evidence that the proposed activities meet the infrastructure needs and that the proposed infrastructure development strategy will meet project goals and objectives.

c. Applicants must describe plans for integrating the priority focus areas into the planned activities for the project.

d. Applicants are not required to provide a plan to secure resources to sustain the proposed infrastructure enhancements when Federal funding ends.

*1.3 Additional Information:* Applicants should refer to the Notice of Funding Availability for Child and Adolescent Mental Health and Substance Abuse State Infrastructure Grants, SM 04–006, for information on requirements for providing technical assistance for state capacity building to programs funded under SM 04–006, available at *http://www.samhsa.gov.*

*1.4 Performance Measurement:* All SAMHSA grantees are required to collect and report certain data, so that SAMHSA can meet its obligations under the Government Performance and Results Act (GPRA). Grantees of the NTTAC program will be required to report performance in several areas. Applicants must document their ability to collect and report the required data in ''Section D: Evaluation and Data'' of their applications, including the following indicators:

- Increase outreach to prospective technical assistance recipients, including community-based and faith-based organizations.
- Increase the number of technical assistance recipients that demonstrate inclusion of family members and youth in planning, policy, and service delivery decisions.
- Increase the use of evidence-based models/interventions by technical assistance recipients.
- Increase the number of technical assistance recipients using a system-of-care approach. SAMHSA will work with grantees to finalize a standard methodology related to these indicators shortly after award.

*2. Review and Selection Process:* Information about the review and selection process is available in the INF–04 PA (MOD) in Section V–2.

## VI. Award Administration Information

Award administration information, including award notices, administrative and national policy requirements, and reporting requirements are available in the INF–04 PA (MOD) in Section VI. SAMHSA's standard terms and conditions are available at *http://www.samhsa.gov/grants/2004/useful_info.asp.*

## VII. Agency Contact for Additional Information

For questions concerning program issues, contact: Michele Herman, SAMHSA/CMHS, Child, Adolescent and Family Branch, 5600 Fishers Lane, Room 11C–16; Rockville, MD 20857; 301–443–1333; E-mail: *mherman@samhsa.gov.* For questions on grants management issues, contact: Gwendolyn Simpson, SAMHSA/Division of Grants Management, 5600 Fishers Lane, Room 13–103; Rockville, MD 20857; 301 443–4456; E-mail: *gsimpson@samhsa.gov.*

Dated: March 17, 2004.

**Margaret M. Gilliam,**

*Acting Director, Office of Policy Planning and Budget, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 04–6372 Filed 3–22–04; 8:45 am]

BILLING CODE 4162–20–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Funding Opportunity Title: State Incentive Grants to Build Capacity for Alternatives to Restraint and Seclusion (Short Title: Alternatives to Restraint and Seclusion SIG)

*Announcement Type:* Initial.

*Funding Opportunity Number:* SM–04–007.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.243.

*Due Date for Applications:* June 1, 2004.

(**Note:** Letters from State Single Point of Contact (SPOC) in response to E.O. 12372 are due August 2, 2004.)

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS), announces the availability of FY 2004 funds for State Incentive Grants to Build Capacity for Alternatives to Restraint and Seclusion. A synopsis of this funding opportunity, as well as many other Federal government funding opportunities, are also available at the Internet site: *www.grants.gov.*

For complete instructions, potential applicants must obtain a copy of SAMHSA's standard Infrastructure Grants Program Announcement (INF–04 PA (MOD)) and the (PHS 5161–1, Rev. 7/00) application form before preparing and submitting an application. The INF–04 PA (MOD) describes the general

program design and provides instructions on how to apply for all SAMHSA Infrastructure Grants, including the Alternatives to Restraint and Seclusion SIG. Additional instructions and requirements specific to the Restraint and Seclusion SIG are described below.

## I. Funding Opportunity Description

**Authority:** Title 4. Public Health and Welfare, chapter 6A—Public Health Service, subchapter III A—Substance Abuse and Mental Health Services Administration, part A Organization and General Authority, as amended, 42 U.S.C. 290aa *et seq.*, the Children's Health Act of 2000, part H, Requirement Relating to the Rights of Residents of Certain Facilities (42 U.S.C. at 290ii–290ii–2), and part I, Requirement Relating to the Rights of Residents of Certain Non Medical, Community-based Facilities for Children and Youth (42 U.S.C. at 290jj–1—290jj–2), and the Protection and Advocacy for Individuals with Mental Illness Act of 1986, as amended, (42 U.S.C. 10801 *et seq.*).

The Alternatives to Restraint and Seclusion SIG program is one of SAMHSA's Infrastructure Grants. SAMHSA's Infrastructure Grants provide funds to increase the capacity of mental health and/or substance abuse service systems to support programs and services.

The purpose of the Alternatives to Restraint and Seclusion SIG program is to support States in their efforts to adopt best practices to reduce and ultimately eliminate the use of restraint and seclusion in institutional and community-based settings that provide mental health services (including services for people with co-occurring substance abuse and mental health disorders). Through the Alternatives to Restraint and Seclusion SIG program, States will: (1) Increase the number of programs that adopt best practices involving alternative approaches to reduce restraint and seclusion, including staff training models and other multi-faceted approaches; and (2) collect data to document the program's impact on reducing seclusion and restraint use and adoption of alternative practices.

*Background:* Seclusion and restraint are often misused in the course of mental health care. Deaths and injuries due to seclusion and restraint are estimated at approximately 150 per annum across the nation. Children with serious emotional disturbances are especially at high risk for deaths and serious injury from these practices. Persons with co-occurring problems also appear at risk, as do elderly adults in nursing homes and other settings. In addition to the very real risk of death and injury, individuals who have experienced previous physical or sexual abuse can suffer further traumatization when subjected to these practices. This effort builds on the existing SAMHSA/CMHS grant program begun in FY 2001, to identify effective alternative practices, including training efforts, to reduce restraint and seclusion practices, and will promote the application of the findings from that grant program. Additional resources related to restraint and seclusion best practices are listed in the Appendix to this document.

## II. Award Information

1. *Estimated Funding Available/Number of Awards:* It is expected that up to $1.9 million will be available to fund up to eight awards in FY 2004. The maximum allowable award is $237,000 in total costs (direct and indirect) per year for up to three years. Proposed budgets cannot exceed the allowable amount in any year of the proposed project. The actual amount available for the awards may vary, depending on unanticipated program requirements and the number and quality of the applications received. Annual continuations will depend on the availability of funds, grantee progress in meeting program goals and objectives, and timely submission of required data and reports.

2. *Funding Instrument:* Grant.

## III. Eligibility Information

1. *Eligible Applicants* are agencies of States, the District of Columbia, Territories and Native American tribal governments (federally recognized) with jurisdiction over mental health issues for the target population identified in the proposed project. The statutory authority for this program prohibits grants to for-profit organizations. Eligible applicants must have the capacity to report incidents to their State Protection and Advocacy system, specifically the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Program, as required under the Children's Health Act of 2000. These eligibility criteria supersede the criteria specified in section III–1 of the INF–04 PA (MOD).

2. *Cost Sharing or Matching* is not required.

3. *Other:* Applicants must also meet certain application formatting and submission requirements or the application will be screened out and will not be reviewed. These requirements are described in section IV–2 below as well as in the INF–04 PA (MOD).

*Documentation of Eligibility*—Applicants must demonstrate that they are currently in compliance with provisions of the Children's Act of 2000, pertaining to the use of restraint and seclusion, by providing the following documentation in Appendix 6, ''Restraint and Seclusion Documentation,'' of their applications (there are no page limitations for Appendix 6):

(1) A copy of the State's administrative procedures, regulations, or statutes addressing issues related to restraint and seclusion.

(2) Policies and procedures related to certification of facility personnel in issues related to restraint and seclusion. Minimum educational requirements of staff authorized to approve restraint and seclusion techniques must also be provided. If there are no such requirements, a statement to that effect must be included.

(3) The State's reporting requirements related to serious injury and/or death resulting from restraint and seclusion techniques, including the process for sharing this information with the State's Protection and Advocacy Agency.

## IV. Application and Submission Information

1. *Address to Request Application Package:* Complete application kits may be obtained from the National Mental Health Information Center at 1–800–789–2647. When requesting an application kit for this program, the applicant must specify the funding opportunity title (Alternatives to Restraint and Seclusion SIG) and the funding opportunity number (SM 04–007) for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit. The PHS 5161–1 application form is also available electronically via SAMHSA's World Wide Web home page: *http://www.samhsa.gov* (Click on ''Grant Opportunities'') and the INF–04 PA (MOD) is available electronically at *http://www.samhsa.gov/grants/2004/standard/Infrastructure/index.asp.*

When submitting an application, be sure to type ''SM 04–007/Alternatives to Restraint and Seclusion SIG'' in Item Number 10 on the face page of the application form. Also, SAMHSA applicants are required to provide a DUNS Number on the face page of the application. To obtain a DUNS Number, access the Dun and Bradstreet Web site at *www.dunandbradstreet.com* or call 1–866–705–5711.

2. *Content and Form of Application Submission:* Information including required documents, required application components, and

application formatting requirements are available in the INF–04 PA (MOD) in Section IV–2.

*Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications*

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review.

—Use the PHS 5161–1 application.

—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 at least 1 week prior to the application deadline will not be reviewed.

—Information provided must be sufficient for review.

—Text must be legible.

- Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
- Text in the Project Narrative cannot exceed 6 lines per vertical inch.

—Paper must be white paper and 8.5 inches by 11.0 inches in size.

—To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

- Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the specific funding announcement.
- Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.
- Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

—The page limit for Appendices stated in the specific funding announcement cannot be exceeded.

—To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

—The 10 application components required for SAMHSA applications should be included. These are:

- Face Page (Standard Form 424, which is in PHS 5161–1);
- Abstract;
- ≤• Table of Contents;
- Budget Form (Standard Form 424A, which is in PHS 5161–1);
- Project Narrative and Supporting Documentation;
- Appendices;
- Assurances (Standard Form 424B, which is in PHS 5161–1);
- Certifications (a form in PHS 5161–1);
- Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1);
- Checklist (a form in PHS 5161–1).

—Applications should comply with the following requirements:

- Provisions relating to confidentiality, participant protection and the protection of human subjects, as indicated in the specific funding announcement.
- Budgetary limitations as indicated in sections I, II, and IV–5 of the specific funding announcement.
- Documentation of nonprofit status as required in the PHS 5161–1.

—Pages should be typed single-spaced with one column per page.

—Pages should not have printing on both sides.

—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 funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper, or 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.

3. *Submission Dates and Times:* Applications must be received by June 1, 2004. You will be notified by postal mail that your application has been received. Additional information is available in the INF–04 PA (MOD) in section IV–3.

4. *Intergovernmental Review:* Applicants for this funding opportunity must comply with Executive Order 12372 (E.O.12372). E.O.12372, as implemented through Department of Health and Human Services 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 INF–04 PA (MOD) in section IV–4. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and is available at *www.whitehouse.gov/omb/grants/spoc.html.*

5. *Funding Restrictions:* Information concerning funding restrictions is available in the INF–04 PA (MOD) in section IV–5.

## V. Application Review Information

1. *Evaluation Criteria:* Applications will be reviewed against the Evaluation Criteria and requirements for the Project Narrative specified in the INF–04 PA (MOD). The following information describes exceptions or limitations to the INF–04 PA (MOD) and provides special requirements that pertain only to Alternatives to Restraint and Seclusion SIG grants. Applicants must discuss the following requirements in their applications, in addition to the requirements specified in the INF–04 PA (MOD):

1.1 *In "Section A: Statement of Need":* a. Applicants must identify the age group that will be targeted through the proposed project. Grantees may address any group(s) across the lifespan, but must target adults with serious mental illnesses (SMI) and/or children/youth with serious emotional disturbances (SED), including persons

with SMI, co-occurring disorders or other disabilities.

b. Applicants must report on the following outcome indicators. This information must be provided in total and by race/ethnicity, gender and diagnosis:

(1) The number of incidents involving the use of restraint and seclusion for calendar years 2002 and 2003 (January 1, 2002—December 31, 2003).

(2) The number and types of injuries (minor to severe) related to incidents involving the use of restraint and seclusion for calendar years 2002 and 2003 (January 1, 2002—December 31, 2003).

(3) The number of deaths related to incidents involving the use of restraint and seclusion for calendar years 2002 and 2003 (January 1, 2002—December 31, 2003).

(4) The number of facilities within the State, territory or tribe in which administrators are implementing alternatives to the use of restraint and seclusion.

1.2 *In ''Section B: Proposed Approach'':* Applicants must identify the best practice that is being proposed for implementation. Resources to assist in identifying restraint and seclusion best practices are provided in the Appendix at the end of this NOFA.

1.3 *Performance Measurement:* All SAMHSA grantees are required to collect and report certain data, so that SAMHSA can meet its obligation under the Government Performance and Results Act (GPRA). Applicants must document their ability to collect and report data on these indicators in ''Section D: Evaluation and Data,'' of their Project Narrative. SAMHSA will work with grantees to finalize a standard methodology related to these indicators shortly after award, and will seek the Office of Management and Budget's approval for use of these indicators by the grantees. Grantees of the Alternatives to Restraint and Seclusion SIG program will be required to report on the following performance indicators:

(1) The number of programs that adopt best practices involving alternative approaches to reduce restraint and seclusion, including staff training models and other multi-faceted approaches.

(2) The number of incidents of the use of restraint and seclusion techniques.

(3) In addition, you must document which of the following variables you have the ability to collect and report on. CMHS will select a set of core measures from among these measures that all grantees will be required to report on post award.

(a) Temporal data (*e.g.*, time of day, day of week, special events/holidays);

(b) Episode location;

(c) Episode precipitants (*e.g.*, assaults on staff, assaults on peers, property damage);

(d) Gender;

(e) Age;

(f) Race/ethnicity;

(g) Developmental/cognitive age;

(h) Unit/program where the individual is housed or treated;

(i) Precipitous discharges;

(j) Monitoring;

(k) Debriefing;

(l) Restraint types used (*e.g.*, prone, seated, mechanical, etc.).

1.4 *Additional Information:* Applicants should be aware that a Coordination Center will be established through a separate contract to collect and analyze data from grantees, assess the impact of the grants, and act as a resource center to States and others on restraint and seclusion. The Coordination Center also will provide technical support and information to increase capacity of grantees and others to adopt best practices.

2. *Review and Selection Process:* Information about the review and selection process is available in the INF–04 PA (MOD) in Section V–2.

## VI. Award Administration Information

Award administration information, including award notices, administrative and national policy requirements, and reporting requirements are available in the INF–04 PA (MOD) in Section VI. SAMHSA's standard terms and conditions are available at *www.samhsa.gov/grants/2004/useful_info.asp.*

## VII. Agency Contact for Additional Information

For questions about program issues contact: Karen Armstrong, SAMHSA/CMHS, 5600 Fishers Lane, Room 15C–21, Rockville, MD 20857; 301–443–3667; e-mail: *karmstro@samhsa.gov.* For questions on grants management issues contact: Gwendolyn Simpson, SAMHSA/Division of Grants Management, 5600 Fishers Lane, Room 13–103, Rockville, MD 20857; 301–443–4456; e-mail: *gsimpson@samhsa.gov.*

## Appendix—Resources Related to Restraint and Seclusion Best Practices

1. *Leading the Way Toward a Seclusion and Restraint Free Environment—Pennsylvania's Success Story*, Office of Mental Health and Substance Abuse Services, Commonwealth of Pennsylvania, (Hardenstine, B., October 2001).

2. *Reducing the Use of Seclusion and Restraint*, the National Association of State Mental Health Program Directors (1999–2002).

3. *Learning from Each Other*, the American Psychiatric Association, the American Psychiatric Nurses Association, and the National Association of Psychiatric Health Systems (2003).

4. *The Use of Restraints, Seclusion and Exclusion in State Mental Hospitals and Restoration Center*, the Office of Mental Health and Substance Abuse, Department of Public Welfare, the Commonwealth of Pennsylvania (SMH–01–02, June 2001).

5. *Reporting Abuses of Persons with Disabilities*, Department of Health and Human Services, Office of Inspector General, May 2001, A–01–00–02502.

6. *Partnership Beyond Restraints: A Statewide Educational Intervention to Reduce Restraint Use*, Annals of Long-Term Care, American Geriatric Society, Dunbar, J, and Neufeld, R., May 2002.

7. *Improper Restraint or Seclusion Use Places People at Risk,* United States Government Accounting Office (GAO), September 1999, GAO/HEHA–99–176.

8. *Deadly Restraint, Hartford Courant,* a Connecticut newspaper (October 1998).

9. *''Is It Meant to Hurt, Is It?''—Management of Violence in Women with Developmental Disabilities, Violence Against Women,* Halstead, S. H., (April 2001).

10. *Treatment and Management of Challenging Behaviors in Residential Settings, Journal of Applied Research in Intellectual Disabilities,* Emerson E. *et al.*, 2000.

11. *Seclusion and Restraint: A Review of Recent Literature, Harvard Review of Psychiatry,* Busch AB, Shore MF, (November 2000).

12. *Staff Training Decreases Use of Seclusion and Restraint in an Acute Psychiatric Hospital, Archives of Psychiatric Nursing,* Forster PL, Cavness C., (October 1999).

13. *Behavior Management:* Best Practices, Child Welfare League of America (2001).

14. *Reducing the Use of Restraint and Seclusion: Promising Practices and Successful Strategies,* Child Welfare League of America, Bullard, L., Fulmore, D. *et al.* (2003).

15. *Practicing Restraint,* Children's Voice, Kirkwood, Scott, (September/October 2003).

Dated: March 17, 2004.

**Margaret M. Gilliam,**

*Acting Director, Office of Policy, Planning and Budget, Substance Abuse and Mental and Mental Health Services Administration.*

[FR Doc. 04–6376 Filed 3–22–04; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Funding Opportunity Title: Youth Transition Into the Workplace Grants (Short Title: YIW Grants)

*Announcement Type:* Initial.

*Funding Opportunity Number:* SP 04–006.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.243.

*Due Date for Applications:* May 27, 2004.

[**Note:** Letters from State Single Point of Contact (SPOC) in response to E.O. 12372 are due July 26, 2004.]

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Prevention (CSAP), announces the availability of FY 2004 funds for Youth Transition Into the Workplace Grants (YIW). A synopsis of this funding opportunity, as well as many other Federal Government funding opportunities, is also available at the Internet site: *www.grants.gov*.

For complete instructions, potential applicants must obtain a copy of SAMHSA's standard Service-to-Science Grants Program Announcement [STS–04 PA (MOD)], and the PHS 5161–1 (Rev. 7/00) application form before preparing and submitting an application. The STS–04 PA (MOD) describes the general program design and provides instructions for applying for all SAMHSA Service-to-Science Grants, including the Youth Transition Into the Workplace Grants. Additional instructions and specific requirements for this funding opportunity are described below.

## I. Funding Opportunity Description

**Authority:** Section 501(d)(5) of the Public Health Service Act, as amended and subject to the availability of funds.

Youth Transition Into the Workplace Grants (YIW Grants) is one of SAMHSA's Service-to-Science Grants. SAMHSA's Service-to-Science Grants provide funds to document and evaluate innovative practices that address critical substance abuse and mental health service gaps, but have not yet been formally evaluated. These grants 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 future research. (Information on NREP is at: *http://modelprograms.samhsa.gov*)

The purpose of the YIW Grants is to broaden CSAP's prior workplace prevention initiatives related to prevention and early intervention, as well as related co-morbidity issues for employees and their families. Examples of well-researched interventions are: NREP workplace programs, Employee Assistance Programs (EAPs); drug-free workplace programs; peer to peer; health and wellness programs; health risk assessments and health care prevention initiatives. Grantees will be expected to document, implement, and evaluate workplace prevention/early intervention programs tailored for young adult employees ages 16–24. Specific attention should be paid to gender, ethnic, cultural, linguistic, and occupational variations.

The YIW Grant Program will be implemented in two phases. Applicants must apply for the combined Phase I & II grant, as described in the STS–04 PA (MOD). Applications for Phase I or Phase II alone will not be accepted. Phase I and II grants will be made as ''cooperative agreements.'' As such, grantees will be expected to work with a national steering committee to share early findings, apply agreed-upon methodologies and analysis techniques, and write cross-cutting documents and articles. They will also be expected to participate in an OMB approved, confidential, cross-site survey of employees administered by the cross-site contract evaluator. Phase I will take place in years 1–2. During Phase I, applicants will develop or enhance and document an existing intervention and collect baseline survey and administrative data.

During Phase II (years 3–5), the intervention/program will be implemented and fully evaluated. Phase II will include follow-up survey and administrative data collection supporting a cross-site evaluation of all Phase II grantees. Grantees completing the 5-year process will have sufficient documentation to apply for NREP status.

It is important to note that SAMHSA/CSAP does not expect that all Phase I grantees will necessarily move on to Phase II. Grantees must document, to the satisfaction of the Government Project Officer, that they have achieved the Phase I Performance Expectations articulated in the STS–04 PA (MOD); that they can provide the required performance data; and that the practice to be evaluated shows sufficient promise to warrant continued funding before the Phase II award will be approved. Continuation criteria by which Phase I grantees will be approved for Phase II funding is as follows: Baseline survey response rate; baseline survey sample size (number of completed surveys); baseline prevalence of targeted behaviors (*e.g.*, risky drinking, heavy drinking, illicit drug use) among youth/young adult employees; number of employees enrolled during Phase I (*e.g.*, total number enrolled); employees ages 16–24 retention rate; planned intervention design; and demonstrated access to the necessary administrative (company) data; and documentation of worksite management and other stakeholder interest in and support of project (*e.g.*, support letters).

*Background:* Workplaces are one of a few important transition points for youth in our society, from school to work, and from youth to young adult. Research on youthful workers indicates a positive relationship between the number of hours worked to social and health problems including: Absences from school, negative family relationships, delinquency, and alcohol and drug use. Youth working part time (more than 20 hours per week) are at greatest risk for use of alcohol and illegal drugs. National Household Survey data disclose that almost 73% of all current drug users ages 18–49 are employed full or part-time, which is more than 8.3 million workers. The highest rate of illicit drug abuse and heavy alcohol use is among 18–25 year olds.

The CSAP workplace prevention research initiative identified a variety of successful workplace prevention, early identification, and early intervention activities for entire workforces. (For complete listings see: *http://workplace.samhsa.gov*). Yet little is known about how well these programs work for younger employees (ages 16–24) and how to tailor them for this population. Given the high risk for substance abuse of this age group; the growing number of this age group being recruited in a wide range of workplace environments; and the lack of sufficient knowledge concerning prevention and early interventions for this age group within a workplace setting, the workplace is seen as an excellent location for a services-to-science program.

## II. Award Information

1. *Estimated Funding Available/Number of Awards:* It is expected that $2.0 million will be available to fund approximately 13 Phase I awards only in FY 2004. Phase I awards will be up to $150,000 in total costs (direct and indirect) per year for up to 2 years. Phase II awards (which are expected to begin in FY 2006) will be for up to $500,000 in total costs (direct and indirect) per year for up to 3 years. Awards for combined Phase I and II grants may not exceed 5 years. Proposed budgets cannot exceed $150,000 in any year for Phase I or $500,000 in any year for Phase II. The actual amount available for the awards may vary, depending on unanticipated program requirements and the number and quality of the applications received.

Phase I awards will be made for project periods of up to 2 years, and Phase II awards will be made for project

periods of up to 3 years. The project periods for Phase I and Phase II awards combined may not exceed 5 years. Annual continuations will depend on the availability of funds; grantee progress in meeting program goals and objectives; the ability of the grantee to collect GPRA and other core data; and timely submission of required data and reports.

2. *Funding Instrument: Cooperative Agreement.*

Role of Grantee: Each grantee will retain responsibility for data collection, data analysis and interpretation, quality control, and preparation of reports and publications specific to each site. The YIW Contractor will conduct the cross-site survey. However, grantees will be responsible for all work related to survey access, consent procedures, response rates, and marketing the survey. Grantees must be willing to collaborate with the SAMHSA CSAP staff and participate in the cross-site activities. As SAMHSA CSAP, the YIW Contractor, the Steering Committee, and grantees will identify new and useful methodologies or standardized measures, grantees should be willing to consider adaptation of this information as appropriate.

Cross-site activities will include, but are not limited to: Participation in Steering Committee meetings; agreement on the study analysis across projects; adoption of cross-site measures and instruments; submission of data (which will be kept confidential within the specifications of the grantee) to the YIW Contractor throughout the study (on an agreed upon schedule) for cross-site analysis and reports; support of the cross-site Contractor's collection of survey data (which includes GPRA data); and participation in meetings and publications to disseminate the findings of the individual project and the overall program.

Participants must be willing to share data (confidentiality of the data source will be assured by SAMHSA CSAP), and comply with publication and authorship policies to be developed by the Steering Committee for this program. Specific activities for future replication of these projects in Phase II will include the development of a replication training manual.

Role of Contractor: The YIW Contractor, under direction of the SAMHSA CSAP project officer, will be responsible for the collection, analysis, and dissemination of cross-site and employee survey data. The YIW Contractor shall host the grantee employee survey (including GPRA data) and assure confidentiality of that data. The YIW Contractor will be responsible for participating as a member of the Steering Committee; serving as a repository for and analyzing the cross-site analysis data; and for providing technical assistance to grantees, as appropriate.

Role of Federal Staff: SAMHSA CSAP staff will be active participants in all aspects of the cooperative agreements and will serve as collaborators with the grantee project directors and Contractor. SAMHSA CSAP staff will provide substantial input, in collaboration with the grantees and the Contractor, both in the planning and conduct of this program.

SAMHSA CSAP staff involvement may include provision of technical assistance; participation in the redesign/modification of grantee or cross-site study design; consultation assuring reproducibility of results and the development of the replication training manuals; arrangement of meetings supporting cooperative agreement activities; membership on the Steering Committee and other working groups established to meet program goals; and authorship/co-authorship of publications to disseminate findings. SAMHSA CSAP staff will be subject to the publication/authorship policies to be developed by the Steering Committee.

SAMHSA CSAP will be responsible for arranging and convening Steering Committee meetings with assistance from the Contractor; for meeting costs not covered by the grantee's and Contractor's budgets (*i.e.*, other than individual travel expenses); and for inviting expert consultants, selected by the grantees, to serve and assist on the Steering Committee and facilitating their participation.

SAMHSA CSAP will be providing grantees with information and findings it has obtained and analyzed over the course of the contract. This may include descriptions of operating models of workplace prevention programs for youthful populations ages 16–24 incorporating substance use/abuse prevention, early intervention, and treatment activities and strategies; health, wellness, and safety strategies; measurement instruments and tools; and findings from national, State, and local surveys and research.

Role of Steering Committee: The Steering Committee members will consist of the project director and evaluator from each project, project director and staff of the YIW contract, ex-officios, and SAMHSA CSAP staff. SAMHSA CSAP will appoint the Chair of the Steering Committee from the pool of grantee members in accordance with the majority vote of members, one vote per grantee, one vote by SAMHSA CSAP. SAMHSA CSAP will appoint ex-officios from other Federal and/or State agencies having exceptional knowledge and experience concerning this issue. SAMHSA CSAP staff will participate in, but not chair, the Committee. No entity will have veto power. SAMHSA CSAP staff will participate as a full member of any subcommittee that is established.

The Steering Committee will have the primary responsibility for agreeing to the cross-site evaluation design, the dissemination of findings and products. The Steering Committee will, consistent with the provisions of 45 CFR 74.36, develop policies on access to data and materials and publications in accordance with the requirements of SAMHSA. Publications will be written and authorship decided using procedures developed by the Steering Committee. The quality of publications resulting from the study will be the responsibility of the authors; no SAMHSA clearances will be required. (**Note:** Publications on which SAMHSA CSAP staff are included as authors or coauthors will receive internal agency clearance.)

The Steering Committee will develop its own procedures and is expected to develop consensus agreement on most decisions. All decisions that cannot be made by consensus will be made by majority vote.

The first meeting of the Steering Committee will be convened at the request of the SAMHSA CSAP staff. It is estimated that up to two meetings (not to exceed two meetings) will be needed in years 1 and 2 to develop the final cross-site analysis study design. The first meeting will be for 3 days and other meetings should last between 1–2 days per meeting. In years 3–5, Phase II, 1 day meetings will be held 2–3 times per year. One meeting per year will be a Steering Committee Meeting along with a Knowledge Exchange Meeting to share early findings and outcomes with the field. The majority of Steering Committee meetings will be held in the Washington, DC area.

All participants will agree to abide by the decisions and recommendations made by the Steering Committee and any required SAMHSA approvals set forth in the terms and conditions of this cooperative agreement.

## III. Eligibility Information

1. *Eligible Applicants* are domestic public and private for-profit and nonprofit entities, including State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations. Eligibility of for-profit

entities for this funding announcement is an exception to the eligibility requirements stated in the STS 04–PA (MOD).

2. *Cost Sharing or Matching* is not required.

3. *Other:* Applicants must also meet certain application formatting and submission requirements or the application will be screened out and will not be reviewed. These requirements are described in Section IV–2 below as well as in the STS 04–PA (MOD).

**IV. Application and Submission Information**

1. *Address to Request Application Package:* 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 for this program, the applicant must specify the funding opportunity title YIW and the funding opportunity number (SP 04–006). 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 is also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov* (Click on ''Grant Opportunities'') and the STS–04 PA (MOD) is available electronically at *http://www.samhsa.gov/grants/2004/standard/Srv2Sci/index.asp.* When submitting an application, be sure to type [SP 04–006/YIW] in Item Number 10 on the face page of the application form. Also, SAMHSA applicants are required to provide a DUNS Number on the face page of the application. To obtain a DUNS Number, access the Dun and Bradstreet Web site at *www.dunandbradstreet.com* or call 1–866–705–5711.

2. *Content and Form of Application Submission:* Information including required documents, required application components, and application formatting requirements is available in the STS–04 PA (MOD) in Section IV–2.

Because grantees in the YIW program may use funds to provide direct substance abuse services, applicants are required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations, Form SMA 170. This form will be posted on SAMHSA's web site with the NOFA and provided in the application kits available at NCADI.

*Checklist for Application Formatting Requirements*

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review.

—Use the PHS 5161–1 application.

—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 at least 1 week prior to the application deadline will not be reviewed.

—Information provided must be sufficient for review.

—Text must be legible.

- Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
- Text in the Project Narrative cannot exceed 6 lines per vertical inch.

—Paper must be white paper and 8.5 inches by 11.0 inches in size.

—To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

- Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the STS–04 PA (MOD).
- Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.
- Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

—The page limit for Appendices stated in the STS–04 PA (MOD) cannot be exceeded. To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

—The 10 application components required for SAMHSA applications should be included. These are:

- Face Page (Standard Form 424, which is in PHS 5161–1)
- Abstract
- Table of Contents
- Budget Form (Standard Form 424A, which is in PHS 5161–1)
- Project Narrative and Supporting Documentation
- Appendices
- Assurances (Standard Form 424B, which is in PHS 5161–1)
- Certifications (a form in PHS 5161–1)
- Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1)
- Checklist (a form in PHS 5161–1)

—Applications should comply with the following requirements:

- Provisions relating to confidentiality, participant protection and the protection of human subjects, as indicated in the STS–04 PA (MOD).
- Budgetary limitations as indicated in Sections I, II, and IV–5 of the STS–04 PA (MOD).
- Documentation of nonprofit status as required in the PHS 5161–1.

—Pages should be typed single-spaced with one column per page.

—Pages should not have printing on both sides.

—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 funding announcement. Please do not use staples, paper clips, and fasteners.

Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper, or 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.

3. *Submission Dates and Times:* Applications must be received by May 27, 2004. You will be notified by postal mail that your application has been received. Additional submission information is available in the STS–04 PA (MOD) in Section IV–3.

4. *Intergovernmental Review:* Applicants for this funding opportunity must comply with Executive Order 12372 (E.O.12372). E.O.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 STS–04 PA (MOD) in Section IV–4. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and is available at *www.whitehouse.gov/omb/grants/spoc.html.*

5. *Funding Restrictions:* Information concerning funding restrictions is available in the STS–04 PA (MOD) in Section IV–5.

**V. Application Review Information**

*Evaluation Criteria:* Applications will be reviewed against the Evaluation Criteria and requirements for the Project Narrative specified in the STS–04 PA (MOD). The following information describes exceptions or limitations to the STS–04 PA (MOD) and provides special requirements that pertain only to YIW grants.

1.1 *Terms:* Applicants can be profit or nonprofit entities. Workplaces must be either the applicant or a collaborating partner.

1.2 *Review Criteria/Project Narrative:* Applicants for YIW grants are required to address the following requirements in the Project Narrative of their applications, in addition to the requirements specified in the STS–04 PA (MOD):

a. In ''Section A: Statement of Need,'' applicants must identify the proposed target population as employees ages 16–24, and specifically address their gender, ethnic, cultural, linguistic, and occupational variations.

b. In ''Section B: Proposed Approach,'' applicants must describe how interventions will be redesigned and adapted for the target population, and how they will be implemented successfully in or through the workplace.

c. In ''Section C: Evaluation Design and Analysis,'' applicants must describe how they will work with SAMHSA, the YIW cross-site evaluator, and other grantees to adopt a common self-report survey to measure use/abuse and change of perception of harm, as well as other behavioral and attitudinal measures related to substance abuse prevention and early intervention programs. Baseline data will be collected during Phase I, with follow-up data collection occurring during the Phase II grant.

d. In ''Section C: Evaluation Design and Analysis,'' applicants must discuss how they will collect baseline, process, and outcome data (*e.g.*, sociodemographic employee; worksite/workplace culture; workers compensation; injuries; union/management support levels; and healthcare use and costs) and retrospective data where available.

1.3 *Performance Measurement:* All SAMHSA grantees are required to collect and report certain data, so that SAMHSA can meet its obligations under the Government Performance and Results Act (GPRA). Grantees of the YIW program will be required to report performance in several areas. Applicants must document their ability to collect and report the required data in ''Section C: Evaluation Design and Analysis'' of their applications.

*Phase I*—Phase I of the YIW initiative will include grantees that will be at different stages of readiness in their intervention and prevention efforts. As such, Phase I measures focus on process. Grantees must be prepared to collect and report (as directed by CSAP) the following data in Phase I of the YIW initiative:

a. *The number of employees exposed to the intervention.* Grantees will be expected to support claims of employee enrollment/exposure through documentation such as employee sign-up sheets, receipts for materials dispersed, or surveys of participants.

b. *The percentage of employees in the worksite population that are ages 16–24.* Grantees must have the ability to provide records-based administrative data that sufficiently describe their worksite population. These descriptive data include employee age, sex, race/ethnicity, tenure with company, union status, termination status, and health plan enrollment. Although the data available is likely to vary across grantees, they will also be expected to provide other information such as absenteeism, earnings, job type/occupation, and workplace injuries.

c. *Total number of labor hours spent delivering the intervention.* Grantees will be required to provide supporting documentation through process logs or other time reporting mechanisms that adequately document the total labor hours required to do the intervention.

In addition to the above data, any Phase I grantee providing direct services to individuals is required to collect data from service recipients as described under #3 below.

*Phase II*—Phase II of the YIW initiative will include a smaller number of select grantees that will conduct and evaluate prevention/intervention activities during Phase II. Measures in this second phase include process, outcome, and cost measures. Grantees in Phase II must be prepared to collect and report the following data:

a. *The number of employees exposed to the intervention by age group and demographic characteristics.* Grantees will be expected to support claims of employee enrollment/exposure through documentation such as employee sign-up sheets, receipts for materials dispersed, or surveys of participants. In addition, the associated demographic variables will be obtained from records-based administrative data.

b. *Total delivery costs of the intervention.* These costs are to include the following:

(1) total labor hours used by all personnel that are involved in the intervention (paid labor and volunteers);

(2) total square feet of space used in delivering the intervention (paid space and space used free of charge);

(3) total number of supplies and materials such as brochures, handouts, office supplies, computer software, etc. used in the intervention (paid supplies and donated/free supplies);

(4) wages of paid labor (including fringe benefits such as paid time off, health insurance, disability benefits, pension, etc. and reproduction cost) and the fair market value of volunteer time;

(5) cost of space used for the intervention (either the rent paid or the estimated fair market value of the property given its location and total area);

(6) additional costs related to space use that includes building maintenance and utilities;

(7) unit cost of all supplies and materials;

(8) depreciation costs of capital resources used in the intervention such as furniture, equipment, security system, and computers; and

(9) administrative overheads (either a flat figure or a percentage of direct labor costs or total expenditure).

Grantees will be required to provide supporting documentation through process logs or other time reporting mechanisms that adequately document the total labor hours required to do the intervention. In addition, grantees must use other costing tools (*e.g.*, DATCAP) to accurately capture all relevant intervention-related costs. The YIW cross-site evaluation contractor, along with CSAP, will provide a template along with technical assistance for capturing this information.

An electronic version of this form, along with instructions for completing the form, are available on the SAMHSA web site, along with this NOFA. Hard copies of the form and instructions for completing the form will be provided in the application kits distributed by SAMHSA's National Clearinghouse for Alcohol and Drug Information.

c. *Outcome Data.* Once service delivery begins, outcome data must be collected for those ages 16 and older using CSAP's GPRA data tool for adults. In addition, if applicants are targeting any of the five domains of prevention-related human behaviors and attitudes [Alcohol, Tobacco, and Other Drug Use (ATOD); Individual/Peer; Family; School; or Community], they must use CSAP Core Measures for adults. All applications must (1) identify which core measures the applicant proposes to collect for their program and (2) describe their ability to collect and report data on these measures. The awardee and the CSAP project officer will jointly finalize the selection of core measures based on the nature of the program model selected and the domain within which the program will be implemented. This will be accomplished following the notice of award. CSAP is currently finalizing additional core measures specific to ages 16–25. These will be communicated to grantees as soon as they are approved and cleared through OMB.

The following documents should be consulted when planning for data collection and reporting:

| Document | Purpose | Where it can be found |
|---|---|---|
| CSAP GPRA Data Collection Tool. | Required data for programs providing direct services to individuals age 12 and over. Youth and adult versions in English and Spanish available. | Posted with this NOFA on SAMHSA's Web site at *www.samhsa.gov/grants* or included in the application kit distributed by SAMHSA's clearinghouse. |
| Core Measures Guidance .... | Describes how to use CSAP Core Measures as a menu and as appropriate to your target population. | Posted with this NOFA on SAMHSA's Web site at *www.samhsa.gov/grants* or included in the application kit distributed by SAMHSA's clearinghouse. |
| CSAP Core Measures Notebook. | Full description of CSAP Core Measures (200+pages) | Posted with this NOFA on SAMHSA's Web site at *www.samhsa.gov/grants* or included in the application kit distributed by SAMHSA's clearinghouse. If unable to access this document, contact Beverlie Fallik at (301) 443–5827 or *bfallik@samhsa.gov;* or Sue Fialkoff at (301) 443–1248 or *sfialkof@samhsa.gov.* |
| CSAP Data Submission Procedures. | Describes how to submit data to CSAP ..... | Posted with this NOFA on SAMHSA's Web site at *www.samhsa.gov/grants* or included in the application kit distributed by SAMHSA's clearinghouse. |

*2. Review and Selection Process:* Information about the review and selection process is available in the STS–04 PA (MOD) in Section V–2.

## VI. Award Administration Information

Award administration information, including award notices, administrative and national policy requirements, and reporting requirements are available in the STS–04 PA (MOD) in Section VI. SAMHSA's standard terms and conditions are available at *http://www.samhsa.gov/grants/2004/useful_info.asp*.

## VII. Agency Contact for Additional Information

For questions concerning program issues, contact: Deborah M. Galvin, Ph.D., SAMHSA/CSAP/DWP, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, MD 20857, 301–443–6816, E-mail: *dgalvin@samhsa.gov*.

For questions on grants management issues, contact: Edna Frazier, SAMHSA/Division of Grants Management, 5600 Fishers Lane, Rockwall II, Suite 630, Rockville, MD 20857, 301–443–6816, E-mail: *efrazier@samhsa.gov*.

Dated: March 17, 2004.

**Margaret M. Gilliam,**

*Acting Director, Office of Policy Planning and Budget, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 04–6377 Filed 3–22–04; 8:45 am]

BILLING CODE 4162–20–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Funding Opportunity Title: Child and Adolescent Mental Health and Substance Abuse State Infrastructure Grants (Short Title: Child and Adolescent SIG)

*Announcement Type:* Initial.

*Funding Opportunity Number:* SM 04–006.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.243.

*Due Date for Applications:* June 3, 2004.

**(Note:** Letters from State Single Point of Contact (SPOC) in response to E.O. 12372 are due August 2, 2004.)

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS) and the Center for Substance Abuse Treatment (CSAT) announce the availability of FY 2004 funds for Child and Adolescent Mental Health and Substance Abuse State Infrastructure Grants. A synopsis of this funding opportunity, as well as many other Federal Government funding opportunities, is also available at the Internet site: *www.grants.gov*.

For complete instructions, potential applicants must obtain a copy of SAMHSA's standard Infrastructure Grants Program Announcement (INF–04 PA (MOD)), and the PHS 5161–1 (Rev. 7/00) application form before preparing and submitting an application. The INF–04 PA (MOD) describes the general program design and provides instructions for applying for all SAMHSA Infrastructure Grants, including the Child and Adolescent SIG. Additional instructions and specific requirements for this funding opportunity are described below.

## I. Funding Opportunity Description

**Authority:** 520A of the Public Health Service Act, as amended and subject to the availability of funds.

The Child and Adolescent Mental Health and Substance Abuse State Infrastructure Grants (Short Title: Child and Adolescent SIG) is one of SAMHSA's Infrastructure Grants. SAMHSA's Infrastructure Grants provide funds to increase the capacity of mental health and/or substance abuse service systems to support programs and services. SAMHSA's Infrastructure Grants are intended for applicants seeking Federal support to develop or enhance their service system infrastructure in order to support effective substance abuse and/or mental health service delivery.

The purpose of SAMHSA's Child and Adolescent SIG is to strengthen the capacity of States, territories, and Native American tribal governments to develop, expand and sustain substance abuse and mental health services including early intervention, treatment, and/or continuing services and supports at the local level for children, adolescents, and youth in transition, who have a serious emotional disturbance, substance abuse disorder, and/or co-occurring disorders, and their families. Applicants are expected to use grant funds to build the infrastructure necessary to promote, support, and sustain local service and treatment intervention capabilities for the target population across service delivery systems. The program is intended to provide sufficient flexibility and scope to enable States to determine whether they will focus on the entire target population or demographic/geographic subsets of the population.

The Child and Adolescent SIG Program is a critical part of the SAMHSA/CMHS effort to implement the President's New Freedom Commission on Mental Health Report. Therefore, activities carried out under this announcement must be focused on strengthening the capacity of States to transform their mental health system to meet the complex needs of children and youth with serious emotional disturbances and/or co-occurring substance abuse and mental health disorders and their families within home and community-based settings.

*Background*

For over a decade, SAMHSA has funded local demonstrations of promising treatment, and continuing services and supports for children, adolescents, and youth in transition who have a serious emotional disturbance, substance abuse disorder, and/or co-occurring disorders, and their families. A critical lesson provided by the local demonstrations is the difficulty of expanding and sustaining local capacity without the investment of key state-level stakeholders. Partnership between State and local stakeholders is essential to the development, sustainability and growth of effective early intervention and treatment systems.

Despite the increased efforts of many localities to engage in system-building efforts for the target population, state-level capacity often has not kept pace or has become diminished for a variety of reasons. In some instances, reorganizations in response to managed care or department consolidations have eliminated an identifiable state-level entity for children's mental health or adolescent substance abuse policies and programs. Devolution of service responsibility to local levels also has had an impact on state-level infrastructure, and, more recently, budget deficits are constraining state capacity. A priority focus of this new grant program is to strengthen the infrastructure in States, territories, and Native American tribes where there are existing local SAMHSA grant projects to ensure the sustainability and growth of these initiatives.

## II. Award Information

*1. Estimated Funding Available/ Number of Awards:* It is expected that up to $5.3 million will be available to fund up to seven awards in FY 2004. The maximum allowable award is $750,000 in total costs (direct and indirect) per year for five years. Proposed budgets cannot exceed the allowable amount in any year of the proposed project. The actual amount available for the awards may vary, depending on unanticipated program requirements and the number and quality of the applications received. Annual continuations will depend on the availability of funds, grantee progress in meeting program goals and objectives, and timely submission of required data and reports.

2. *Funding Instrument:* Grant.

## III. Eligibility Information

1. Eligible Applicants are limited to States, the District of Columbia, territories and tribal governments. The application must be submitted by the Office of the Chief Executive of the State, territory or tribe. These funds are expected to increase capacity for Statewide and tribal wide changes that promote effective home and community-based mental health/ substance abuse services across all service sectors. Therefore, investment of key state-level stakeholders is crucial to the development, sustainability and growth of effective early intervention and treatment systems. Additional information regarding program requirements and application formatting requirements is provided in the INF–04 PA (MOD) in Section III–3. These eligibility criteria supersede the criteria specified in Section III–1 of the INF–04 PA (MOD).

2. Cost Sharing or Matching is not required.

3. *Other:* Applicants must also meet certain application formatting and submission requirements or the application will be screened out and will not be reviewed. These requirements are described in Section IV–2 below as well as in the INF–04 PA (MOD).

## IV. Application and Submission Information

*1. Address to Request Application Package:* Complete application kits may be obtained from the National Mental Health Information Center at 1–800–789–CMHS (2647). When requesting an application kit for this program, the applicant must specify the funding opportunity title (Child and Adolescent SIG) and the funding opportunity number (SM 04–006). All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit. The PHS 5161–1 application form is also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov* (Click on ''Grant Opportunities'') and the INF–04 PA (MOD) is available electronically at *http://www.samhsa.gov/grants/2004/standard/Infrastructure/index.asp.*

When submitting an application, be sure to type ''SM 04–006/Child and Adolescent SIG'' in Item Number 10 on the face page of the application form. Also, SAMHSA applicants are required to provide a DUNS Number on the face page of the application. To obtain a DUNS Number, access the Dun and Bradstreet web site at *www.dunandbradstreet.com* or call 1–866–705–5711.

2. *Content and Form of Application Submission:* Information including required documents, required application components, and application formatting requirements is available in the INF–04 PA (MOD) in Section IV–2.

**Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications**

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review.

- Use the PHS 5161–1 application.
- 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 at least 1 week prior to the application deadline will not be reviewed.
- Information provided must be sufficient for review.
- Text must be legible.
- Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
- Text in the Project Narrative cannot exceed 6 lines per vertical inch.
- Paper must be white paper and 8.5 inches by 11.0 inches in size.
- To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.
- Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the specific funding announcement.
- Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.
- Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.
- The page limit for Appendices stated in the specific funding announcement cannot be exceeded. To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.
- The 10 application components required for SAMHSA applications should be included. These are:
  - Face Page (Standard Form 424, which is in PHS 5161–1)
  - Abstract
  - Table of Contents
  - Budget Form (Standard Form 424A, which is in PHS 5161–1)
  - Project Narrative and Supporting Documentation
  - Appendices
  - Assurances (Standard Form 424B, which is in PHS 5161–1)
  - Certifications (a form in PHS 5161–1)
  - Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1)
  - Checklist (a form in PHS 5161–1)
- Applications should comply with the following requirements:
- Provisions relating to confidentiality, participant protection and the protection of human subjects, as indicated in the specific funding announcement.
- Budgetary limitations as indicated in Sections I, II, and IV–5 of the specific funding announcement.
- Documentation of nonprofit status as required in the PHS 5161–1.
- Pages should be typed single-spaced with one column per page.
- Pages should not have printing on both sides.
- 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 funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper, or 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.

3. *Submission Dates and Times:* Applications must be received by June 3, 2004. You will be notified by postal mail that your application has been received. Additional submission information is available in the INF–04 PA (MOD) in Section IV–3.

4. *Intergovernmental Review:* Applicants for this funding opportunity must comply with Executive Order 12372 (E.O.12372). E.O.12372, as implemented through Department of Health and Human Services 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 INF–04 PA (MOD) in Section IV–4. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and is available at *www.whitehouse.gov/omb/grants/spoc.html.*

5. *Funding Restrictions:* Information concerning funding restrictions is available in the INF–04 PA (MOD) in Section IV–5.

**V. Application Review Information**

1. *Evaluation Criteria:* Applications will be reviewed against Evaluation Criteria and requirements for the Project Narrative specified in the INF–04 PA (MOD). The following information describes exceptions or limitations to the INF–04 PA (MOD) and provides special requirements that pertain only to Child and Adolescent SIG grants. Applicants must discuss the following requirements in their applications, in addition to the requirements specified in the INF–04 PA (MOD):

*1.1 In "Section B: Proposed Approach"*

a. Applicants must describe the aspects of the substance abuse treatment and mental health service systems that will be affected by the proposed project and demonstrate that the proposed project cuts across service delivery systems.

b. Applicants must demonstrate that they have developed or are creating a partnership with relevant local SAMHSA-funded programs (*e.g.*, CMHS Comprehensive Community Mental Health Services Program for Children and Their Families; CMHS Safe Schools, Healthy Students; CMHS State Mental Health Block Grant; CSAT Strengthening Communities/Youth; any

relevant State Incentive Grant [SIG] project).

c. Applicants must provide evidence that the new grant program will strengthen the sustainability and growth of these local initiatives and include Memoranda of Understanding that outline roles and responsibilities of these organizations in Appendix 6 (Memoranda of Support) of the application.

d. Applicants must identify the universe of other relevant federally funded grants operating in the State and describe how the proposed project will be coordinated with these other Federally funded grants. A rationale should be presented, if it does not.

*1.2 In ''Section D: Evaluation and Data''*

Applicants must document their ability to collect and report data using the Knowledge Application-Client Satisfaction tools which can be found at *www.csat-gpra.samhsa.gov* (Click on ''Data Collection Tools/Instructions'').

*1.3 Performance Measurement*

All SAMHSA grantees are required to collect and report certain data, so that SAMHSA can meet its obligations under the Government Performance and Results Act (GPRA). Grantees of the Child and Adolescent SIG program will be required to report performance in several areas. Applicants must document their ability to collect and report data on the following indicators in ''Section D: Evaluation and Data'' of their application:

- Increase inclusion of family members and youth in planning, policy, and service delivery.
- Increase the use of evidence-based models/interventions.
- Increase the use of culturally and linguistically competent practices.
- Increase the use of training to build an effective workforce.
- Increase adaptation statewide of promising local grant project practices.
- Increase access statewide to effective treatment and continuing services and supports for the target population.

In addition, SAMHSA grantees will measure customer satisfaction related to training, technical assistance, and meetings conducted with grant funds. SAMHSA will work with grantees to finalize a standard methodology related to these indicators shortly after award.

2. *Review and Selection Process:* Information about the review and selection process is available in the INF–04 PA (MOD) in Section V–2.

## VI. Award Administration Information

Award administration information, including award notices, administrative and national policy requirements, and reporting requirements are available in the INF–04 PA (MOD). SAMHSA's standard terms and conditions are available at *www.samhsa.gov/grants/2004/useful_info.asp.*

## VII. Agency Contact for Additional Information

For questions about program issues contact: Diane L. Sondheimer, Child, Adolescent, and Family Branch, SAMHSA/CMHS, 5600 Fishers Lane, Room 11C–16, Rockville, MD 20857; 301–443–1334; E-mail: *dsondhei@samhsa.gov* or Randolph D. Muck, Team Leader/Public Health Advisor, SAMHSA/CSAT; 301–443–6574; *rmuck@samhsa.gov.* For questions on grants management issues contact: Gwendolyn Simpson, SAMHSA/Division of Grants Management, 5600 Fishers Lane, Room 13–103, Rockville, MD 20857; 301–443–4456; E-mail: *gsimpson@samhsa.gov.*

Dated: March 17, 2004.

**Margaret M. Gilliam,**

*Acting Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 04–6373 Filed 3–22–04; 8:45 am]

**BILLING CODE 4162–20–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Funding Opportunity Title: Grants to Expand Substance Abuse Treatment Capacity in Targeted Areas of Need—(Short Title: Targeted Capacity Expansion (TCE) Grants)

*Announcement Type:* Initial.

*Funding Opportunity Number:* TI 04–003.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.243.

*Due Date for Applications:* May 25, 2004.

(**Note:** Letters from State Single Point of Contact (SPOC) in response to E.O. 12372 are due July 26, 2004.)

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT), announces the availability of FY 2004 funds for Grants to Expand Substance Abuse Treatment Capacity in Targeted Areas of Need (Short Title: Targeted Capacity Expansion (TCE) Grants). A synopsis of this funding opportunity, as well as many other Federal Government funding opportunities, is also available at the Internet site: *http://www.grants.gov.*

For complete instructions, potential applicants must obtain a copy of SAMHSA's standard Services Grants Program Announcement, SVC–04 PA (MOD), and the PHS 5161–1 (Rev. 7/00) application form before preparing and submitting an application. The SVC–04 PA (MOD) describes the general program design and provides instructions for applying for most SAMHSA Services Grants including the Targeted Capacity Expansion Grants program. SAMHSA's Services Grants provide funds to expand and strengthen effective, culturally appropriate substance abuse and/or mental health services at the State and local levels. The services implemented through SAMHSA's Services Grants must incorporate the best objective information available regarding effectiveness and acceptability. In general, SAMHSA's Services Grants are appropriate for applicants seeking Federal support to implement substance abuse and/or mental health services that have a strong evidence-base for effectiveness. SAMHSA's Services Grants must be used primarily to support direct service delivery. SAMHSA expects that the services will be sustained beyond the term of the grant. Additional instructions and specific requirements for the Targeted Capacity Expansion Grants are described below.

## I. Funding Opportunity Description

**Authority:** Section 509 of the Public Health Service Act, as amended and subject to the availability of funds.

The purpose of the Targeted Capacity Expansion Grants program is to expand and/or enhance the community's ability to provide a comprehensive, integrated, and community-based response to a targeted, well-documented substance abuse treatment capacity problem and/or improve the quality and intensity of services. For example, a community might seek a Targeted Capacity Expansion Grant to add state-of-the-art treatment approaches or new services to address emerging trends or unmet needs (*e.g.*, intensive case management, referral, and follow-up services to address related HIV, tuberculosis, hepatitis B and C, and other primary health care needs of substance abusing clients). Applicants are encouraged to engage (coordinate with or subcontract) the skills of private, non-profit, and community-based organizations not

eligible to apply on their own because they are not a State or local government entity.

To encourage the substance abuse treatment system to become more responsive and bridge the gap between what is needed by individual States, localities, and/or tribal organizations, and what is known about effective treatments to meet those needs, SAMHSA/CSAT intends to fund programs in four areas in FY 2004: (1) treatment for minority populations [1]; (2) treatment in rural areas; (3) treatment focused on methamphetamine and other emerging drugs; and (4) other innovative approaches to treatment capacity expansion that: focus on early identification of, and interventions for, persons with substance use disorders that have not progressed to dependence; are implemented in general medical and other community settings (*e.g.*, community health centers, social service agencies, schools/school-based health clinics and student assistance programs, occupational health clinics, hospitals, emergency departments); and seek to improve linkages among such community agencies and specialist substance abuse treatment agencies.[2]

Background: Information reported by SAMHSA underscores a significant disparity between the availability of treatment services for persons with alcohol and drug use disorders and the demand for such services. It is estimated, based on various studies, that there are 3–5 million individuals who use and abuse alcohol and other drugs who have a significant impact on both the utilization of services and costs within the health care, juvenile justice, welfare, child welfare, and other publicly funded social support systems. However, currently, of these individuals, only 1.8 million can be served through the existing publicly funded treatment system. By providing needed treatment services, this program is intended to reduce the health and social costs of substance abuse and dependence to the public, and increase the safety of America's citizens by reducing substance abuse related crime and violence.

## II. Award Information

1. *Estimated Funding Available/ Number of Awards:* It is expected that $12 million will be available in FY 2004 to fund programs in four categories: (1) treatment focused on minority populations; (2) treatment in rural areas; (3) treatment focused on methamphetamine and other emerging drugs in specific States and localities; and (4) other innovative approaches to treatment capacity expansion that: focus on early identification of, and interventions for, persons with substance use disorders that have not progressed to dependence; are implemented in general medical and other community settings (*e.g.*, community health centers, social service agencies, schools/school-based health clinics and student assistance programs, occupational health clinics, hospitals, emergency departments); and seek to improve linkages among such community agencies and specialist substance abuse treatment agencies.

SAMHSA expects that approximately $3 million will be available for awards in each category, and that approximately 6 awards will be made in each category. The maximum allowable award is $500,000 in total costs (direct and indirect) per year for up to 3 years. Proposed budgets cannot exceed the allowable amount in any year of the proposed project. The actual amount available for the awards may vary, depending on unanticipated program requirements and the number and quality of the applications received. Annual continuations will depend on the availability of funds, grantee progress in meeting program goals and objectives, and timely submission of required data and reports.

2. *Funding Instrument:* Grant.

## III. Eligibility Information

1. *Eligible Applicants:* Eligibility is restricted to States and units of local government (*e.g.*, cities, towns, counties) or Indian tribes and tribal organizations in recognition of their responsibility for, and interest in, providing for the needs of their citizens, and because the success of the program will depend upon their authority and ability to broadly coordinate a variety of resources. Funding is not designed to meet statewide treatment needs, but to meet the needs of individual communities in cities, towns, counties, and multi-county partnerships. Therefore, States that apply must identify a specific city, town, county or multi-county partnership that will be the targeted geographic area of need. These eligibility criteria supersede the criteria specified in Section III–1 of the SVC 04 PA (MOD).

Applications for SAMHSA Services Grants must include evidence of experience and credentials as described in Section III–3 of the SVC–04 PA (MOD). Applications that do not include the required evidence will be screened out and will not be reviewed.

2. *Cost Sharing or Matching* is not required.

3. *Other:* Applicants must also meet certain application formatting and submission requirements, or the application will be screened out and will not be reviewed. These requirements are described in Section IV–2 below, as well as in the SVC–04 PA (MOD).

## IV. Application and Submission Information

1. *Address to Request Application Package:* 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 for this program, the applicant must specify the funding opportunity title (TCE Grants) and number (TI 04–003) 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 is also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov/* (Click on ''Grant Opportunities'') and the SVC–04 PA (MOD) is available electronically at *http://www.samhsa.gov/grants/2004/standard/Services/index.asp.*

When submitting an application, be sure to type ''TI 04–003, TCE'' in Item Number 10 on the face page of the application form. Also, SAMHSA applicants are required to provide a DUNS Number on the face page of the application. To obtain a DUNS Number, access the Dun and Bradstreet web site at *www.dunandbradstreet.com* or call 1–866–705–5711.

Because grantees in the TCE Grants program may use grant funds to provide direct substance abuse services, applicants are required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations, Form SMA 170. This form will be posted on SAMHSA's web site with the NOFA and provided in the application kits available at NCADI.

2. *Content and Form of Application Submission:* Information including required documents, required application components, and application formatting requirements is available in the SVC–04 PA (MOD) in Section IV–2.

[1] Minority populations include, but are not limited to, Hispanic/Latino(a); African American; Native populations including American Indian, Alaska Natives, and Pacific Islanders; and Asians, among other minority racial/ethnic groups.

[2] A community may be a geopolitical unit (city, county), a health district or human services region, or a substate planning area as defined for purposes of allocating Substance Abuse Prevention and Treatment Block Grant (SAPTBG) funds.

*Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications*

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review.

—Use the PHS 5161–1 application.

—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 at least 1 week prior to the application deadline will not be reviewed.

—Information provided must be sufficient for review.

—Text must be legible.

- Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
- Text in the Project Narrative cannot exceed 6 lines per vertical inch.

—Paper must be white paper and 8.5 inches by 11.0 inches in size.

—To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

- Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the SVC–04 PA (MOD).
- Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.
- Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

—The page limit for Appendices stated in the SVC–04 PA (MOD) cannot be exceeded.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

—The 10 application components required for SAMHSA applications should be included.

These are:

- Face Page (Standard Form 424, which is in PHS 5161–1);
- Abstract;
- Table of Contents;
- Budget Form (Standard Form 424A, which is in PHS 5161–1);
- Project Narrative and Supporting Documentation;
- Appendices;
- Assurances (Standard Form 424B, which is in PHS 5161–1);
- Certifications (a form in PHS 5161–1);
- Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1);
- Checklist (a form in PHS 5161–1).

—Applications should comply with the following requirements:

- Provisions relating to confidentiality, participant protection and the protection of human subjects, as indicated in the SVC–04 PA (MOD).
- Budgetary limitations as indicated in Sections I, II, and IV–5 of the SVC–04 PA (MOD).
- Documentation of nonprofit status as required in the PHS 5161–1.

—Pages should be typed single-spaced with one column per page.

—Pages should not have printing on both sides.

—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 funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper, or 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.

*3. Submission Dates and Times:* Applications must be received by May 25, 2004. You will be notified by postal mail that your application has been received. Additional submission information is available in the SVC–04 PA (MOD) in Section IV–3.

*4. Intergovernmental Review:* Applicants for this funding opportunity must comply with Executive Order 12372 (E.O.12372). E.O.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 (MOD) in section IV–4. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and is available at *http://www.whitehouse.gov/omb/grants/spoc.html.*

5. *Funding Restrictions:* Information concerning funding restrictions is available in the SVC–04 PA (MOD) in Section IV–5.

## V. Application Review Information

*1. Evaluation Criteria:* Applications will be reviewed against the Evaluation Criteria and requirements for the Project Narrative specified in the SVC–04 PA (MOD). The following information describes exceptions or limitations to the SVC–04 PA (MOD) and provides special requirements that pertain only to Targeted Capacity Expansion Grants. Applicants must discuss the following requirements in their applications, in addition to the requirements specified in the SVC–04 PA (MOD).

1.1 The 2-year experience requirement in Section III.3.2., Evidence of Experience and Credentials, of the SVC–04 PA (MOD) applies only to specialist substance abuse treatment providers participating in the project.

1.2 You must plan to send a minimum of three persons (Authorized Grantee, Project Director if different, Evaluator) to at least two joint grantee meetings each year instead of the requirement for two persons to one joint grantee meeting each year as stated in the SVC–04 PA (MOD).

1.3 In ''Section E, Evaluation and Data,'' applicants must, in addition to the requirements specified in the SVC–04 PA (MOD), address the following requirements that are added to the end of the 6th bullet in the Evaluation Criteria section of the SVC–04 PA (MOD):

a. State whether or not these costs are within the acceptable ranges by treatment modality provided in the ''Review and Selection Process'' section of this document.

b. Discuss the reasonableness of the per person costs. If proposed costs exceed acceptable ranges, a detailed justification must be provided.

1.4 Performance Measurement: All SAMHSA grantees are required to collect and report certain data, so that SAMHSA can meet its obligations under the Government Performance and Results Act (GPRA). Grantees of the Targeted Capacity Expansion Grants program will be required to report performance in several areas. Applicants must document their ability to collect and report the required data in ''Section E: Evaluation and Data'' of their applications.

All Targeted Capacity Expansion grant applicants must document their ability to collect and report data using the Targeted Capacity Expansion Client Level GPRA tool that can be found at *http://www.csat-gpra.samhsa.gov* (click on ''Data Collection Tools/ Instruments''), along with instructions for completing it. Hard copies are available in the application kits distributed by SAMHSA's National Clearinghouse for Alcohol and Drug Information (NCADI). GPRA data must be collected at baseline (*i.e.*, the client's entry into the project), 6 months after the baseline, and 12 months after the baseline. Projects serving adolescents also must collect 3 month post-baseline data to capture the nuances of change particular to this population. GPRA data must be entered into the GPRA web system within 7 business days of the forms being completed. In addition, 80% of the participants must be followed up on. GPRA data are to be collected and then entered into CSAT's GPRA Data Entry and Reporting System (*http://www.csat-gpra.samhsa.gov*). Training and technical assistance on data collecting, tracking, and follow-up, as well as data entry, will be provided by CSAT.

1.5 Progress and Financial Reports. Grantees must provide progress reports every six months instead of annual progress reports required by the SVC–04 PA (MOD). The last report will be a final, cumulative report.

1.6 Public Health System Impact Statement (PHSIS). State and local governments and Indian tribal government applicants are not subject to the Public Health System Reporting Requirements; therefore, applicants for this TCE program are not required to follow the instructions for completing the PHSIS contained in the SVC–04 PA (MOD). In addition, applicants do not have to include an Appendix 4, Letter to the SSA, as required in the SVC–04 PA (MOD).

*2. Review and Selection Process:* Information about the review and selection process is available in the SVC–04 PA (MOD) in Section V–2.

## VI. Award Administration Information

Award administration information, including information about award notices, administrative requirements and reporting requirements, is included in the SVC–04 PA (MOD) in Section VI. SAMHSA's standard terms and conditions are available at *http://www.samhsa.gov/grants/2004/useful_info.asp.*

## VII. Contacts for Additional Information

For questions about program issues, contact: Ken Robertson, SAMHSA/CSAT, 5600 Fishers Lane, Rockwall II, Suite 740, Rockville, MD 20857; (301) 443–7612; E-mail: *kroberts@samhsa.gov.*

For questions on grants management issues, contact: Kathleen Sample, SAMHSA, Division of Grants Management, 5600 Fishers Lane, Rockwall II, Suite 630, Rockville, MD 20857; (301) 443–9667; E-mail: *ksample@samhsa.gov.*

Dated: March 17, 2004.

**Margaret M. Gilliam,**

*Acting Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 04–6374 Filed 3–22–04; 8:45 am]

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# DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Substance Abuse and Mental Health Services Administration

## Funding Opportunity Title: Residential Treatment for Pregnant and Postpartum Women and Residential Treatment for Women and Their Children (Short Title: PPW/RWC)

*Announcement Type:* Initial.

*Funding Opportunity Number:* TI 04–004.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.243.

*Due Date for Applications:* June 2, 2004.

(**NOTE:** Letters from State Single Point of Contact (SPOC) in response to E.O. 12372 are due August 2, 2004.)

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT), announces the availability of FY 2004 funds for Residential Treatment for Pregnant and Postpartum Women and Residential Treatment for Women and Their Children (Short Title: PPW/RWC). A synopsis of this funding opportunity, as well as many other Federal Government funding opportunities, are also available at the Internet site: *http://www.grants.gov.*

For complete instructions, potential applicants must obtain a copy of SAMHSA's standard Services Grants Program Announcement (SVC–04 PA (MOD)), and the PHS 5161–1 (Rev. 7/00) application form before preparing and submitting an application. The SVC–04 PA (MOD) describes the general program design and provides instructions for applying for all SAMHSA Services Grants, including the PPW/RWC program. 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. The services implemented through SAMHSA's Services Grants must incorporate the best objective information available regarding effectiveness and acceptability. In general, these grants are appropriate for applicants seeking Federal support to implement substance abuse and mental health services that have a strong evidence-base for effectiveness. SAMHSA's Services Grants must be used primarily to support direct service delivery. SAMHSA expects that the services will be sustained beyond the term of the grant. Additional instructions and specific requirements for this funding opportunity are described below.

## I. Funding Opportunity Description

**Authority:** Section 509 of the Public Health Service Act, as amended and subject to the availability of funds.

The purpose of PPW/RWC grants is to expand the availability of comprehensive, high quality residential substance abuse treatment services for low-income (as defined by Federal poverty definitions) women, age 18 and over, who are pregnant, postpartum (the period after childbirth up to12 months), or other parenting women, and their minor children, age 17 and under, who

have limited access to quality health services. SAMHSA/CSAT has identified traditionally underserved populations, especially racial and ethnic minority women, as important subpopulations.

For purposes of this grant announcement, residential treatment programs are programs that offer organized substance abuse treatment services that feature a planned regimen of care in a safe 24-hour residential setting with staff supervision. If treatment services are provided off-site, they must be well coordinated and integrated to ensure that specific aspects of the individual treatment plan and services for the children can be addressed in both facilities. Such services must be coupled with access to primary health, mental health and social services for pregnant, postpartum, and other parenting women who suffer from alcohol and drug use problems, and for their minor children impacted by the perinatal and environmental effects of maternal substance use and abuse. These systems of care must be designed to improve the overall treatment outcomes for the woman, her children, and the family unit as a whole. For those minor children who do not reside in the treatment facility, it is important that they are actively engaged in the treatment process with their mothers. Applicants are required to: (1) Identify state-of-the-art clinical and service delivery approaches that are gender-specific and culturally appropriate for women and their minor children; and (2) utilize effective strategies for outreach, engagement, and retention of women in treatment.

Projects must expand or create additional treatment services that contribute to a comprehensive continuum of care. To accomplish a comprehensive service system, SAMHSA/CSAT expects that applicant organizations will need to partner with other organizations. As evidence of these partnerships, SAMHSA/CSAT requires applicants to have written memoranda of understanding/agreement (MOU/MOA) signed by the authorizing official in all partnership agencies and organizations that are critical to the success of the project. These partnership agencies and organizations may include local public housing authorities (for permanent housing for families), child welfare, health, mental health, and child serving agencies, family court, criminal justice, employment and education programs, and other public and private partners.

*Background:* According to the 1999 National Household Survey on Drug Abuse (NHSDA), almost 4 percent of pregnant females aged 15 to 44 used illicit drugs (*i.e.*, marijuana, including hashish; cocaine, including crack; heroin; hallucinogens, including PCP and LSD; inhalants; or any prescription-type psychotherapeutic used non-medically) during the month before the survey. Of these, 3.4 percent of pregnant females aged 15 to 44 had used a single illicit drug in the past month, and 0.3 percent had used two or more drugs.

A recent NIDA study shows that children exposed to alcohol and illicit drugs are at-risk for birth defects, mental retardation, and later behavioral and learning difficulties. Other studies reveal that children who are raised by drug abusing adults tend to exhibit a wide range of developmental, mental health and behavioral problems, and are themselves at higher risk for using alcohol and other drugs.

SAMHSA/CSAT is especially concerned about the high morbidity and mortality rates of African American pregnant women and their infants. African American pregnant women tend to use illicit drugs at a higher rate than any other population of pregnant women. Data from the 2002 National Survey on Drug Use and Health found that among pregnant women 15 to 44 years of age, 6.2 percent of African American women reported illicit drug use in the month prior to survey compared to 3.6 percent of white women. The effects of illicit drug use by women during the prenatal period are well documented in the literature to include inadequate prenatal care, premature labor, low birth weight infants, and other adverse outcomes. The National Center for Health Statistics reports persistent racial/ethnic disparities in infant mortality. From 1997–2001, the infant mortality rate for babies born to African American mothers was 14.0 per 1000 births while the rate for babies born to Caucasian mothers was 5.7 per 1000.

A CSAT cross-site evaluation study of PPW/RWC projects found strikingly positive treatment outcomes on low birth weight (LBW) deliveries, premature deliveries, and infant deaths. These outcomes were compared to outcomes for women in the general population and to the best available estimates of the rates of adverse outcomes that would have been likely had women continued abusing drugs throughout their pregnancies. The rate of LBW delivery among women in treatment was 5.8% compared to 7.5% for a national sample, and 34% for a comparison of women testing positive for cocaine at delivery. The rate of premature delivery among women in treatment was 7.3% compared to the national sample of 11.4% and a cocaine-using sample of 27%. The rate of infant death for women in treatment was 0.4% compared to the national sample of 0.7% and the cocaine-using sample of 1.2%.

The effects of alcohol and drug use have negative consequences for women, their children, and the entire family. Providing comprehensive treatment services significantly improves the quality of life for women and their children.

## II. Award Information

*1. Estimated Funding Available/ Number of Awards:* It is expected that up to $7 million will be available to fund up to 14 awards in FY 2004. The maximum allowable award is $500,000 in total costs (direct and indirect) per year for up to 3 years. Proposed budgets cannot exceed the allowable amount in any year of the proposed project. The actual amount available for the awards may vary, depending on unanticipated program requirements and the number and quality of the applications received. Annual continuations will depend on the availability of funds, grantee progress in meeting program goals and objectives, and timely submission of required data and reports.

*2. Funding Instrument:* Grant.

## III. Eligibility Information

1. 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 prohibits grants to for-profit organizations.

Applications for SAMHSA Services Grants must include evidence of experience and credentials as described in Section III–3 of the SVC–04 PA (MOD). Applications that do not include the required evidence will be screened out and will not be reviewed.

2. Cost Sharing or Matching is not required.

*3. Other:* Applicants must also meet certain application formatting and submission requirements or the application will be screened out and will not be reviewed. These requirements are described in Section IV–2 below as well as in the SVC–04 PA (MOD).

## IV. Application and Submission Information

*1. Address to Request Application Package:* 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 for this program, the applicant must specify the funding opportunity title (PPW/RWC) and the funding opportunity number (TI 04–004). 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 is also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov.* (Click on 'Grant Opportunities') and the SVC–04 PA (MOD) is available electronically at *http://www.samhsa.gov/grants/2004/standard/Services/index.asp.* When submitting an application, be sure to type ''TI 04–004, PPW/RWC'' in Item Number 10 on the face page of the application form. Also, SAMHSA applicants are required to provide a DUNS Number on the face page of the application. To obtain a DUNS Number, access the Dun and Bradstreet web site at *http://www.dunandbradstreet.com* or call 1–866–705–5711.

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*2. Content and Form of Application Submission:* Information including required documents, required application components, and application formatting requirements is available in the SVC–04 PA (MOD) in Section IV–2.

*Checklist for Application Formatting Requirements*

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review.

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- 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 at least 1 week prior to the application deadline will not be reviewed.
- Information provided must be sufficient for review.
- Text must be legible.
- Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
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- Paper must be white paper and 8.5 inches by 11.0 inches in size.
- To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.
- Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the SVC–04 PA (MOD).
- Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.
- Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.
- The page limit for Appendices stated in the SVC–04 PA (MOD) cannot be exceeded.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

- The 10 application components required for SAMHSA applications should be included. These are:
  - Face Page (Standard Form 424, which is in PHS 5161–1)
  - Abstract
  - Table of Contents
  - Budget Form (Standard Form 424A, which is in PHS 5161–1)
  - Project Narrative and Supporting Documentation
  - Appendices
  - Assurances (Standard Form 424B, which is in PHS 5161–1)
  - Certifications (a form in PHS 5161–1)
  - Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1)
  - Checklist (a form in PHS 5161–1)
- Applications should comply with the following requirements:
  - Provisions relating to confidentiality, participant protection and the protection of human subjects, as indicated in the SVC–04 PA (MOD).
  - Budgetary limitations as indicated in Sections I, II, and IV–5 of the SVC–04 PA (MOD).
  - Documentation of nonprofit status as required in the PHS 5161–1.
- Pages should be typed single-spaced with one column per page.
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- 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 funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper, or 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.

*3. Submission Dates and Times:* Applications must be received by June 2, 2004. You will be notified by postal mail that your application has been received. Additional submission information is available in the SVC–04 PA (MOD) in Section IV–3.

*4. Intergovernmental Review:* Applicants for this funding opportunity must comply with Executive Order 12372 (E.O.12372). E.O.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 (MOD) in Section IV–4. A current listing of State Single Points of

Contact (SPOCs) is included in the application kit and is available at *http://www.whitehouse.gov/omb/grants/spoc.html.*

*5. Funding Restrictions:* Information concerning funding restrictions is available in the SVC–04 PA (MOD) in Section IV–5.

**V. Application Review Information**

*1. Evaluation Criteria:* Applications will be reviewed against the Evaluation Criteria and requirements for the Project Narrative specified in the SVC–04 PA (MOD). The following information describes exceptions or limitations to the SVC–04 PA (MOD) and provides special requirements that pertain only to PPW/RWC grants. Applicants must discuss the following requirements in their applications, in addition to the requirements specified in the SVC–04 PA (MOD):

*1.1 In ''Section B: Proposed Evidence-Based Service/Practice'':*

a. Applicants must demonstrate that residential treatment services will be provided to pregnant, postpartum, or other parenting women and their minor children.

b. Applicants must identify state-of-the art clinical and service delivery approaches that are gender-specific and culturally appropriate for women and also age appropriate for their minor children. Applicants must also discuss effective strategies for outreach, engagement, and retention of women in treatment.

*1.2 In ''Section C: Proposed Implementation Approach'':*

a. Applicants are not required to respond to the 4th bullet related to how project components will be embedded within the existing service delivery system.

b. Applicants must describe a comprehensive service system of care that includes the *required* services described below. These services must be provided either by the applicant organization or through a network of provider organizations in partnership with the applicant. In Appendix 6 of the application, applicants must show evidence of all network partners by including memoranda of understanding/memoranda of agreement (MOU/MOA) signed by the authorizing official in all partnership agencies and organizations critical to the success of the proposed project. If an organization is a comprehensive service provider, does not require any partnering with other service providers, and has clearly justified this in the description of how the *required* services are provided, a statement to this effect must be provided in Appendix 6. [**Note:** For purposes of rating the evidence of a comprehensive system of care, including who performs the *required* services, and the signed MOU/MOAs with network partners (if applicable), reviewers will be instructed to use 12 of the total 25 points allowed for the entire ''Proposed Implementation Approach'' criterion for this single critical requirement. You may include letters of commitment/support from community organizations supporting the project in Appendix 1 of the application; however these letters are not a substitute for the MOU/MOA requirement.]

*Required Services for Women*

- Outreach, screening, and assessment;
- Detoxification;
- Substance abuse education and treatment;
- Medical, dental, other physical health care services, including diabetes, hypertension, prenatal and postpartum health care; and referrals for necessary hospital services;
- Training in parenting;
- Education, screening, counseling, and treatment of Hepatitis, HIV/AIDS, other STDs, and related issues;
- Mental health assessment and treatment;
- Trauma-informed services, including assessment and interventions for emotional, sexual, and physical abuse;
- Employment readiness, training, and placement;
- Education and tutoring assistance for obtaining a GED and higher education;
- Childcare during periods in which the woman is engaged in therapy or in other necessary health or rehabilitative activities; and
- Transportation and other wraparound services.

*Required Services for Children*

- Screenings and developmental diagnostic assessments regarding the social, emotional, cognitive, and physical status of the infants and children;
- Therapeutic interventions, including counseling, occupational, and physical therapies;
- Pediatric health care, including immunizations, and treatment for asthma, diabetes, hypertension, and any perinatal effects of maternal substance abuse, *e.g.*, HIV;
- Social services and financial supports; and
- Education and recreational services.

*Required Services for the Family*

- Individual and family counseling/therapy;
- Alcohol and drug education;
- Parenting training; and
- Referral services for substance abuse, social, psychological, and medical services.

*Required Case Management Services*

- Coordinate services;
- Assess and monitor the extent to which required services are appropriate for women and children;
- Assist with community reintegration, before and after discharge, including referrals to appropriate resources; and
- Assist in accessing resources from Federal, State, and local programs that provide a range of treatment services, including substance abuse, health, mental health, housing, employment, education, and training.

*1.3 In ''Section E: Evaluation and Data'' the following requirements are added to the end of the 6th bullet:* Applicants must state whether or not the per person costs are within the following reasonable ranges by treatment modality. Applicants must also discuss the reasonableness of the per person costs. If proposed costs exceed reasonable ranges, a detailed justification must be provided.

Program costs. The following are considered reasonable ranges by treatment modality:

Residential: $3,000 to $10,000
Outpatient (Non-Methadone): $1,000 to $5,000
Outpatient (Methadone): $1,500 to $8,000
Intensive Outpatient: $1,500 to $7,500
Screen/Brief Intervention/Brief Treatment/Outreach/Pretreatment Services: $200 to $1,200

SAMHSA/CSAT computes per person costs as follows. The total support requested for the life of the project is multiplied by .8 (.2 will be the allowance for GPRA reporting requirements). The resulting amount is then be divided by the number of persons the applicant proposes to serve over the life of the project.

The outreach and pretreatment services cost band only applies to outreach and pretreatment programs that do not also offer treatment services but operate within a network of substance abuse treatment facilities. Treatment programs that add outreach and pretreatment services to a treatment modality or modalities are expected to fall within the cost band for that treatment modality.

*1.4 Appendix 6: Memoranda of Understanding/Agreement: [**Note:** Appendix 6 is in addition to the 5 required appendices listed in SVC–04*

*PA (MOD).]* To achieve a comprehensive service system, SAMHSA/CSAT expects that applicant organizations will need to partner with other organizations, including those providing primary health, mental health, and social services. Memoranda of understanding/agreement (MOU/MOA) signed by the authorizing official in all partnership agencies and organizations that are critical to the success of the project must be included in Appendix 6, ''Memoranda of Understanding/Agreement'' of the application. If the applicant organization is a comprehensive service provider and does not require any partnering with other service organizations, a statement to that effect must be included in Appendix 6 of the application. Letters of commitment/support are not a substitute for the MOU/MOA requirement.

*1.5 Performance Measurement:* All SAMHSA grantees are required to collect and report certain data, so that SAMHSA can meet its obligations under the Government Performance and Results Act (GPRA). Grantees of the PPW/RWC program will be required to report performance in several areas. Applicants must document their ability to collect and report the required data in ''Section E: Evaluation and Data'' of their applications. All PPW/RWC grant applicants must document their ability to collect and report data using the Targeted Capacity Expansion Client Level GPRA tool, which can be found at *http://www.csat-gpra.samhsa.gov* (click on ''Data Collection Tools/Instructions''), along with instructions for completing it. Hard copies are available in the application kits distributed by SAMHSA's National Clearinghouse for Alcohol and Drug Information. GPRA data must be collected at baseline (*i.e.*, the client's entry into the project), 6 months after the baseline, and 12 months after the baseline. Projects serving adolescents also must collect 3-month post-baseline data to capture the nuances of change particular to this population. GPRA data must be entered into the GPRA web system within 7 business days of the forms being completed. In addition, 80% of the participants must be followed up. GPRA data are to be collected and then entered into CSAT's GPRA Data Entry and Reporting System *(http://www.csat-gpra.samhsa.gov).* Training and technical assistance on data collecting, tracking, and follow-up, as well as data entry, will be provided by CSAT. Applicants may also be required to collect additional data to determine the degree of SAMHSA/CSAT effectiveness in meeting its objectives for this program.

2. *Review and Selection Process:* Information about the review and selection process is available in the SVC–04 PA (MOD) in Section V–2.

VI. Award Administration Information

Award administration information, including award notices, administrative and national policy requirements, and reporting requirements are available in the SVC–04 PA (MOD) in Section VI. SAMHSA's standard terms and conditions are available at *http://www.samhsa.gov/grants/2004/useful_info.asp.*

VII. Agency Contact for Additional Information

For questions concerning program issues, contact Linda White Young, SAMHSA/CSAT, 5600 Fishers Lane, Rockwall II, Suite 740, Rockville, MD 20857; (301) 443–8392; E-mail: *Lwhite1@samhsa.gov.* For questions on grants management issues, contact Kathleen Sample, SAMHSA/Division of Grants Management, 5600 Fishers Lane, Rockwall II, Suite 630, Rockville, MD 20857; (301) 443–9667; E-mail: *ksample@samhsa.gov.*

Dated: March 17, 2004.

**Margaret M. Gilliam,**

*Acting Director, Office of Policy Planning and Budget, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 04–6375 Filed 3–22–04; 8:45 am]

**BILLING CODE 4162–20–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Notice of Request for Applications for Recovery Community Services Program (RCSP III) (TI 04–008)

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice of request for applications for Recovery Community Services Program (RCSP III) (TI 04–008).

**Authority:** Section 509 of the Public Health Service Act, as amended and subject to the availability of funds.

**SUMMARY:** The United States Department of Health and Human Services (HHS), Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) is accepting applications for fiscal year (FY) 2004 grants to deliver and evaluate peer-to-peer recovery support services that help prevent relapse and promote sustained recovery from alcohol and drug use disorders, as authorized under section 509 of the Public Health Service Act. Successful applicants will provide peer-to-peer recovery support services that are responsive to community needs and strengths, and will carry out a quantitative and qualitative evaluation of the services.

This Recovery Community Services Program (RCSP III) complements SAMHSA's Access to Recovery (ATR) program, which provides grant funding to States, Territories and Tribal Organizations to implement voucher programs for substance abuse clinical treatment and recovery support services. ATR is part of a major Presidential Initiative to provide client choice among substance abuse clinical treatment and recovery support service providers, expand access to a comprehensive array of clinical treatment and recovery support options (including faith-based programmatic options), and increase substance abuse treatment capacity. Although not required, applicants for RCSP III are encouraged to coordinate with their State/Territorial/Tribal governments so that RCSP applications will complement the State/Territorial/Tribal governments' applications for ATR.

**DATES:** Applications are due on May 18, 2004.

**FOR FURTHER INFORMATION CONTACT:** For questions on program issues, contact: Catherine D. Nugent, M.S., SAMHSA/CSAT, 5600 Fishers Lane, Rockwall II, Room 7–213, Rockville, MD 20857, Phone: (301) 443–2662, Fax: (301) 443–8345, E-mail: *cnugent@samhsa.gov.*

For questions on grants management issues, contact: Kathleen Sample, Division of Grants Management, Substance Abuse and Mental Health Services Administration/OPS, 5600 Fishers Lane, Rockwall II 6th Floor, Rockville, MD 20857, Phone: (301) 443–9667, Fax: (301) 443–6468, E-mail: *ksample@samhsa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Center for Substance Abuse Treatment; Projects To Deliver and Evaluate Peer-to-Peer Recovery Support Services

*Short Title: Recovery Community Services Program—RCSP III (Initial Announcement)*

### Request for Applications (RFA) No. TI 04–008

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243.

KEY DATES

| Application Deadline | May 18, 2004 |
|---|---|
| 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

### *1. Introduction*

As authorized under section 509 of the Public Health Service Act, the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2004 funds for grants to deliver and evaluate peer-to-peer recovery support services that help prevent relapse and promote sustained recovery from alcohol and drug use disorders. Successful applicants will provide peer-to-peer recovery support services that are responsive to community needs and strengths, and will carry out a quantitative and qualitative evaluation of the services.

This Recovery Community Services Program (RCSP III) complements SAMHSA's Access to Recovery (ATR) program. ATR provides grant funding to States, Territories and Tribal Organizations to implement voucher programs for substance abuse clinical treatment and recovery support services pursuant to sections 501(d)(5) and 509 of the Public Health Service Act (42 U.S.C. 290aa(d)(5) and 290bb–2). ATR is part of a major Presidential Initiative to provide client choice among substance abuse clinical treatment and recovery support service providers, expand access to a comprehensive array of clinical treatment and recovery support options (including faith-based programmatic options), and increase substance abuse treatment capacity. Although not required, applicants for RCSP III are encouraged to coordinate with their State/Territorial/Tribal governments so that RCSP applications will complement the State/Territorial/Tribal governments' applications for ATR.

### *2. Expectations*

#### 2.1 Target/Involved Population

The primary target for this program is people with a history of alcohol and/or drug problems who are in or seeking recovery, along with their family members and significant others who will be both the providers and recipients of recovery support services. For purposes of this document, the term *peer* means people who share the experience of addiction and recovery, either directly or as family members/significant others.

#### 2.2 Eligible Services

Peer-to-peer recovery support services are designed and delivered by peers rather than by professionals. Professionals will be good allies, and successful peer initiatives will network and build strong and mutually supportive relationships with formal systems and professionals in their communities. However, peer services will be designed and delivered primarily by individuals and families in recovery to meet their recovery support needs, as they define them. Therefore, although supportive of formal treatment, peer recovery support services are not treatment in the commonly understood clinical sense of the term.

At the same time, peer recovery support services are expected to extend and enhance the treatment continuum in at least two ways. These services will help prevent relapse and promote long-term recovery, thereby reducing the strain on the over-burdened treatment system. Moreover, when individuals do experience relapse, recovery support services can help minimize the negative effects through early intervention and, where appropriate, timely referral to treatment.

Continued sobriety or abstinence (which includes abstinence attained with medication, such as methadone or buprenorphine) is an important part of sustained recovery from addiction. However, recovery is a larger construct than sobriety or abstinence that embraces a full reengagement with the community based on resilience, health, and hope. Therefore, peer recovery support services are expected to focus less on the pathology of substance use disorders and more on maximizing the opportunities to create a lifetime of recovery and wellness for self, family, and community. Appendix B provides a listing of examples of peer-to-peer recovery support services.

*This grant program is not designed to support the provision of professional treatment services, including aftercare, by any type of provider.* Peer support services cannot replace acute treatment, and it would be unethical to utilize peer leaders from the recovery community to provide services, such as treatment, counseling, or psychotherapy, that should be provided by a professional. Peer leaders providing recovery support services under this program will offer a limited range of supportive services that differ from and complement those provided by alcohol and drug counselors, psychotherapists, or other professionals.

*In addition, the program is not designed to support treatment or other professionals in the provision of recovery support services.* Individuals who self-identify as both a professional and a person in recovery may provide recovery support services in their capacity as a peer, but may not provide professional services under this grant.

*RCSP III is intended to support peer leaders from the recovery community in providing recovery support services to people in recovery and their family members.*

2.3 Mix of Services

Applicants must demonstrate that the array of services offered is responsive to community need and complements existing community resources. The goal is to add to the existing resources in the community with peer-to-peer recovery support services that can meet the stage-appropriate needs of people who are seeking to initiate recovery or working to sustain it. Successful peer-to-peer recovery support services will include ongoing assessment of participants' support needs and a menu of supportive services to meet the needs at various stages in recovery.

Because peer recovery support services operationalize the construct of social support, it may be helpful for applicants to consider four types of social support cited in the literature (Cobb, 1976; Salser, 1998), and to design a mix of services that includes activities in the following categories:

• *Emotional support* refers to demonstrations of empathy, love, caring, and concern. Emotional support bolsters one's self-esteem and confidence. An emotional supporter serves as a confidante, offering acceptance, care, and understanding. Peer mentoring, coaching, and support groups are examples of recovery support services that provide emotional support.

• *Informational support* involves assistance with knowledge, information, and skills. This type of support can include providing information on where to go for resources or might involve teaching a specific skill. Examples of recovery support services that provide informational support include life skills training (*e.g.*, parenting, stress management, conflict resolution), job skills training, citizen restoration, educational assistance, and health and wellness information (*e.g.*, smoking cessation, nutrition, relaxation training).

• *Instrumental support* refers to concrete assistance in helping others to do things or get things done, especially stressful or unpleasant tasks. Examples in this category might include providing transportation to get to support groups, child-care, clothing closets, and concrete assistance with tasks such as filling out applications or helping people obtain entitlements.

• *Companionship support* offers the opportunity to experience connections with people in whose company one enjoys being, especially for recreational activities. It is important for people in recovery to have opportunities for positive leisure activities in an alcohol- and drug-free environment. Especially in early recovery when there may be little that is reinforcing about abstaining from alcohol or drugs, finding some pleasure with others may help prevent relapse.

Based on assessment of the targeted recovery community, the applicant should determine which services, and in which proportion, are expected to be optimally responsive to community needs.

**Note:** Although alcohol- and drug-free social and recreational activities are acceptable services under this grant, applicants may not limit their services to companion support, but, rather, must include a broad range of supports from the various social support categories.

2.4 Core Values

Applicants must identify the core values that will guide their approach, and explain how these values will be operationalized in the design and delivery of peer-to-peer recovery support services. Applicants must discuss each of the following values, which are further explained in Appendix D: (a) Keeping recovery first; (b) participatory process; (c) authentic recovery community voice; (d) leadership development, and (e) cultural diversity and inclusion. Applicants may identify and discuss other values important to the targeted recovery community, but must discuss these five.

2.5 Types of Peer Service Organizations

Applications may be submitted by either independent *recovery community organizations (RCOs)* or *facilitating organizations.*

*RCOs* are organizations comprised of and led primarily by people in recovery and their family members and other allies. Generally, these are independent organizations with nonprofit status.

*Facilitating organizations* may not necessarily be comprised primarily of people in recovery; however, people in recovery and their family members must be involved in all aspects of application development, program design, and implementation. Examples of facilitating organizations include: treatment and mental health agencies, community service centers, consortia of community-based organizations not led by recovery community members, universities, and units of government.

The facilitating organization's role in the grant will be to:

• Enable the formation of an independent RCO that will provide peer-to-peer recovery support services; or

• Develop some other viable organizational structure that enables recovery community members to provide peer-to-peer recovery support services in an autonomous and self-directed manner within the facilitating organization.

Whether through formation of an *RCO* or another organizational structure, the *facilitating organization* will build the capacity of the recovery community to design, deliver, and evaluate peer support services.

Treatment providers, units of government, universities, and all other professionally-based organizations may apply *only* as facilitating organizations.

Members of the recovery community must have a meaningful leadership role in any project, whether carried out by an *RCO* or *facilitating organization.*

2.6 Infrastructure Development (maximum 15% of total grant award)

Organizations funded under RCSP III must be sufficiently established to begin implementing peer recovery support services within six months of award. However, SAMHSA recognizes that infrastructure development may be needed to support organizational start-up and development, as well as service design, in some instances. Although the majority of grant funds should be used for direct services, you may use up to 15% of the total RCSP III grant award for the following types of infrastructure development, if necessary, to support the design, development, and initiation of the peer services you will offer:

• Activities related to organizational and project start-up, such as staff and board development, as well as ongoing organizational functions, such as risk management and accounting services.

• Community assessment and development. (Although you must demonstrate knowledge of community needs and resources in your application, if you are funded, you may use a limited amount of grant funds to conduct additional assessments and refine your service plan, and to further mobilize the targeted recovery community to participate in the program.)

• Building partnerships to ensure the success of the project and entering into service delivery or other agreements.

It is expected that peer leadership development (*e.g.*, recruiting, orienting, training, and supervising peers to provide services) will be an ongoing activity. Peer leadership development is not considered infrastructure development.

2.7 Grantee Meetings

You must plan to send at least two to three key staff members (including the Project Director) to a yearly technical assistance meeting, and you must plan to send approximately 5–8 representatives of your project, including key staff and peer leaders from your targeted recovery community, to a yearly RCSP conference. 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.

2.8 Data and Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L. 103–62, or ''GPRA'') requires all Federal agencies to set program performance targets and report annually on the degree to which the previous year's targets were met.

Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures and justify their request for funding.

To meet GPRA requirements, SAMHSA must collect performance data (*i.e.*, ''GPRA data'') from grantees. Grantees are required to report these GPRA data to SAMHSA on a timely basis. Specifically, grantees will be required to provide data on a set of required measures explained below.

The purpose of the RCSP III GPRA data is to provide information that helps to establish the value of peer-to-peer recovery support services in preventing relapse and promoting sustained recovery. To accomplish this, you will be required to provide data on a set of required performance indicators. (Note to previous RCSP applicants: The GPRA requirements have changed; RCSP III is designed to provide performance data that was not required in previous RCSP programs.)

*For adults receiving services,* GPRA indicators include changes in a positive direction or stability over time on each of five measures, showing that adults receiving your services:

- Are currently employed or engaged in productive activities
- Have a permanent place to live in the community
- Have reduced their involvement with the criminal justice system
- Have not used illegal drugs or misused alcohol or prescription drugs during the past month
- Have experienced reduced health, behavior, or social consequences related to abuse of alcohol or illegal drugs or misuse of prescription drugs.

*For youth/adolescents under age 18 receiving services,* GPRA indicators include changes in a positive direction or stability over time on five measures, showing that youth/adolescents receiving your services:

- Are attending school
- Are residing in a stable living environment
- Have no involvement in the juvenile justice system
- Have not used alcohol or illegal drugs or misused prescription drugs during the previous month
- Have experienced reduced health, behavior, or social consequences related to use of alcohol, abuse of illegal drugs, or misuse of prescription drugs.

GPRA data are to be collected at baseline (*i.e.*, the participant's entry into the RCSP grantee's service program), 6 months after the baseline, and 12 months after the baseline. Projects serving adolescents may also want to collect 3 month post-baseline data to capture the nuances of change particular to this population. It is expected that GPRA data will be entered into the GPRA Web system within 7 business days of the forms being completed. In addition, it is expected that 80% of the participants will be followed up.

You may allocate up to 20% of your project budget to collect and report GPRA data and for your process evaluation (see below).

The data collection tool, Targeted Capacity Expansion Client Level GPRA Tool, to be used for reporting the required data will be provided in the application kits distributed by the National Clearinghouse for Alcohol and Drug Information (NCADI) and can be found at *http://www.csat-gpra.samhsa.gov/.* (Click on ''Data Collection Tools/Instructions.'' Then click on ''Targeted Capacity Expansion Program,'' then ''GPRA Tool.'')

In your application, you must demonstrate your ability to collect and report on these measures. (You should not, however, include GPRA data collection forms.) If you do not have the capability to collect and report on the GPRA measures, you will need to partner with an individual or organization that does.

GPRA data are to be collected and then entered into CSAT's GPRA Data Entry and Reporting System (*www.csat-gpra.samhsa.gov*). Training and technical assistance on data collecting, tracking, and follow-up, as well as data entry, will be provided by CSAT.

The terms and conditions of the grant award also 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.

Applicants should be aware that SAMHSA is working to develop a set of required core performance measures for four types of grants (*i.e.*, Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants). As this effort proceeds, some of the data collection and reporting requirements included in SAMHSA's RFAs may change. All grantees will be expected to comply with any changes in data collection requirements that occur during the grantee's project period.

2.9 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. The evaluation must include the required GPRA performance measures (outcome evaluation) described above, as well as process components (process evaluation—described below), which measure change relating to project goals and objectives over time compared to baseline information. Control or comparison groups are not required.

*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, peer leaders) what services (modality, type, intensity, duration), to whom (individual characteristics), in what context (organization, community), and at what cost (facilities, personnel, dollars)?

You may use no more than 20% of the total grant award for evaluation and data collection, including GPRA.

## II. Award Information

*1. Award Amount*

It is expected that approximately $2.5 million will be available in fiscal year 2004 to fund approximately 7 grants. The average annual award is expected to be about $350,000 in total costs (direct and indirect), and grants will be awarded for a period of up to 4 years. The actual amount available for the awards may vary, depending on unanticipated program requirements and the number and quality of the applications received.

Out of the $2.5 million available, SAMHSA/CSAT plans to set aside approximately $1.4 million to fund up to 4 RCOs (as defined in Section I.2.5, entitled Types of Peer Services Organizations).

*Proposed budgets cannot exceed the allowable amount in any year of the proposed project.* 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.

*2. Funding Mechanism*

Awards will be made as grants.

**III. Eligibility Information**

*1. 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.

Consortia comprised of various types of eligible organizations are permitted; however, a single organization representing the consortium must be the applicant, the recipient of any award, and the entity responsible for satisfying the grant requirements.

If you are proposing a consortia, a recovery community organization or people in recovery and their families must have a significant role in the consortium and the project.

*All applicants, including single organizations and consortia, must clearly indicate in their project narrative (in Section B, Organizational and Community Readiness and Feasibility) whether they are a Recovery Community Organization (RCO) or Facilitating Organization (FO).* If your application fails to declare which type of organization you are, the Peer Review Committee will categorize your organization. Also, if the Peer Review Committee does not agree with the way you have categorized your organization, they may change your designation (*e.g.*, from RCO to FO or vice versa).

Organizations that were funded under *Track II of the 2001 SAMHSA/CSAT Recovery Community Support Program (TI–01–003)*, whose grants will be ending in September 2004, may apply for grants under this Request for Applicants (RFA). All other current RCSP grantees are ineligible for this program.

*2. Cost-Sharing*

Cost-sharing (*see* Appendix H) 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 (*see* Glossary) in your proposal as evidence of commitment to the proposed project.

*3. Other*

3.1 Additional Eligibility Requirements

Applicants must comply with the following requirements, or they will be screened out and will not be reviewed: use of the PHS 5161–1 application; application submission requirements in Section IV–3 of this document; and formatting requirements provided in Section IV–2.3 of this document.

**IV. Application and Submission Information**

To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix C of this document.

*1. Address To Request Application Package*

You may request a complete application kit by calling the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686. You also may download the required documents from the SAMHSA Web site at *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.

*2. Content and Form of Application Submission*

2.1 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. *Applications that are not submitted on the required application form will be screened out and will not be reviewed.*
- Request for Applicants (RFA)—Includes instructions for the grant application. This document is the RFA.

You must use the above documents in completing your application.

2.2 Required Application Components

To ensure equitable treatment of all applications, applications must be complete. In order for your application to be complete, it must include the required ten application components (Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist).

- *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 *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. Sections A–E together may not be longer than 30 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 I. There are no page limits for these sections, except for Section H, the Biographical Sketches/Job Descriptions.

- *Section F*—Literature Citations. This section must contain complete citations, including titles and all

authors, for any literature you cite in your application.

• *Section G*—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 H*—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 I*—Confidentiality and SAMHSA Participant Protection/Human Subjects. Instructions for completing Section I of your application are provided below in Section IV–2.4 of this document.

• *Appendices 1 through 4*—Use only the appendices listed below. Do not use more than 30 pages for Appendices 1,3, and 4. There is no page limitation for Appendix 2. Do not use appendices to extend or replace any of the sections of the Project Narrative. Reviewers will not consider them if you do.

• *Appendix 1:* Letters of commitment/support (from all direct service organizations that have agreed to participate in the proposed project, as well as community stakeholders who support your project).

• *Appendix 2:* Data Collection Instruments/Interview Protocols (no page limitation)

• *Appendix 3:* Sample Consent Forms

• *Appendix 4:* Letter to the SSA

• *Assurances*—Non-Construction Programs. Use Standard Form 424B found in PHS 5161–1. Applicants are required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations, Form SMA 170. This form will be posted on SAMHSA's Web site with the RFA and provided in the application kits available at NCADI.

• *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.

2.3 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.

• Information provided must be sufficient for review.

• Text must be legible.

—Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

—Text in the Project Narrative cannot exceed 6 lines per vertical inch.

• Paper must be white paper and 8.5 inches by 11.0 inches in size.

• To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

—Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the 25-page limit for the Project Narrative.

—Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by 25. This number represents the full page less margins, multiplied by the total number of allowed pages.

—Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

• The 30-page limit for Appendices 1, 3 and 4 cannot be exceeded.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, following these guidelines will help reviewers to consider your application.

• Pages should be typed single-spaced with one column per page.

• Pages should not have printing on both sides.

• 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 Section IV–6.1 of this document. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or 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.

2.4 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 I 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 describe how you will address these requirements.

1. Protect Clients and Staff From Potential Risks

• Identify and describe any foreseeable physical, medical, psychological, social, and legal, risks or

potential adverse effects as a result of the project itself or any data collection activity.

• Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.

• Identify plans to provide guidance and assistance in the event 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 targeted groups.

• Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, and individuals who are likely to be particularly 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 participation is required, for example, court orders requiring people to participate in a program.

• If you plan to compensate participants, state how participants will be awarded incentives (*e.g.*, money, gifts etc.).

• State how volunteer participants will be told that they may receive services intervention even if they do not participate in or complete the data collection component of 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 obtain *written* informed consent.

• Indicate if you will obtain informed consent from participants or assent from minors along with consent 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, as appropriate, sample consent forms that provide for: (1) Informed consent for participation in service intervention; (2) informed consent for participation in the data collection component of the project; and (3) informed consent for the exchange (releasing or requesting) of confidential information. The sample forms must be included in Appendix 3 of your application, ''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.

**Note:** A Sample Consent Form for Participation in Peer Recovery Support Services is in Appendix E. In addition, examples of risks and protections for peer recovery support services are included in Appendix F. Additional participant protection challenges for peer services are included in Appendix G, along with examples of strategies to address the challenges. These appendices are provided to help you consider some of the participant protection issues that may affect your proposed project. They are not to be considered exhaustive; you must consider the specific risks and protections that will be important for your particular project.

*Protection of Human Subjects Regulations:* Depending on the evaluation design you propose in your application, you may have to comply with the Protection of Human Subjects Regulations (45 CFR part 46).

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 who 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).

*3. Submission Dates and Times*

Applications are due May 18, 2004.

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.

*4. 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. 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 *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. TI–04–008.

In addition, community-based, non-governmental service providers who are not transmitting their applications through the State must submit a Public Health System Impact Statement or PHSIS (approved by OMB under control no. 0920–0428; see burden statement below) 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. The 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 following Public Health System Reporting Requirements.*

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. TI–04–008.

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)].

*5. 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 peer services.
- No more than 20% of the total grant award may be used for evaluation and data collection, including GPRA.

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.
- Pay for professional alcohol and/or drug treatment services. (Note: This program supports peer-to-peer recovery support services that prevent relapse and promote long-term recovery.)
- 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), *except, for a period of no longer than 6 months, to assist in the transition from the incarcerated setting to the community.* For example, funds under this program could be used to support peer recovery mentoring offered to individuals

awaiting discharge from prison. Such mentoring would be designed to help the incarcerated person develop a relationship with a mentor who would continue the relationship with the ex-offender in the community upon his/her release. Similarly, pre-release recovery support groups facilitated by peer leaders from the community might be offered in a correctional facility to assist incarcerated persons awaiting release as they develop plans for maintaining sobriety/abstinence 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.)
- Pay for programs, services, or materials that are routinely provided free of charge to the recovery community.
- Pay for incentives to induce individuals to participate in recovery support services. However, grantees may allocate funds for various types of instrumental support for participants, such as bus tokens, coupons for food, access to clothing closet, etc., and may allocate funds to pay or provide incentives for peer leaders who will provide recovery support services. In addition, a grantee 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. Any incentives for instrumental supports for participants or for data collection, as well as any proposed compensation for peer leaders, must be clearly described in the project narrative and included in the budget and budget narrative.
- Implement syringe exchange programs, such as the purchase and distribution of syringes and/or needles.
- Pay for advocacy or lobbying.

6. Other Submission Requirements

6.1 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 RCSP III, TI 04–008 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.

6.2 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**

*1. Evaluation Criteria*

Your application will be reviewed and scored according to the quality of your response to 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.
- The Project Narrative (Sections A–E) together may be no longer than 30 pages.
- 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.
- Reviewers will be looking for evidence of cultural competence in each section of the Project Narrative. Points will be assigned on how well you address the cultural aspects of the evaluation criteria. SAMHSA'S guidelines for cultural competence can be found on the SAMHSA Web site at *www.samhsa.gov.* Click on ''Grant Opportunities.''
- The Supporting Documentation you provide in Sections F–I and Appendices 1–4 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.

Section A: Statement of Need (10 points)

- Define the target populations that will receive and provide peer recovery support services and provide a rationale for selecting those target populations, as well as the geographic area to be served. (**Note:** Extensive demographic information is not required.) If you plan to focus on a specific segment of the recovery community, explain why this is necessary or desirable.
- Describe the nature of the problem and extent of the need for recovery support services for the target population. Documentation of need may come from quantitative and/or qualitative sources. The quantitative data could come from community assessments you or others have conducted, or 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). Qualitative sources could include focus groups and key informant interviews you or others have conducted with the targeted community, as well as anecdotal reports.
- Based on your quantitative and qualitative findings, discuss your understanding of the recovery issues facing the targeted recovery community, including family members/significant others.
- Describe how the proposed peer recovery support services will complement existing professional and peer services in your community (*e.g.*, formal treatment and self-help programs).
- Describe any other meaningful results you expect your project to produce.

Section B: Organizational and Community Readiness and Feasibility (10 points)

- Clearly identify your organization as either a Facilitating Organization or Recovery Community Organization.
- Describe previous efforts organizing and mobilizing the targeted recovery community (by your organization and/or others), and explain why you think the community is ready to participate in providing and receiving peer-to-peer recovery support services.
- Describe the extent to which the recovery community indicates support for your proposed project.
- Describe the extent to which other categories of stakeholders indicate support for your proposed project. Identify categories of stakeholders—for example, treatment and other

professional groups, civic groups, governmental organizations, faith-based groups, and others—and discuss the role you expect them to play in the project. (You should include letters of support showing stakeholder interest in the project in Appendix 1, entitled, ''Letters of Commitment/Support''.)

Section C: Project Approach (35 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 number, range, and availability of services; help prevent relapse; strengthen linkage between treatment and recovery; increase support for sustained recovery in your community).
- Demonstrate how the proposed services will meet your goals and objectives.
- Discuss and explain the core values that will guide the project design and implementation, and explain how each of these values will be operationalized. At a minimum, discuss each of the following as it relates to the proposed project: (a) Recovery first; (b) participatory process; (c) authentic recovery community voice; (d) leadership development, and (e) cultural diversity, including the various ''cultures of recovery'' and/or routes to recovery. (See Appendix D for an explanation of these values.) You may identify and discuss other values important to your targeted recovery community, but you must discuss these five.
- Describe how the services will be implemented.

—Clearly explain each recovery support service you plan to provide. (Note: Be sure to include a mix of services that builds on the strengths and needs in the targeted recovery community.

—Explain your plans for building recovery community members' skills to serve as peer leaders and service providers in the delivery of peer-to-peer recovery support services. Include a discussion of your plans for recruiting, screening, orienting, training, and supervising the peers providing recovery support services.

- Clearly state the unduplicated number of individuals you propose to serve (annually and over the entire project period) with grant funds. Applicants should propose to serve no fewer than 100 individuals per year.
- 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, gender, and path to recovery in the target population.
- Describe how members of the recovery community helped prepare the application, and how they will help plan, implement, and evaluate the project.
- Discuss how you plan to develop effective partnerships with professional treatment organizations and self-help groups, so as to minimize duplication of services and perceived threats of encroachment on established ''territory.''
- Describe the potential barriers to successful conduct of the proposed project and how you will overcome them.

Section D: Staff, Management, and Relevant Experience (30 points)

- Provide a time line for Year I of 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, 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 6 months after grant award. If applicable, identify any cash or in-kind contribution that you or your partnering organizations will make to the project.
- Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience organizing and mobilizing in the recovery community, and providing peer services, as well as 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 Volunteer/Peer Coordinator, and Evaluator.
- 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, manage, and report on the required GPRA performance measures for SAMHSA Services Grants. (**Note:** It is not necessary to include any outcome measures other than those required for GPRA in your evaluation design. SAMHSA/CSAT will provide the necessary protocols and forms for collection and reporting of GPRA data, so you do not need to include data collection forms for GPRA in your application.
- If you choose to include an *outcome evaluation* other than GPRA, you must specify and justify the outcome measures.
- If you choose to include an *outcome evaluation* other than GPRA, describe your plans for data collection, management, analysis, interpretation and reporting. If you are including outcome measures other than those required for GPRA, you must include your valid and reliable data collection instruments/interview protocols in Appendix 2.
- Describe the *process evaluation* and explain how it will reflect the experience and insights of your project. Include in Appendix 2 any forms or protocols you plan to use for your process evaluation.

**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.

*2. 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.

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 in terms of geography (including urban, rural and remote settings) and balance among target populations and program size.
- After applying the aforementioned criteria, the following method for breaking ties: When funds are not available to fund all applications with identical scores, SAMHSA will make award decisions based on the

application(s) that received the greatest number of points by peer reviewers on the evaluation criterion in Section V–1 with the highest number of possible points (Section C: Project Approach—35 points). Should a tie still exist, the evaluation criterion with the next highest possible point value will be used, continuing sequentially to the evaluation criterion with the lowest possible point value, should that be necessary to break all ties. If an evaluation criterion to be used for this purpose has the same number of possible points as another evaluation criterion, the criterion listed first in Section V–1 will be used first.

## VI. Award Administration Information

*1. 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.

*2. 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/grants/2004/useful_info.asp*.
- Depending on the nature of the specific funding opportunity and/or the proposed project as identified in the RFA or during review, additional terms and conditions may be 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; 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.

*3. Reporting Requirements*

3.1 Progress and Financial Reports

- Grantees must provide quarterly progress and final reports. The final report must summarize information from the quarterly 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. Because SAMHSA is extremely interested in ensuring that recovery 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.

3.2 Government Performance and Results Act (GPRA)

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. To meet the GPRA requirements, SAMHSA must collect performance data (.e.g., ''GPRA data'') from grantees. These requirements are specified in Section I–2.8, Data and Performance Measurement, of this RFA.

3.3 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 addiction treatment and recovery, substance abuse prevention, and/or mental health services community.

## VII. Agency Contacts

For questions about program issues, contact:

Catherine D. Nugent, M.S., Recovery Community Services Program, CSAT/SAMHSA, Rockwall II, Room 7–213, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2662, *cnugent@samhsa.gov.*

For questions on grants management issues, contact:

Kathleen Sample, SAMHSA, Division of Grants Management, 5600 Fishers Lane, Rockwall II 6th Floor, Rockville, MD 20857, (301) 443–9667, *ksample@samhsa.gov.*

## Appendix A: References Cited

Cobb, S. (1976). Social support as a moderator of life stress. Psychosomatic Medicine, 38, 5: 300–314.

Salser, M. (No date). *Best practice guidelines for consumer-delivered services.* Unpublished paper, developed for Behavioral Health Recovery Management Project, An Initiative of Fayette Companies, Peoria, IL; Chestnut Health Systems, Bloomington, IL; and the University of Chicago Center for Psychiatric Rehabilitation. Available at: *http://bhrm.org/guidelines/mhguidelines.htm.*

[1] This list is illustrative, not exhaustive.

## Appendix B: Peer-to-Peer Recovery Support Services Examples [1]

**Peer-Facilitated Recovery Support Meetings/Groups**

—General support groups
—Specialized support groups (*e.g.*, homelessness, HIV, Hepatitis C, dual diagnosis, PTSD, culturally-specific)
—Family support groups
—Faith-based support groups
—Talking circles
—Recovery workshops
—Learning circles or study groups (recovery topics)
—Recovery drop-in center

**Recovery Coaching or Mentoring**

—Adult to adult
—Youth to youth (with adult supervision)
—Community member in recovery to incarcerated person awaiting release
—Family member to family member

**Peer Case Advocacy, Information, and Referral**

—Information about and assistance obtaining public assistance, SSI/SSD and other benefits
—Assistance with finding housing, advocacy with public housing placements
—Crisis assistance and peer interventions
—Information about restoration of citizenship for ex-offenders
—Legal clinics or referral to legal services

**Life Skills**

—Classes on money management, savings, and budgeting
—Peer counseling and/or peer support for issues of daily living (money, meals, medication, living skills)
—Classes in nutrition, meal planning, food buying, cooking
—Workshops on renting an apartment, buying a house, setting up utilities, *etc.*
—Workshops on parenting in recovery
—Workshops for families in recovery
—Parenting groups
—Social skills workshops and groups

**Health and Wellness**

—Classes in HIV and STD prevention
—HIV management workshops
—Psychoeducational workshops or discussion groups (*e.g.*, understanding depression, body image, maintaining intimate relationships)
—Wellness workshop series (*e.g.*, stress management, meditation, yoga, acupuncture, massage)
—Health workshop series
—Sexuality workshop series
—Addiction workshop series
—Relapse prevention workshops
—Guest speaker/lecturer series
—Smoking cessation workshops
—Classes in cooking and nutrition
—Spiritual health/spirituality

**Gender-Specific**

—Men's and women's support groups
—Pre-employment assessment and services for men and women entering/returning to the workforce
—Reproductive health workshops
—Parenting skills workshops

**Education and Career Planning**

—English as a Second Language classes
—GED classes
—Reading and study skills program
—Information regarding college and career choices for adults
—Job skills and career aptitude workshops
—Vocational training or linkages to vocational rehabilitation
—Work readiness groups
—Assistance with scholarships and financial aid
—Assistance with college applications
—Preparation for SAT and other college entrance tests
—Peer counseling/peer support for job readiness, job training, interviewing skills, appropriate attire, wardrobe maintenance and other employment behaviors and skills
—Job training, job coaching
—Resume writing workshops
—Computer skills training

**Leadership Skills Development**

—Peer-leadership development workshops
—Peer support group training and facilitation (how to conduct meetings)
—Peer helping skills training and development (process skills)
—Peer volunteer content training: public health issues (HIV, TB, *etc.*), community resources, addiction treatment and recovery issues
—Communication skills
—Conflict resolution skills
—Citizenship classes
—Community service programs
—Diversity training
—Learning circles
—Consciousness—raising groups

**Physical Education and Fitness**

—Strength training
—Aerobics
—Yoga
—Dance classes

**Cultural Activities**

—Art classes
—Photography
—Music classes
—Art exhibits
—Performances
—Chorus
—Theater group or improvisational theater
—Writing and journal workshops
—Videography workshops

**Alcohol-and Drug-Free Social/Recreational Activities**

—Movie nights
—Game nights
—Dances
—Potluck suppers and picnics
—Talent shows
—Holiday parties
—Pool and ping pong tournaments
—Field trips
—Basketball and softball leagues
—Snack bar/food service
—Sober bike runs

**Other Services**

—Library, resource center, clearinghouse
—Information and referral
—Hotline/Warmline
—Transportation assistance service
—Shower facilities for homeless
—Food bank
—Respite programs
—Copy shop services
—Thrift store

## Appendix C: Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review. In addition to these formatting requirements, programmatic requirements (*e.g.*, relating to eligibility) may be stated in the specific funding announcement. Please check the entire funding announcement before preparing your application.

• Use the PHS 5161–1 application.

• 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 at least 1 week prior to the application deadline will not be reviewed.

• Information provided must be sufficient for review.

• Text must be legible.

— Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

— Text in the Project Narrative cannot exceed 6 lines per vertical inch.

• Paper must be white paper and 8.5 inches by 11.0 inches in size.

• To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

— Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the specific funding announcement.

— Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the total number of allowed pages. This number represents the full page less margins, multiplied by the total number of allowed pages.

— Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

• The page limit for Appendices stated in the specific funding announcement cannot be exceeded.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

• The 10 application components required for SAMHSA applications should be included. These are:

— Face Page (Standard Form 424, which is in PHS 5161–1)
— Abstract
— Table of Contents
— Budget Form (Standard Form 424A, which is in PHS 5161–1)
— Project Narrative and Supporting Documentation
— Appendices
— Assurances (Standard Form 424B, which is in PHS 5161–1)
— Certifications (a form within PHS 5161–1)
— Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1)
— Checklist (a form in PHS 5161–1)

• Applications should comply with the following requirements:

— Provisions relating to confidentiality, participant protection and the protection of human subjects specified in Section IV–2.4 of the specific funding announcement.
— Budgetary limitations as specified in Sections I, II, and IV–5 of the specific funding announcement.
— Documentation of nonprofit status as required in the PHS 5161–1.

• Pages should be typed single-spaced with one column per page.

• Pages should not have printing on both sides.

• 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 funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or 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 D: Core Values for RCSP Peer-to-Peer Recovery Support Services

RCSP III builds on the work of earlier SAMHSA/CSAT initiatives with the recovery community, as well as efforts in the mental health and HIV/AIDS consumer communities, that have focused on the importance and value of peer-to-peer service. The program is built on the recognition that individuals in recovery, their families, and their community allies are critical resources that can effectively extend, enhance, and improve formal treatment. RCSP III is designed to achieve its goals by focusing on recovery community resources and motivation that already exist within most communities; employing a peer-driven, strength-based, and wellness-oriented approach that is grounded in the ''culture(s) of recovery''; and utilizing existing community resources.

Because peer services emphasize strength, wellness, community-based delivery, and provision by peers rather than experts, these services can be viewed as promoting self-efficacy, community connectedness, and quality of life, all important factors in sustained recovery.

Previous efforts among CSAT's RCSP grantees have pointed to the importance of five core values in recovery community organizing, including organizing to provide peer services. These values are:

• *Keeping recovery first*—placing recovery at the center of the effort, grounding peer-to-peer services in the strengths and innate resiliency that recovery represents;

• *Participatory process*—involving the recovery community in all aspects of project design, implementation, and evaluation;

• *Authenticity*—ensuring that the program has a clearly defined method for enabling the targeted recovery community to identify its strengths, interests, and needs, and to design and deliver peer-to-peer services program around the self-identified strengths and needs;

• *Leadership development*—building leadership among members of the recovery community so that they are able to guide and direct the service program and deliver support services to their peers; and

• *Cultural diversity and inclusion*—developing a recovery community peer support services program that is inclusive of various groups and that honors differing routes to recovery, including medication-assisted recovery.

## Appendix E: Sample Consent Form for Participation in Peer-to-Peer Recovery Support Services

I, _____, (participant's name—printed) consent to participate in peer recovery support services offered by [grantee: insert name of grantee organization] (hereafter referred to as ''the organization.''

I understand that these are peer-to-peer services, offered to support my recovery, help me avoid relapse, and promote my overall functioning and well-being. I understand that these are not professional services by a treatment provider, mental health counselor, or other professional, and that I may seek professional services elsewhere should I choose to do so.

The specific service I will be receiving is:

_____

[grantee: insert name of recovery support service]

_____
_____
_____

I expect to be receiving this service from _____ to _____.

I understand that my participation in this service is voluntary, and I have the right to terminate my participation in the service at any time without negative consequences.

I understand that I may be subject to certain risks as a consequence of my participation in this service, including:

[grantee: list potential risks for the recovery support service—see Appendix F for some examples]

_____
_____
_____

I also understand that the organization is taking the following steps to help protect me from those risks:

[grantee: list protections for risks identified above—see Appendix F for some examples]

_____
_____
_____

If I have any questions about this peer-to-peer recovery support services, I understand that I may contact:

[grantee: insert name of RCSP project director with phone number and e-mail address]

_____
_____
_____

*Signed:* _____
Date: _____

(Print name of participant or, if applicable, legal guardian)

_____

(Signature)

Witnessed: _____
Date: _____

(Print name of program staff)

_____

(Signature)

This consent is effective as of the date of signing. It may be revoked in writing at any time. This consent will expire 15 months after the date of signing if not revoked before then.

## Appendix F: Analysis of Examples of Risks and Protections for Peer Recovery Support Services

RECOVERY COMMUNITY SERVICES PROGRAM—PROTECTIONS FOR PARTICIPANTS IN PEER SERVICES

| Sample Framework for Analysis | | |
|---|---|---|
| SAMHSA guidelines | Examples of risks | Examples of protections |
| Client & Staff Protection from Risk .. | Participant's issues/problems beyond expertise of peer provider.<br>Potential for mental anguish and/or reoccurence of a mental condition (e.g., PTSD).<br>Potential for relapse and/or destabilization.<br>Public disclosure may expose prograrm participants/volunteers to stigma & discrimination. | Provide verbal and written notification of potential risks associated with participation.<br>Obtain informed consent forms that specify potential risks.<br>Maintain referral network and be capable of providing referrals to professional service organizations for help when necessary.<br>Establish and continually promote norms that support self-care.<br>Provide ongoing training, supervision, and support for peer leaders who provide recovery support services.<br>Use mentors or coaches.<br>Provide ongoing written communication about voluntary participation.<br>Provide opportunities to participate without self-disclosure.<br>Maintain anonymity in publications and public arenas. |

## Appendix G: Potential Participant Protection Challenges in Peer Services and Strategies to Address

| | | |
|---|---|---|
| Fair Selection of Participants ..... | Exclusion from program and/or services based on physical ability, gender, sexuality, age, race/ethnicity.<br>Unfair "targeting" of population for participation based on physical ability, gender, sexuality, age, race/ethnicity. | Describe the diversity of potential participants from program target community.<br>Develop program leadership that reflects diversity of target community.<br>Provide diversity and cultural competency training for staff, volunteers and participants.<br>Increase cultural competency through hiring and volunteer recruitment procedures.<br>Utilize peers in outreach efforts.<br>Continue to assess participation barriers and develop strategies to address. |
| Absence of Coercion ..... | Coerced participation.<br>Peer pressure to participate.<br>Access to program "benefits" primarily based on level of participation.<br>Monetary compensation for participation.<br>Mandatory participation attached to continued access to program or agency services. | Provide on-going written and verbal communication about voluntary nature of participation.<br>Provide range of opportunities for participation from high to low visibility (i.e. some involving no disclosure of recovery status).<br>Obtain written consent to participate.<br>Establish feedback & grievance procedures that can be utilized by program participants to communicate perceived problem areas.<br>Provide appropriate monetary and non-monetary incentives in fair and equitable manner. |
| Methods of Data Collection ..... | Coerced participation in data collection effort.<br>Participant mandated to provide data.<br>Participant unable to give informed consent.<br>Properly maintaining confidential information (*e.g.,* information not properly stored in locked file cabinet, or electronically stored information not protected by user name, password, firewall, *etc.*).<br>Unauthorized access by program staff/volunteers to confidential information (*i.e.* names, contact information, *etc.*).<br>Staff and/or volunteers not adhering to data collection & instrument protocol. | Maintain confidential information separately, and in locked cabinet.<br>Train all project staff and volunteers in project's policy for maintaining confidentiality of participants' information.<br>Consistently safeguard confidentiality of participant information.<br>Utilize user names, passwords, etc. when confidential information is stored electronically.<br>Ensure that staff/volunteers adhere to data collection policies and procedures (including collecting only that information that is absolutely necessary)<br>Establish a feedback and grievance procedure for program participants to report problem areas. |
| Privacy and Confidentiality ..... | Same as 1 thru 4 above. | Same as 1 thru 4 above. |

| | | |
|---|---|---|
| Consent Procedures | Lack of knowledge of consent procedure.<br>Low reading & comprehension skills.<br>Complicated language & terminology in consent form.<br>Peer pressure to consent to participate. | Emphasize voluntary participation in all activities, including data gathering, and provide opportunities in activities that do not require disclosure.<br>Provide explanation of consent forms at events.<br>Read consent form to participants to clarify content.<br>Translate consent forms in the appropriate language (use only CSAT-approved translation).<br>Provide translation at project events when informing participants of consent procedures. |
| Additional Consideration: Peer vs. Professional Support Services. | Distinguishing between Peer-to-Peer and Professional Services.<br>Addressing specific issues when program participants that are professionals and peers.<br>Addressing "turf" issues with other substance abuse treatment service agencies. | Implement a "Do No Harm" approach.<br>Provide training for project staff/volunteers on nature and boundaries of peer services.<br>Have an ethics policy and plan, and train project staff/volunteers in ethics for peer services.<br>Provide training for project staff on referral to other community (peer and professional) services.<br>Develop and communicate guidelines for individuals who are both peers and professionals.<br>Reach out to professional service organizations to inform them of peer services and opportunities for collaboration. |

## Appendix H: Glossary

*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.

*Peer:* An individual who shares the experience of addiction and recovery, either directly or as a family member or significant other.

*Peer-to-Peer Recovery Support Services:* Recovery support services designed and delivered by peers to assist others in or seeking recovery, and/or their family members and significant others, to initiate and/or sustain recovery from alcohol and drug use disorders and closely related consequences.

*Recovery Support Services:* Supportive services designed to assist people in or seeking recovery and their family members and significant others initiate and/or sustain recovery by providing supports in four major areas: emotional, informational, instrumental, and companion support. Recovery support services are based, philosophically, on the notion that recovery is a larger construct than sobriety or abstinence and embraces a full reengagement with the community based on resilience, health, and hope. Therefore, recovery support services are designed to focus less on the pathology of substance use disorders and more on maximizing opportunities to create lifetime of recovery and wellness for self, family, and community.

*Recovery Community:* Persons having a history of alcohol and drug problems who are in or seeking recovery or recovered, including those currently in treatment, as well as family members, significant others, and other supporters and allies.

*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.

Dated: March 17, 2004.

**Margaret M. Gilliam,**

*Acting Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 04–6378 Filed 3–22–04; 8:45 am]

BILLING CODE 4162–20–P

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

### Notice of Issuance of Final Determination Concerning Multi-Function Printers

**AGENCY:** Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of final determination.

**SUMMARY:** This document provides notice that the Bureau of Customs and Border Protection (CBP) has issued a final determination concerning the country of origin of certain multi-function printers to be offered to the United States Government under an undesignated government procurement contract. The final determination found that based upon the facts presented, the country of origin of the Canon iRC3200 multi-function printer is Japan.

**DATES:** The final determination was issued on March 17, 2004. A copy of the final determination is attached. Any party-at-interest as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of March 23, 2004.

**FOR FURTHER INFORMATION CONTACT:** Edward Caldwell, Special Classification and Marking Branch, Office of Regulations and Rulings (202–572–8836).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on March 17, 2004, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain multi-function printers to be offered to the United States Government under an undesignated government procurement contract. The CBP ruling number is HQ 562936. This final determination was issued at the request of Canon, Inc., under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18).

The final determination concluded that, based upon the facts presented, the assembly in Japan of various Japanese- and Chinese-origin parts to create Canon iRC3200 multi-function printers substantially transformed the Chinese-origin components into a product of Japan.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of

final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, Customs Regulations (19 CFR 177.30), states that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register.**

Dated: March 17, 2004.

**Sandra L. Bell,**

*Acting Assistant Commissioner, Office of Regulations and Rulings.*

**Attachment**

MAR–2–05 RR:CR:SM 562936 EAC
Category: Marking
Mr. Harvey M. Applebaum, Esq.
Mr. David R. Grace, Esq.
Mr. Mark E. Feldman, Esq.,
*Covington & Burling, 1201 Pennsylvania Avenue, NW., Washington, DC 20004–2401.*

Re: U.S. Government Procurement; Final Determination; country of origin of multi-function printers; substantial transformation; 19 CFR part 177

Dear Messrs. Applebaum, Grace, and Feldman: This is in response to your letter dated December 22, 2003, requesting a final determination under subpart B of Part 177, Customs Regulations (19 CFR 177.21 *et seq.*). Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2411 *et seq.*), U.S. Customs and Border Protection (''CBP'') issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated foreign country or instrumentality for the purpose of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of the Canon ''iRC3200'' multi-function printer that is assembled in Japan and which Canon intends to sell to the U.S. Government through its Canon U.S.A. affiliate. We note that Canon is a party-at-interest within the meaning of 19 CFR 177.22(d)(2), and is entitled to request this final determination.

**Facts**

Canon has requested this final determination in order to determine the country of origin of the Canon iRC3200 multi-function printer that is capable of performing printing, copying, scanning, and facsimile functions. The printer is comprised of four main subassemblies that have been identified as the printer unit, reader scanner unit, color infrared (''iR'') controller unit, and control panel unit. The printer unit itself consists of four smaller subassemblies identified as the laser scanner unit, printer unit without laser scanner (''PWS''), drum unit, and toner cartridge. You state that the printer unit, assembled in Japan, performs the electrophotographic process which is described as the most essential task undertaken by the printer. You further state that the laser scanner unit is perhaps the most complex component of the printer and that its production requires the application of advanced manufacturing technologies.

It is our understanding that during the aforementioned electrophotographic process, a permanent photocopied image is placed onto a sheet of paper through the steps of exposure, development, transfer, and fixing. In describing the electrophotographic process, you state that during the first and most significant step, exposure, a computer image signal is converted into a laser drive signal which must be calibrated to cast a laser beam precisely onto a photosensitive drum. Following exposure, toner is electrostatically attracted to a latent image located on the surface of the photosensitive drum. The toner develops the latent image into a visible image that is thereafter permanently affixed to printing paper by a fixing unit which is comprised of a heater, fixing film unit, and roller.

The laser scanner unit performs the exposure function that is, in your opinion, the most important and precise element of the electrophotographic process. The laser scanner unit is manufactured within Japan from parts that are predominantly of Japanese origin. With respect to the origin of the other components that form the printer unit, you state that the toner cartridge (which supplies toner to the printer unit) and drum unit (which performs the development processes) are manufactured within Japan from parts of Japanese origin. The PWS unit, on the other hand, is assembled in China. However, the intermediate transfer belt, which is described as the key component of the PWS unit, is manufactured in Japan. The intermediate transfer belt transforms four color images, which are created by four drum units, into a fully integrated color image that is transferred onto print paper.

The second major subassembly of the printer, the reader scanner unit, functions as the ''reader'' unit of the printer by storing information onto a hard disk that is controlled by the color iR controller unit. The reader scanner unit is assembled within China. However, components that you describe as the key parts of the unit, such as the Charge Coupled Devide (''CCD''), lens unit, and xenon lamp, are manufactured in Japan. In regards to the purpose of each of these components, the xenon lamp radiates light onto a document, the lens unit focuses the light reflected from the document onto the sensor portion of the CCD, and the CCD converts the light signal into an electrical signal.

The third major component of the printer, the color iR controller unit, including the software embedded in the unit, is manufactured within Japan. The color iR controller unit integrates the local area network and executes multiple tasks (such as copying, printing, and scanning) efficiently on the network. You state that the cost incurred by Canon in researching and developing the color iR controller unit is substantial. The color iR controller unit consists of three main subassemblies: the MEDOC, which enables the simultaneous performance of multiple tasks; the GRAVES, which performs image processing functions; and the SURF, which allocates the burden of processing printing data between the computer and the printer.

The fourth major component of the printer is the control panel unit. The control panel unit is assembled in China. However, the color Liquid Crystal Display (''LCD''), which is described as the key component of the control panel unit, is manufactured in Japan. The LCD is part of the printer's ''touch panel'' that indicates the operational status of the printer.

As stated above, the printer's major subassemblies are assembled within Japan to form a completed Canon iRC3200 printer. A description of the processes undertaken to assemble a printer to completion, as set forth in a facsimile transmitted to our office on January 27, 2004, follows.

**A. The Printer Unit**

*1. Laser Scanner Unit Assembly*

An operator assembles a laser chip terminal onto a laser unit printed circuit board (''PCB'') and adjusts the power of the laser beam. Then an operator attaches a collimator lens to the laser unit PCB after which the operator measures the focus of the laser spot and checks the exterior of the laser unit. A series of component parts are then attached to the optical case. Such component parts have been identified as the lens supporting board unit, auto registration motor, anamorphosis lens, motor unit, Beam Detect (''BM'') sensor unit, laser unit, reflection unit, cylindrical lens, long deflective element mirror, and BD mirror. After attaching the components to the optical case, the operator adjusts the focus of the cylindrical lens, position of sub scanning, position of BD mirror, power of laser beam, and jitter. A cover is thereafter attached and the image patterns and laser scanner unit exterior are inspected.

*2. Printer Unit Without Laser Scanner (''PWS'') Assembly*

Various plates, mounts, rails, guides, stays, shafts, and covers are assembled in order to complete the mechanical frames of the printer unit and constitute the first assembly steps of the PWS. Thereafter, the following components are assembled to the frames: toner cartridge drive assembly, drum drive assembly, developing drive assembly, intermediate transfer belt drive assembly, fixing drive assembly, four laser scanner units, pick-up motor drive unit, paper pick-up unit, duplex driver PCB, color iR controller unit, intermediate transfer belt unit, duplex units, and fixing feeder unit. After attaching these various items, an operator uses cables to connect the components. The alignment of the rollers, intermediate transfer belt unit, laser beam angle, magnification, and starting point of laser scanning is adjusted. An operator then makes adjustments to the laser power, facsimile power, heaters, fans, and toner cartridge motor. Toner cartridges and drum units are subsequently inserted into the frame. An operator temporarily connects the reader scanner unit to the printer unit to check the image. Components used only for testing purposes, such as the four laser scanner units, color iR controller unit, drum

units, and toner cartridges, are then removed from the printer and the PWS is packed for shipment.

*3. Drum Unit Assembly*

In order to complete the drum unit, an operator assembles numerous components, such as a photosensitive drum, primary changing roller, developing assembly, and developing cylinder. An operator uniformly coats the drum unit with photosensitive materials during assembly. Thereafter, the mechanical precision of the drum unit is inspected and the unit is packaged.

*4. Toner Cartridge*

Items such as toner cartridge units, toner cartridge holders, insert labels, logo labels, color labels, and side pads are assembled to complete the toner cartridge. An operator thereafter inspects the item and packs the toner cartridge.

**B. Color iR Controller Unit**

In order to assemble the color iR controller unit, an operator first combines the controller main PCB with the controller sub-PCB. Multiple components are then attached to the combined PCBs, including items such as a static random access memory PCB, boot read only memory, synchronous random access memory, fan, dust filter, and hard disk. The various components are subsequently connected with cables. An operator then inserts a power supply cable into the hard disk and distribution units. The assembled color iR controller unit is thereafter inspected.

**C. Reader Scanner Unit**

In order to build the reader scanner unit, an operator begins by assembling a number of components such as a CCD, lens unit, xenon lamp, interface PCB, lamp regulator PCB, reader controller PCB, and sensor assembly. After connecting the components with cables, an operator adjusts the mechanical alignment of certain items that form the unit. Examples of such adjustments include modifying the position of the mirror assembly and the tension of belts and wires that move optical components, such as the CCD and mirror assembly. An operator then tests the functionality of the item's communication and paper size detection capabilities, the accuracy of input data, the starting point of scanning, and image signals. Upon successful completion of these tests, the reader scanner unit is packaged for shipment.

**D. Control Panel Unit**

An operator assembles items such as a control panel key PCB, key tops, and LCD in order to produce a control panel unit. The various items are connected with cables. Thereafter, the operator inspects and packages the unit for shipment.

**E. Final Assembly**

Using screws, an operator attaches four laser scanner units (yellow, magenta, cyan, and black) as well as a color iR controller unit to the PWS. An operator subsequently initializes the random access memory of the color iR controller unit and calibrates the angle of the laser beam, magnification performance, and the starting point of laser scanning. An operator then tests the laser's power and application communication within the printer unit. Drum units and toner cartridges are attached for testing. Thereafter, the starting point of sub-scanning, the blank spaces of right and left in the test print image, and the roller pressure of the fixing rollers are adjusted. The motors and sensors are tested and paper size data is registered. Next, the reader scanner and document feeder units are attached to the printer unit. Screws are utilized to attach covers to the printer and the exterior of the unit is inspected.

Upon completion of the aforementioned assembly procedures, an operator inspects the functionality of the assembled Canon iRC3200 printer. The level of precision of the assembled unit is further tested by printing test patterns and evaluating the images thereby produced. Upon successful completion of the final inspections, the completed iRC3200 is packaged and prepared for shipment.

**Issue**

Whether the assembled Canon iRC3200 printers are considered to be products of Japan for purposes of U.S. Government procurement.

**Law and Analysis**

Under subpart B of part 177, 19 CFR 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

*See also,* 19 CFR 177.22(a).

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens* v. *Unites States,* 573 F. Supp. 1149 (CIT 1983), *aff'd,* 741 F .2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. *See* C.S.D. 80–111, C.S.D. 85–25, C.S.D. 89–110, C.S.D. 85–118, C.S.D. 90–51, and C.S.D. 90–97. In C.S.D. 85–25, 19 Cust. Bull. 844 (1985), we held that for purposes of the Generalized System of Preferences, the assembly of a large number of fabricated components onto a printed circuit board in a process involving a considerable amount of time and skill results in a substantial transformation. In that case, in excess of 50 discrete fabricated components (such as resistors, capacitors, diodes, integrated circuits, sockets, and connectors) were assembled.

CBP has also previously considered, in a number of cases, whether components imported into a country for assembly into printers and other related items have been substantially transformed as a result of such processing. For example, in Headquarters Ruling Letter (''HRL'') 562495 dated November 13, 2002, color ink jet printers were assembled within Singapore from components obtained from Malaysia and a number of other countries. The assembly procedures undertaken in Singapore were described as follows:

1. Circuit board assembly for the input/output unit, left side, assembled to the chassis;
2. Power controller printed circuit board assembly assembled to the chassis;
3. Preheating thermal drum inserted into the chassis;
4. Paper path motor assembled to the chassis;
5. Stepper assembly motor assembly, with gear, assembled to the chassis;
6. Control panel cover assembly (user interface) assembled to the chassis;
7. High voltage power supply assembled to the chassis;
8. Input/output circuit assembly board, right, assembled to the chassis;
9. ''Barracuda'' print head assembly assembled to the chassis;
10. Purge control module assembled to the chassis;
11. Ink load assembly assembled to the chassis;
12. Electronic subsystem (ESS) controller board assembled to the chassis; and,
13. Front cover assembly assembled to the chassis.

Upon completion of the foregoing procedures, the assembled printers were subjected to high voltage electrical testing, inspected, packaged, and prepared for export to the United States.

After considering the totality of the circumstances in HRL 562495, we held that the various imported components were substantially transformed within Singapore and that the assembled printers were required to be marked as products of that country upon entry into the United States. In support of this determination, we noted that the processing operations that occurred within Singapore were complex and extensive, required the integration of 13 major subassemblies to the chassis, and that the resulting product was a new and distinct article of commerce that possessed a new name, character, and use.

Prior to the case cited above, CBP ruled in HRL 561734 dated March 22, 2001, 66 Fed. Reg. 17222, that Sharp multifunctional machines (printer, copier and fax machines) assembled in Japan were a product of Japan for purposes of government procurement. The machines in that case were comprised of 227 parts (108 parts obtained from Japan, 92

from Thailand, 3 from China, and 24 from ''other'' countries) and eight subassemblies, each of which was assembled in Japan. It was further noted that the scanner unit (one of the eight subassemblies assembled in Japan) was characterized as ''the heart of the machine.'' *See also,* HRL 561568 dated March 22, 2001, 66 FR 17222.

In HRL 734050 dated June 17, 1991, on the other hand, we determined that the operations performed in China to assemble printers did not substantially transform the Japanese components utilized in those printers. The printers in that case were assembled within China from five main components identified as the ''head'', ''mechanism'', ''circuit'', ''power source'', and ''outer case.'' The circuit, power source and outer case units were entirely assembled or molded in Japan. The head and mechanical units were manufactured in Japan but exported to China in an unassembled state. All five units were exported to China where the head and mechanical units were assembled with screws and screwdrivers. Thereafter, the head, mechanism, circuit, and power source units were mounted onto the outer case, also with screws and screwdrivers. It was stated that the value of the Japanese-origin components utilized in the printers far exceeded that of the Chinese-origin components. Based upon the foregoing facts, we held that, even though the printers were assembled to completion in China, the country of origin of the completed printers for marking purposes was Japan. In making this determination, we noted that the vast majority of the printer's parts were of Japanese origin and that the operations performed in China were only simple assembly operations.

As the cases set forth above demonstrate, in order to determine whether a substantial transformation occurs when components of various origins are assembled to form completed printers, CBP considers the totality of the circumstances and makes such decisions on a case-by-case basis. The country of origin of the printer's components, extent of the processing that occurs within a given country, and whether such processing renders a product with a new name, character, or use are primary considerations in such cases. Additionally, facts such as resources expended on product design and development, extent and nature of post-assembly inspection procedures, and worker skill required during the actual manufacturing process will be considered when analyzing whether a substantial transformation has occurred; however, no one such factor is determinative.

As applied to the facts of this case, we find that the assembled Canon iRC3200 multi-function printer is a product of Japan for purposes of U.S. Government procurement. In making this determination, we note that a substantial portion of the printer's individual components and subassemblies are of Japanese origin. You have described a number of these individual components and subassemblies as the ''most complex'', ''key'', and ''essential'' of the printer. In this regard, we recognize that, in addition to the Japanese subassemblies, certain critical Japanese-origin parts are incorporated into the Chinese subassemblies, namely the reader scanner unit and the control panel unit. Furthermore, we find that the processing that occurs in Japan is complex and meaningful, requires the assembly of a large number of components, and renders a new and distinct article of commerce that possesses a new name, character, and use.

**Holding**

Based upon the facts of this case, we find that the processing in Japan substantially transforms the components of Chinese origin. Therefore, the country of origin of the Canon iRC3200 printer is Japan for purposes of U.S. Government procurement.

Notice of this final determination will be given in the Federal Register as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Any party-at-interest may, within 30 days after publication of the **Federal Register** notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell,

*Acting Assistant Commissioner, Office of Regulations and Rulings.*

[FR Doc. 04–6290 Filed 3–22–04; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4665–N–16]**

## Conference Call for the Manufactured Housing Consensus Committee

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice of upcoming meeting via conference call.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of an upcoming meeting of the Manufactured Housing Consensus Committee (the Committee) to be held via telephone conference. This meeting is open to the general public without participation.

**DATES:** The conference call will be held on Monday, April 5, 2004, from 11 a.m. to 3 p.m.

**ADDRESSES:** Information concerning the conference call can be obtained from the Department's Consensus Committee Administering Organization, the National Fire Protection Association (NFPA). Interested parties can log onto NFPA's Web site for instructions on how to participate and for contact information for the conference call: *http://www.nfpa.org/ECommittee/HUDManufacturedHousing/hudmanufacturedhousing.asp.* Alternately you may contact Jill McGovern of NFPA by phone at (617) 984–7404 (this is not a toll-free number) for conference call information.

**FOR FURTHER INFORMATION CONTACT:** William W. Matchneer III, Administrator, Office of Manufactured Housing Programs, Office of the Deputy Assistant Secretary for Regulatory Affairs and Manufactured Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–6409 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.2) and 41 CFR 102–3.150. The Manufactured Housing Consensus Committee was established under section 604(a)(3) of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 4503(a)(3). The Consensus Committee is charged with providing recommendations to the Secretary to adopt, revise, and interpret manufactured housing construction and safety standards and procedural and enforcement regulations, and with developing proposed model installation standards. The purpose of this conference call is to discuss the Consensus Committee's review and recommendations to the Secretary on the draft Proposed Installation Standards.

**Tentative Agenda**

A. Roll Call

B. Discussion of Minimum Payments to States

C. Discussion of Preamble to Subpart I

D. Adjournment

Dated: March 17, 2004.

**John C. Weicher,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 04–6557 Filed 3–19–04; 1:30 pm]

BILLING CODE 4210–27–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 332–352]**

### Andean Trade Preference Act: Effect on the U.S. Economy and on Andean Drug Crop Eradication

**AGENCY:** International Trade Commission.

**ACTION:** Notice of opportunity to submit comments in connection with the 2003 ATPA report.

**EFFECTIVE DATE:** March 17, 2004.

**FOR FURTHER INFORMATION CONTACT:** Joanne Guth (202–205–3264 or *joanne.guth@usitc.gov*), Country and Regional Analysis Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436. General information concerning the Commission may be obtained by accessing its Internet server (*http://www.usitc.gov*).

**Background**

Section 206 of the Andean Trade Preference Act (ATPA) (19 U.S.C. 3204) requires that the Commission submit annual reports to the Congress regarding the economic impact of the Act on U.S. industries and consumers and, in conjunction with other agencies, the effectiveness of the Act in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries. Section 206(b) of the Act requires that each report include:

(1) The actual effect of ATPA on the U.S. economy generally as well as on specific domestic industries which produce articles that are like, or directly competitive with, articles being imported under the Act;

(2) The probable future effect that ATPA will have on the U.S. economy generally and on domestic industries affected by the Act; and

(3) The estimated effect that ATPA has had on drug-related crop eradication and crop substitution efforts of beneficiary countries.

Notice of institution of the investigation and the schedule for such reports under section 206 of ATPA was published in the **Federal Register** of March 10, 1994 (59 FR 11308). The 10th report, covering calendar year 2003, is to be submitted by September 30, 2004.

**Written Submissions**

The Commission does not plan to hold a public hearing in connection with the preparation of this tenth report. However, interested persons are invited to submit written statements concerning the matters to be addressed in the report. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8); any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.8 of the rules require that a signed original (or a copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted. Section 201.6 of the rules require that the cover of the document and the individual pages clearly be marked as to whether they are the ''confidential'' or ''nonconfidential'' version, and that the confidential business information be clearly identified by means of brackets.

All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. The Commission intends to publish only a public report in this investigation. Accordingly, any confidential business information received by the Commission in this investigation will not be published in a manner that could reveal the operations of the firm supplying the information. 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 June 11, 2004.

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*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov*).

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired individuals can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

By order of the Commission.

Issued: March 17, 2004.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04–6439 Filed 3–22–04; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–493]**

### In the Matter of Certain Zero-Mercury-Added Alkaline Batteries, Parts Thereof, and Products Containing Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation With Respect to One Respondent on the Basis of a Consent Order; Issuance of Consent Order

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') of the presiding administrative law judge (''ALJ'') granting the joint motion of complainants Energizer Holdings, Inc. and Eveready Battery Co., Inc., and respondent Golden Million Enterprises, Inc. to terminate the above-captioned investigation with respect to that respondent on the basis of a consent order.

**FOR FURTHER INFORMATION CONTACT:** Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3041. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at http://edis.usitc.gov.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on May 27, 2003, based on a complaint filed by Energizer Holdings, Inc. and Eveready Battery Co., Inc., both of St. Louis, MO, 68 FR 32771 (2003). The complaint as amended alleges violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain zero-mercury-added alkaline batteries, parts thereof, and products containing same by reason of infringement of claims 1–12 of U.S. Patent No. 5,464,709. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The Commission named as respondents 26 companies located in the United States, China, Indonesia, and Japan.

On February 3, 2004, complainants and one respondent, Golden Million Enterprises, Inc., filed a joint motion to terminate the investigation as to the respondent on the basis of settlement agreement and consent order. On February 13, 2004, the Commission investigative attorney filed a response supporting the motion. On February 17, 2004, the ALJ issued the subject ID terminating the investigation as to the respondent on the basis of a settlement agreement and consent order.

No party petitioned for review of the ID pursuant to 19 CFR 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 CFR 210.44. The ID thus became the determination of the Commission pursuant to 19 CFR 210.42(h)(3).

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

By order of the Commission.
Issued: March 17, 2004.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04–6438 Filed 3–22–04; 8:45 am]

**BILLING CODE 7020–02–P**

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## INTERNATIONAL TRADE COMMISSION

**[Investigation No. TA–2104–13]**

## U.S. Free Trade Agreement With Central America and the Dominican Republic: Potential Economywide and Selected Sectoral Effects

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation.

**SUMMARY:** Following receipt on January 28, 2004, of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. TA–2104–13, *U.S. Free Trade Agreement With Central America and the Dominican Republic: Potential Economywide and Selected Sectoral Effects*, under section 2104(f) of the Trade Act of 2002 (19 U.S.C. 3804(f)).

*Background:* As requested by the USTR, the Commission will prepare a report as specified in section 2104(f)(2)-(3) of the Trade Act of 2002 assessing the likely impact of the U.S. free trade agreement (FTA) with Central America and the Dominican Republic on the United States economy as a whole and on specific industry sectors and the interests of U.S. consumers. The report will assess the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement and the interests of United States consumers.

In preparing its assessment, the Commission will review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and will provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

Section 2104(f)(2) requires that the Commission submit its report to the President and the Congress not later than 90 days after the President enters into the agreement, which he can do 90 days after he notifies the Congress of his intent to do so. The President notified the Congress on February 20, 2004, of his intent to enter into an FTA with Central America. At that time, the President also stated that negotiations were under way to integrate the Dominican Republic into the FTA with Central America.

The ITC has begun its assessment, and it will seek public input for the investigation through a public hearing on April 27, 2004. The date of the hearing is contingent on the successful conclusion of the negotiations with the Dominican Republic and when a public version of the final agreement is made available by the U.S. Trade Representative.

*Effective Date:* March 11, 2004.

**FOR FURTHER INFORMATION CONTACT:** James Stamps, Project Leader, Office of Economics (202–205–3227 or *james.stamps@usitc.gov*). For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). For media information, contact Peg O'Laughlin (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

*Public Hearing:* A public hearing in connection with this investigation is scheduled to begin at 9:30 a.m. on April 27, 2004, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. All persons may appear by counsel or in person, to present information, and to be heard. In the event that no requests to appear at the hearing are received by the close of business on April 13, 2004, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary (202–205–1816) after April 13, 2004 to determine whether the hearing will be held.

*Statements and Briefs:* In lieu of or in addition to appearing at the public hearing, interested persons are invited to submit written statements concerning the investigation in accordance with the requirements in the ''Submissions'' section below. Persons wishing to appear at the public hearing should file a letter with the Secretary, United States International Trade Commission, 500 E St., SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on April 13, 2004. In addition, persons appearing should file prehearing briefs (original and 14 copies) with the Secretary by the close of business on April 20, 2004. Posthearing briefs should be filed with the Secretary by the close of business on May 4, 2004.

*Written Submissions:* Written statements should be received by the close of business on May 4, 2004. Commercial or financial information which 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 § 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 for inspection by interested persons. The Commission intends to publish only a public report in this investigation. Accordingly, any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in a manner that would reveal the operations of the firm supplying the information. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 201.8 of the Commission's Rules (19CFR 201.18) (*see* Handbook for Electronic Filing Procedures, *ftp://ftp.usitc.gov/pub/reports/electronic_filing_handbook.pdf*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

**List of Subjects**

Central America, Dominican Republic, tariffs, trade, imports and exports.

By order of the Commission.

Issued: March 17, 2004.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04–6409 Filed 3–22–04; 8:45 am]

**BILLING CODE 7020–02–P**

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## INTERNATIONAL TRADE COMMISSION

**[Investigation No. TA–2104–14]**

## U.S.-Morocco Free Trade Agreement: Potential Economywide and Selected Sectoral Effects

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation.

**SUMMARY:** Following receipt on March 8, 2004, of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. TA–2104–14, *U.S.-Morocco Free Trade Agreement: Potential Economywide and Selected Sectoral Effects*, under section 2104(f) of the Trade Act of 2002 (19 U.S.C. 3804(f)).

*Background:* As requested by the USTR, the Commission will prepare a report as specified in section 2104(f)(2)–(3) of the Trade Act of 2002 assessing the likely impact of the U.S. free trade agreement (FTA) with Morocco on the United States economy as a whole and on specific industry sectors and the interests of U.S. consumers. The report will assess the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

In preparing its assessment, the Commission will review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and will provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

Section 2104(f)(2) requires that the Commission submit its report to the President and the Congress not later than 90 days after the President enters into the agreement, which he can do 90 days after he notifies the Congress of his intent to do so. The President notified the Congress on March 8, 2004, of his intent to enter into an FTA with Morocco.

The Commission has begun its assessment, and it will seek public input for the investigation through a public hearing on April 29, 2004 (*see* below).

*Effective Date:* March 16, 2004.

**FOR FURTHER INFORMATION CONTACT:** James Stamps, Project Leader, Office of Economics (202–205–3227 or *james.stamps@usitc.gov*). For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). For media information, contact Peg O'Laughlin (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

*Public Hearing:* A public hearing in connection with this investigation is scheduled to begin at 9:30 a.m. on April 29, 2004, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., April 15, 2004, in accordance with the requirements in the ''Submissions'' section below. In the event that, as of the close of business on April 15, 2004, 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 (202–205–2000) after April 15, 2004, to determine whether the hearing will be held.

*Statements and Briefs:* In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements or briefs concerning the investigation in accordance with the requirements in the ''Submissions'' section below. Any prehearing briefs or statements should be filed not later than 5:15 p.m., April 22, 2004; the deadline for filing post-hearing briefs or statements is 5:15 p.m., May 6, 2004.

*Submissions:* All written submissions including requests to appear at the hearing, statements, and briefs, should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. All written submissions must conform with the provisions of § 201.8 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.8); any submissions that contain confidential business information must also conform with the requirements of § 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.8 of the rules require that a signed original (or a copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted. Section 201.6 of the rules require that the cover of the document and the individual pages clearly be marked as to whether they are the ''confidential'' or ''nonconfidential'' version, and that the confidential business information be clearly identified by means of brackets.

The Commission intends to publish only a public report in this investigation. Accordingly, any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in a manner that would reveal the operations of the firm supplying the information.

The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 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*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov*).

**List of Subjects**

Morocco, tariffs, trade, imports and exports.

By order of the Commission.
Issued: March 17, 2004.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04–6410 Filed 3–22–04; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Civil Rights Division; Office of Special Counsel for Immigration Related Unfair Employment Practices; Immigration Related Employment Discrimination Public Education Grants

**AGENCY:** Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, U.S. Department of Justice.

**ACTION:** Notice of availability of funds and solicitation for grant applications.

**SUMMARY:** The Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) announces the availability of funds for grants to conduct public education programs about the rights afforded potential victims of employment discrimination and the responsibilities of employers under the anti-discrimination provision of the Immigration and Nationality Act (INA), 8 U.S.C. 1324b.

It is anticipated that a number of grants will be competitively awarded to applicants who can demonstrate a capacity to design and successfully implement public education campaigns to combat immigration related unfair employment discrimination. Grants may range in size from $35,000 to $100,000.

OSC will accept proposals from applicants who have access to potential victims of discrimination or whose experience qualifies them to educate workers, employers and the general public about the anti-discrimination provision of the INA. OSC welcomes proposals from diverse nonprofit organizations providing information services to potential victims of discrimination and/or employers, such as local, regional or national ethnic and immigrants' rights advocacy organizations, labor organizations, trade associations, industry groups, professional organizations, or other nonprofit entities, including state and local government agencies.

**DATES:** *Application Due Date:* May 7, 2004.

**FOR FURTHER INFORMATION CONTACT:** Lilia Irizarry, Acting Public Affairs Specialist, Office of Special Counsel for Immigration Related Unfair Employment Practices, 950 Pennsylvania Ave., Washington, DC 20530. Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired). OSC's e-mail address is: *osccrt@usdoj.gov*.

**SUPPLEMENTARY INFORMATION:** The Office of Special Counsel for Immigration Related Unfair Employment Practices of the Civil Rights Division of the Department of Justice announces the availability of funds to conduct cost-effective public education programs concerning the anti-discrimination provision of the INA. Funds will be awarded to selected applicants who propose cost-effective ways of educating employers, workers covered by this statute, community service providers, and/or the general public.

*Background:* The Immigration and Nationality Act protects work-authorized individuals from employment discrimination based on their citizenship status and/or national origin. Federal law also makes knowingly hiring unauthorized workers unlawful, and requires employers to verify the identity and employment eligibility of all new employees. Employers who violate this law are subject to sanctions, including fines and possible criminal prosecution.

Employers of four or more employees are prohibited from discriminating on the basis of citizenship status or national origin with respect to hiring, firing, recruitment or referral for a fee. They are also prohibited from committing ''document abuse'' on the basis of national origin or citizenship status in the employment eligibility verification process.

U.S. citizens and certain classes of work authorized individuals are protected from *citizenship status discrimination.* Protected non-citizens include:

- Legal Permanent Residents;
- Refugees;
- Asylees; and
- Temporary Residents.

Citizens and *all* work authorized individuals are protected from *discrimination on the basis of national origin.* However, under the INA the prohibition against national origin discrimination applies only to employers with four to fourteen employees. National origin discrimination complaints against employers with fifteen or more employees fall under the jurisdiction of the Equal Employment Opportunity Commission pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, *et seq.*

In addition, under the *document abuse provision* of the law, employers cannot request more or different documents than are required for completion of the Employment Eligibility Verification (I–9) Form, prefer or require one form of documentation over another, or refuse documents that appear reasonably genuine on their face, if made for the purpose or with the intent of discriminating against an individual on the basis of national origin or citizenship status.

OSC is responsible for receiving and investigating discrimination charges and, when appropriate, filing complaints with specially designated administrative law judges. OSC also initiates independent investigations of possible immigration-related job discrimination.

While OSC has established a record of vigorous enforcement, studies have shown that there is an extensive lack of knowledge on the part of protected individuals and employers about the anti-discrimination provision of the INA. Enforcement cannot be effective if potential victims of discrimination are not aware of their rights. Moreover, discrimination can never be eradicated so long as employers are not aware of their responsibilities.

*Purpose:* OSC seeks to educate both workers and employers about their rights and responsibilities under the anti-discrimination provision of the INA. Because previous grantees have developed a wealth of materials (*e.g.*, brochures, posters, booklets, information packets and videos) to educate these groups, OSC has determined that the main focus of the program should be on the *actual delivery* of these materials to educate further both potential victims and employers. OSC seeks proposals that will use *existing materials* effectively to educate large numbers of workers or employers about exercising their rights or fulfilling their obligations under the anti-discrimination provision. OSC will, of course, consider any proposal that articulates and substantiates other creative means of reaching these populations.

*Program Description:* The program is designed to develop and implement cost-effective approaches to educate potential victims of employment discrimination about their rights and to educate employers about their

responsibilities under INA's anti-discrimination provision. *Applications may propose to educate potential victims only, employers only, or both in a single campaign.* Program budgets must include the travel, lodging and other expenses necessary for up to two program staff members to attend the mandatory OSC grantee training (2 days) that will be held in Washington, DC, at the end of September. Proposals should outline the following key elements of the program:

**Part I: Intended Audience(s)**

The educational efforts under the grant should be directed to: (1) Work-authorized non-citizens who are protected individuals, since this group is especially vulnerable to employment discrimination; (2) those citizens who are most likely to become victims of employment discrimination; and/or (3) employers, especially small businesses and industries that employ large numbers of work authorized non-U.S. citizens. The proposals should define the characteristics of the work authorized population or the employer group(s) intended to be the focus of the educational campaign, and the applicant's qualifications to reach credibly and effectively large segments of the intended audience(s).

The proposals should also detail the reasons for focusing on each group of protected individuals or employers by describing particular needs or other factors to support the selection. In defining the campaign focuses and supporting the reasons for the selection, applicants may use census data, studies, surveys, or any other sources of information of generally accepted reliability.

**Part II: Campaign Strategy**

We encourage applicants to devise effective and creative means of public education and information dissemination that are specifically designed to reach the widest possible intended audience. Those applicants proposing educational campaigns addressing potential victims of discrimination should keep in mind that some of the traditional methods of public communication may be less than optimal for educating members of national origin or linguistic groups that have limited community-based support and communication networks.

Grants are an important component of OSC partnerships to better serve the public, employers and potential discrimination victims. Grantees should plan to include OSC attorneys and other professional staff in public outreach programs in order to more successfully reach their audiences and prevent discrimination before it occurs or combat it where it exists.

Some grantees who are conducting citizenship campaigns have, in the past, combined those efforts and resources with the INA anti-discrimination education campaigns in order to maximize the scope and breadth of the project and to reach a larger number of individuals. Applicants proposing to combine these efforts should discuss how the programs will interact and how the budgets will be administered.

Proposals should discuss the components of the campaign strategy, detail the reasons supporting the choice of each component, and explain how each component will effectively contribute to the overall objective of cost-effective dissemination of useful and accurate information to a wide audience of protected individuals or employers. Discussions of the campaign strategies and supporting rationale should be clear, concise, and based on sound evidence and reasoning.

Since there presently exists a wealth of materials for use in educating the public, applicants should include in their budget proposals the costs for distribution of materials received from OSC or from current/past OSC grantees.

To the extent that applicants believe the development of original materials particularly suited to their campaign is necessary, their proposal should articulate in detail the circumstances requiring the development of such materials. All such materials must be approved by OSC prior to production to ensure legal accuracy and proper emphasis. Proposed revisions/translations of OSC-approved materials must also be submitted for clearance. All information distributed should also identify OSC as a source of assistance, information and action, and include the correct address and telephone numbers of OSC (including the toll-free numbers, TDD numbers), and OSC e-mail and Internet addresses.

**Part III: Evaluation of the Strategy**

One of the central goals of this program is determining what public education strategies are most effective and thus, should be included in future public education efforts.

Therefore, it is crucial that the methods of evaluating the campaign strategy and public education materials and their results be carefully detailed. A full evaluation of a project's effectiveness is due within 60 days of the conclusion of a campaign. Interim evaluation/activity reports are due at least quarterly, or more frequently as needed throughout the grant year.

*Selection Criteria:* The final selection of grantees for award will be made by the Special Counsel Counsel for Immigration Related Unfair Employment Practices. In the event that Office is vacant, the final selection will be made by the Assistant Attorney General for Civil Rights.

A panel made up of OSC staff will review and rate the applications and make recommendations to the Special Counsel regarding funding. The panel's results are advisory in nature and not binding. *Letters of support, endorsement, or recommendation are not part of the grant application process and will not be considered.*

In determining which applications to recommend, OSC staff will consider the following (based on a one-hundred point scale):

*1. Program Design (50 points)*

Sound program design and cost-effective strategies for educating the intended population are imperative. Consequently, areas that will be closely examined include the following:

a. Evidence of in-depth knowledge of the goals and objectives of the project. (10 points)

b. Clear statement of the proposed goals and objectives, including a listing of the major events, activities, products and timetables for completion and the extent of OSC participation in grantee outreach events. (10 points)

c. Selection and definition of the intended audience(s) for the campaign, and the factors that support the selection, including special needs, and the applicant's qualifications to reach effectively the intended audience(s). (10 points)

d. A cost-effective campaign strategy for educating employers and/or members of the protected class, with a justification for the choice of strategy, including the degree to which the campaign has prevented immigration related unfair employment practices and has reached individuals with such claims. (10 points)

e. The evaluation methods proposed by the applicant to measure the effectiveness of the campaign and their precision in indicating to what degree the campaign is successful. (10 points)

*2. Administrative Capability (20 points)*

Proposals will be rated in terms of the capability of the applicant to define the intended audience, reach it, and implement the public education and evaluation components of the campaign:

a. Evidence of proven ability to provide high quality results. (10 points)

b. Evidence that the applicant can implement the campaign, and complete

the evaluation component within the time lines provided. (10 points)

**Note:** OSC's experience during previous grant cycles has shown that a number of applicants choose to apply as a consortium of individual entities; or, if applying individually, propose the use of subcontractors to undertake certain limited functions. It is essential that these applicants demonstrate the proven management capability and experience to ensure that, as lead agency, they will be directly accountable for the successful implementation, completion, and evaluation of the project.

*3. Staff Capability (10 points)*

Applications will be evaluated in terms of the degree to which:

a. The duties outlined in the proposed staffing plan for grant-funded positions appear appropriate to the work that will be conducted under the award. (5 points)

b. The qualifications of the grant-funded positions appear to match the requirements of these positions. (5 points)

**Note:** If the grant project manager or other member of the professional staff is to be hired later as part of the grant, or should there be any change in professional staff during the grant period, hiring is subject to review and approval by OSC at that time.

*4. Previous Experience (20 points)*

The proposals will be evaluated on the degree to which the applicant demonstrates that it has successfully carried out programs or work of a similar nature in the past.

*Eligible Applicants:* This grant competition is open to nonprofit organizations, including labor organizations, employer groups and state and local government agencies.

*Grant Period and Award Amount:* It is anticipated that several grants will be awarded and may range in size from $35,000 to $100,000.

Publication of this announcement does not require OSC to award any specific number of grants, or to obligate all or any part of available funds. The period of performance will be twelve months from the date of the grant award, in most cases beginning October 1, 2004.

*Application Deadline: All applications must be received by 6 p.m. e.d.t., May 7, 2004.* If using regular first-class mail, send to: U.S. Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration Related Unfair Employment Practices, 950 Pennsylvania Avenue, NW., Washington, DC 20530. If using messengers, overnight or priority mail—which OSC encourages due to delays in the delivery of regular mail—send to: Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, 1425 New York Ave., NW., Suite 9000, Washington, DC 20005. *Applications may not be submitted via facsimile machine.*

*Application Requirements:* Applicants should submit an original and two (2) copies of their completed proposal by the deadline established above. All submissions must contain the following items in the order listed below:

1. A completed and signed Application for Federal Assistance (Standard Form 424).

**Note:** The Catalogue of Federal Domestic Assistance number is 16.110 and the title is ''Education & Enforcement of the Anti-discrimination provision of the Immigration and Nationality Act'' (box #10 of the SF 424).

2. OJP Form 4061/6 (Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements).
3. Disclosure Form to Report Lobbying (SF LLL)
4. OJP Form 4000/3 (Assurances)
5. An abstract of the full proposal, not to exceed one page.
6. A program narrative of not more than fifteen (15) double-spaced typed pages that clearly and specifically demonstrates how the applicant meets each of the four (4) elements set forth as Selection Criteria, above.
7. A proposed budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, and a short narrative justification of each budgeted line item cost. If an indirect cost rate is used in the budget, then a copy of a current fully executed agreement between the applicant and the cognizant Federal agency must accompany the budget.

**Note:** Program budgets must include the travel, lodging and other expenses necessary for not more than two program staff members to attend the mandatory OSC grantee training (2 days) that will be held in Washington, DC, at the end of September.

8. Copies of resumes of the professional staff proposed in the budget.

Application forms may be obtained by writing or telephoning: U.S. Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration Related Unfair Employment Practices, 950 Pennsylvania Avenue, NW., Washington, DC 20530. Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired). This announcement and the required forms will also appear on the World Wide Web at: *http://www.usdoj.gov/crt/osc.* In order to facilitate handling, please do not use covers, binders or tabs.

Dated: March 18, 2004.

**Katherine A. Baldwin,**

*Deputy Special Counsel for Immigration—Related Unfair Employment Practices.*

[FR Doc. 04–6463 Filed 3–22–04; 8:45 am]

**BILLING CODE 4410–13–P**

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## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms and Explosives

### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 60-Day Emergency Notice of Information Collection Under Review: National Firearms Act (NFA)—Special Occupational Taxes (SOT).

The Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by March 31, 2004. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer (202) 395–5806, Washington, DC 20503.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Kathleen M. Downs, Assistant Financial Manager (Accounting), Financial Management Division, 650 Massachusetts Avenue, NW., Room 4450, Washington, DC 20226, facsimile, (202) 927–2787.

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 agencies 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:*

(1) *Type of information collection:* New collection.

(2) *The title of the form/collection:* National Firearms Act (NFA)—Special Occupational Taxes (SOT).

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: ATF F 5630.5R, ATF 5630.5RC, ATF F 5630.7. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(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. ATF F 5630.7, Special Tax Registration and Return National Firearms Act (NFA) is completed and returned by businesses that are subject to Special Occupational Taxes under the National Firearms Act for either initial tax payment or business information changes. This form serves as both a return and a business registration. ATF F 5630.5R, 2005 NFA Special Tax Renewal Registration and Return and ATF F 5630.5RC, 2005 NFA Special Tax Location Registration Listing are preprinted forms sent to taxpayers who owe Special Occupational Taxes under the National Firearms Act. Taxpayers validate and correct the information and send the forms back with payment for the applicable tax year.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 2,800 taxpayers will complete forms ATF F 5630.5R and ATF F 5630.5RC in approximately 20 minutes (10 minutes for each form). It is also estimated that 200 new taxpayers will complete ATF F 5630.7 in its entirety in approximately 15 minutes. The total number of respondents for this information collection is 3,000.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total burden for ATF F 5630.5R and ATF F 5630.5RC is 933 hours. The total burden for ATF F 5630.7 is 50 hours. The estimated total public burden associated with this information collection is 983 hours.

*If additional information is required contact:* Brenda E. Dyer, Department Deputy Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, 601 D Street NW, Patrick Henry Building, Suite 1600, NW, Washington, DC 20530.

Dated: March 17, 2004.

**Brenda Dyer,**

*Department Deputy Clearance Officer, United States Department of Justice.*

[FR Doc. 04–6403 Filed 3–22–04; 8:45 am]

BILLING CODE 4410–FY–P

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## DEPARTMENT OF JUSTICE

### National Institute of Corrections

### Solicitation for a Cooperative Agreement—Workforce Development for Community Corrections: Defining Workforce Issues and Strategies for the 21st Century

**AGENCY:** National Institute of Corrections, Department of Justice.

**ACTION:** Solicitation for a cooperative agreement.

**SUMMARY:** The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds in FY2004 for a cooperative agreement to fund the Project ''Workforce Development for Community Corrections: Defining Workforce Issues and Strategies for the 21st Century.'' NIC will award this cooperative agreement to create a guidebook that will identify, analyze and address critical issues and challenges, and suggest strategies and solutions, related to recruitment, hiring, preemployment assessment, performance evaluation, job descriptions, retention of staff, and required knowledge and skills for promotion into first line supervisory positions. Up to $75,000 is available for this project.

**DATES:** Applications must be received by 4 p.m., eastern daylight savings time, on Thursday, June 3, 2004.

**ADDRESSES:** Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date as mail at NIC is still being delayed due to recent events.

Hand delivered applications can be brought to 500 First Street, NW., Room 700, Washington, DC 20534. At the front desk, call 7–3106 extension 0 for pickup. Faxed or e-mailed applications will not be accepted.

Electronic applications can be submitted at the *www.grants.gov* Web site.

**FOR FURTHER INFORMATION CONTACT:** All technical and/or programmatic questions concerning this announcement should be directed to Drew Molloy at the above address, or by calling (202) 514–0100 or 1–800–995–6423, extension 40100 or by e-mail at *amolloy@bop.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Background

Over the past several years, community corrections professionals have been asked to take on expanded roles in the justice system and the broader community. For some staff the expected activities are new, and for others, the activities are reminiscent of what they were asked to do early in their careers. In addition, in the 21st century, the job expectations are not always clearly defined, are constantly changing to meet the needs of an agency, and may not always be targeted in recruiting and staff development efforts. Community corrections' staff are not only asked to supervise offenders, but are also asked to be change agents with offenders, develop partnerships with human services agencies, work closely with community-based organizations and advocacy groups, deliver offender services directly, and be familiar with changing technologies related to community corrections.

#### Purpose

This project will define the critical needs and challenges for the community corrections field as it seeks to provide a professional and skilled workforce in the 21st century. The project will consist of, but not be limited to, examining expanded and changing job roles and related job descriptions, the skills and experiences required to fill these jobs, the changing workforce entering the profession, recruitment and retention strategies, developing field staff into first line supervisors, and the changing role of first line supervisors. In addition, the project will look at what staff development and organizational development issues should be addressed, how agency executives can improve staff job satisfaction and move

forward with a changing workforce, and what roles do institutions of higher learning, organized labor, research and the changing offender population (mental health, elderly, women offenders, violent and younger offenders) play in the process.

The project will also tie into the framework and principles of Evidence Based Practices (EBP); while recognizing that not every agency will be formally involved in EBP but will still be seeking answers to deal with the changing workforce of the 21st century.

**Scope of Work**

The project will consist of two components: (1) a small advisory workgroup of community correction practitioners and human resources specialists and, (2) the cooperative agreement award. The workgroup will provide the knowledge and expertise pertaining to the community corrections workforce and human resources in general. In addition, it will work closely with the cooperative agreement recipient as the guidebook is developed and finalized. It is anticipated that the workgroup will meet on at least two occasions during the fiscal year 2004. The second meeting will be held to review outcomes from the first meeting and to meet with the cooperative agreement recipient to review the status of the guidebook. The workgroup will be convened and funded by NIC with resources independent of the cooperative agreement.

The successful applicant for this cooperative agreement will be expected to work both independently and with the workgroup, gathering information on the human services workforce in the 21st century, with a focus on community corrections. To gather information the applicant may plan focus groups meetings, conduct research, visit community corrections agencies, conduct surveys, interview community corrections professionals at all levels, attend local, state, and national community corrections conferences, seek input from professional community corrections associations, contact criminal justice departments at institutions of higher learning and/or seek material related to the project from any other resources. Funding for these activities would come from the cooperative agreement award.

Focus groups will be conducted by NIC staff (and members of the workgroup) at one regional corrections conference and one national probation and parole conference, and possibly other meetings and conferences. A NIC sponsored meeting of state executives of probation, parole and community corrections will be held in which information for this project will be gathered from those individuals.

The cooperative agreement will have the following outcomes:

- Define the critical needs and challenges facing the community corrections profession as it seeks to provide a skilled and professional workforce in the 21st century.
- Define the skills and experiences required of a community corrections workforce in the 21st century.
- Develop and recommend job descriptions for the changing workforce.
- Identify and recommend recruitment, hiring and retention strategies for the changing community corrections workforce.
- Identify and recommend strategies for developing line staff into first line supervisors within the context of the changing workforce and changing roles of community corrections staff.
- Develop, write and prepare for final NIC publication a guidebook (that would serve as a resource for agencies) which outlines the aforementioned definitions, recommendations and strategies for the community corrections workforce in the 21st century. In addition, the guidebook could serve institutions of higher learning as a resource for incorporating community corrections workforce issues into the criminal justice curriculum.

A cooperative agreement is an assistance relationship where the National Institute of Corrections is substantially involved in all aspects of the project during the performance of the award. An award is made to a recipient who will, in concert with the Institute, develop and write an issues-oriented guidebook on recruiting, retaining, evaluating and developing into leadership roles a skilled workforce in the 21st century for probation, parole and community corrections agencies.

**Specific Requirements**

Applicants must prepare a proposal that describes their plan to provide the project outcomes. The plan must include goals and objectives, methodology, deliverables, management plan, and an overall project budget for a 12 month period for the date of award. Applicants must identify their key project staff and the relevant expertise of each, and address the manner in which they would perform all tasks in collaboration with the NIC Project Manager and the workgroup. Proposals are limited to twenty-five double-spaced pages in length, not including resumes, other addenda, and SF–424 forms.

**Application Requirements**

Applications must be submitted using OMB Standard Form 242, Application for Federal Assistance, Budget Information for Non-Construction Programs (SF424A), Assurances—Non-Construction Programs (SF424B) and Certifications Regarding Lobbying; Debarment; Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements. It is also requested that the optional form Ensuring Equal Opportunity for Applicants (DOJ Form 560) also be submitted. All of these forms can be found on NIC's Web site: *www.nicic.org* (under Partnering with NIC, Cooperative Agreements, How to Apply).

All applications should be concisely written, typed double spaced and referenced to the project by the ''NIC Application Number'' and Title referenced in this document. If submitted in hard copy, submit an original and 5 copies. The original should have the applicant's signature in blue ink. A cover letter must identify the responsible audit agency for the applicant's financial accounts.

**Authority:** Public Law 93–415.

**Funds Available**

This award will be limited to a maximum of $75,000 for both direct and indirect costs for 12 months. Funds may only be used for activities that are linked to the desired outcomes of the project. No funds are transferred to State or local governments.

All products from this funding effort will be in the public domain and available to interested agencies through the National Institute of Corrections.

**Eligibility of Applicants**

An eligible applicant is any State or general unit of local government, private or non-profit agency, educational institution, organization, individual, or team with expertise in the described areas.

**Review Considerations**

Applications received under this announcement will be subjected to a 3 to 5 person NIC Peer Review Process.

*Number of Awards:* One (1).

*NIC Application Number:* 04C30 This number should appear as a reference line in the cover letter, in box 11 of SF–424, and, if sent in hard copy, on the outside of the envelope in which the application is sent.

*Catalog of Federal Domestic Assistance Number:* 16.601—Training and staff Development.

*Executive Order 12372:* This project is not subject to the provisions of Executive Order 12372.

Dated: March 15, 2004.

**Morris L. Thigpen,**

*Director, National Institute of Corrections.*

[FR Doc. 04–6354 Filed 3–22–04; 8:45 am]

BILLING CODE 4410–36–M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

March 11, 2004.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *mills.ira@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* Bureau of Labor Statistics.

*Type of Review:* Reinstatement, with change, of a previously approved collection for which approval has expired.

*Title:* Work Schedules Supplement to the CPS.

*OMB Number:* 1220–0119.

*Frequency:* On Occasion.

*Affected Public:* Individuals or households.

*Number of Respondents:* 58,000.

*Number of Annual Responses:* 58,000.

*Estimated Time Per Response:* 4.5 minutes.

*Burden Hours Total:* 4,350 hours.

*Total Annualized Capital/Startup Costs:* $0.

*Total Annual Costs (Operating/Maintaining Systems or Purchasing Services):* $0.

*Description:* The work schedules supplement will gather information on shift work and other alternative work schedules, as well as data on the number and characteristics of persons who work at home.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 04–6442 Filed 3–22–04; 8:45 am]

BILLING CODE 4510–24–M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

March 12, 2004.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *mills.ira@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL, Office of Management and Budget, Room 10235, Washington, DC 20503 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

*Agency:* Employment Standards Administration.

*Type of Review:* Extension of a currently approved collection.

*Title:* Davis-Bacon and Related Acts/Contract Work Hours and Safety Standards Act Reporting Requirements—Regulations, 29 CFR Part 5.

*OMB Number:* 1215–0140.

*Frequency:* On occasion.

*Affected Public:* Business or other for-profit; Federal Government; State, Local or Tribal Government.

*Number of Respondents:* 1,506.

*Number of Annual Responses:* 1,506.

*Estimated Time Per Response:* 15 minutes to 1 hour.

*Burden Hours Total:* 381 hours.

*Total annualized capital/startup costs:* $0.

*Total annual costs (operating/maintaining systems or purchasing services);* $0.

*Description:* The regulation prescribes labor standards for federally financed and assisted construction contracts subject to the Davis-Bacon and Related Acts, as well as labor standards for non-construction contracts subject to the Contract Work Hours and Safety Standards Act.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 04–6443 Filed 3–22–04; 8:45 am]

BILLING CODE 4510–27–M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

March 12, 2004.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget

(OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *mills.ira@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL, Office of Management and Budget, Room 10235, Washington, DC 20503 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* Employment Standards Administration.

*Type of Review:* Extension of a currently approved collection.

*Title:* Claim for Compensation by Departments Information Reports.

*OMB Number:* 1215–0155.

*Frequency:* On occasion; Semi-annually.

*Affected Public:* Individuals or households.

*Number of Respondents:* 1,880.

*Number of Annual Responses:* 1,880.

*Estimated Time Per Response:* 15 minutes to 90 minutes.

*Burden Hours Total:* 1,077.

*Total annualized capital/startup costs:* $0.

*Total annual costs (operating/maintaining systems or purchasing services):* $0.

*Description:* The collection requirements are used by Federal employees and their dependents to claim benefits, to prove continued eligibility for benefits, to show entitlement to remaining compensation payments of a deceased employee, and to show dependency.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 04–6444 Filed 3–22–04; 8:45 am]

**BILLING CODE 4510–CF–M**

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## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### Agency Information Collection Activities; Announcement of OMB Approval

**AGENCY:** Employee Benefits Security Administration, DOL.

**ACTION:** Notice.

**SUMMARY:** The Employee Benefits Security Administration (EBSA) is announcing that a collection of information regarding the Employee Benefit Plan Claims Procedure under the Employee Retirement Income Security Act of 1974 (ERISA) has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the OMB approval number and expiration date.

**FOR FURTHER INFORMATION CONTACT:** Gerald B. Lindrew, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–8414. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of October 6, 2003, the EBSA announced its intent to request renewal of its current OMB approval for the information collection request incorporated in the Employee Benefit Plan Claims Procedures under ERISA. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB has renewed its approval for the information collection under OMB control number 1210–0053. The approval expires on February 28, 2007. Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Dated: March 16, 2004.

**Gerald B. Lindrew,**

*Deputy Director, Office of Policy and Research, Employee Benefits Security Administration.*

[FR Doc. 04–6445 Filed 3–22–04; 8:45 am]

**BILLING CODE 4510–29–P**

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## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### Agency Information Collection Activities; Announcement of OMB Approval

**AGENCY:** Employee Benefits Security Administration, DOL.

**ACTION:** Notice.

**SUMMARY:** The Employee Benefits Security Administration (EBSA) is announcing that a collection of information regarding the Annual Report for Multiple Employer Welfare Arrangements and Certain Entities Claiming Exception (Form M–1) has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the OMB approval number and expiration date.

**FOR FURTHER INFORMATION CONTACT:** For inquiries regarding the Form M–1 filing requirement, contact Amy J. Turner or Katina Lee, Office of Health Plan Standards and Compliance Assistance, at (202) 693–8335. For inquiries regarding electronic filing capability, contact the EBSA computer help desk at (202) 693–8600. Questions on completing the form are being directed to the EBSA Form M–1 help desk at (202) 693–8360.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of September 4, 2003, EBSA announced its intent to request renewal of its current OMB approval for the Annual Report for Multiple Employer Welfare Arrangements and Certain Entities Claiming Exception (Form M–1). In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB has renewed its approval for the information collection under OMB control number 1210–0116. The approval expires on January 31, 2007. Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Dated: March 16, 2004.

**Gerald B. Lindrew,**

*Deputy Director, Office of Policy and Research, Employee Benefits Security Administration.*

[FR Doc. 04–6448 Filed 3–22–04; 8:45 am]

**BILLING CODE 4510–29–P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### Agency Information Collection Activities; Announcement of OMB Approval

**AGENCY:** Employee Benefits Security Administration, DOL.

**ACTION:** Notice.

**SUMMARY:** The Employee Benefits Security Administration (EBSA) is announcing that a collection of information regarding the Voluntary Fiduciary Correction Program and Prohibited Transaction Class Exemption to permit certain transactions identified in the Voluntary Fiduciary Correction Program has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the OMB approval number and expiration date.

**FOR FURTHER INFORMATION CONTACT:** Gerald B. Lindrew, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–8414 (not a toll free number).

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of August 20, 2003, EBSA announced its intent to request renewal of its current OMB approval for the Information Collection Request (ICR) incorporated in the Voluntary Fiduciary Correction Program and related Prohibited Transaction Class Exemption. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB has renewed its approval for the information collection under OMB control number 1210–0118. The approval expires on December 31, 2006. Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Dated: March 16, 2004.

**Gerald B. Lindrew,**

*Deputy Director, Office of Policy and Research, Employee Benefits Security Administration.*

[FR Doc. 04–6450 Filed 3–22–04; 8:45 am]

BILLING CODE 4510–29–P

## DEPARTMENT OF LABOR

### Employment Standards Administration

### Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Request for State or Federal Workers' Compensation Information (CM–905). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before May 24, 2004.

**ADDRESSES:** Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, e-mail *bell.hazel@dol.gov.* Please use only one method of transmission for comments (mail, fax, or e-mail).

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 901) and 20 CFR 725.535, directs that DOL Black Lung benefit payments to a beneficiary for any month be reduced by any other payments of State or Federal benefits for workers' compensation due to pneumoconiosis. This information collection is currently approved for use through October 31, 2004.

### II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

### III. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to gather information to determine the amounts of black lung benefits paid to beneficiaries. Black Lung amounts are reduced dollar for dollar, for other black lung related workers' compensation awards the beneficiary may be receiving from State or Federal programs.

*Type of Review:* Extension.

*Agency:* Employment Standards Administration.

*Title:* Request for State or Federal Workers' Compensation Information.

*OMB Number:* 1215–0060.

*Agency Number:* CM–905.

*Affected Public:* Federal government; State, local or tribal government.

*Total Respondents:* 1,600.

*Total Annual Responses:* 1.

*Average Time per Response:* 15 minutes.

*Estimated Total Burden Hours:* 400.

*Frequency:* On occasion.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintenance):* $640.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 17, 2004.

**Bruce Bohanon,**

*Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.*

[FR Doc. 04–6446 Filed 3–22–04; 8:45 am]

BILLING CODE 4510–CF–P

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### Proposed Information Collection Request Submitted for Public Comment and Recommendations; Application for Waiver of Surface Facilities Requirements

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

**DATES:** Submit comments on or before May 24, 2004.

**ADDRESSES:** Send comments to Darrin A. King, Chief, Records Management Branch, 1100 Wilson Boulevard, Room 2139, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to *king.darrin@dol.gov*, along with an original printed copy. Mr. King can be reached at (202) 693–9838 (voice), or (202) 693–9826 (facsimile).

**FOR FURTHER INFORMATION CONTACT:** Contact the employee listed in the **ADDRESSES** section of this notice.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Title 30, §§ 71.400 through 71.402 and 75.1712–1 through 75.1712–3 require coal mine operators to provide bathing facilities, clothing change rooms, and sanitary flush toilet facilities in a location that is convenient for use of the miners. If the operator is unable to meet any or all of the requirements, he/she may apply for a waiver. Title 30 CFR 71.403, 71.404, 75.1712–4 and 75.1712–5 provide procedures by which an operator may apply for and be granted a waiver. Applications are filed with the District Manager for the district in which the mine is located and contain the name and address of the mine operator, name and location of the mine, and a detailed statement of the grounds upon which the waiver is requested and the period of time for which it is requested. Waivers for surface coal mines may be granted for a period not to exceed one year; requests for an annual extension may be sought by the operator. Waivers for underground coal mines may be granted for extended periods of time based on the information provided by the mine operator in the request for a waiver.

The purpose for the waiver is to assure the conditions at the mine make it impractical for the mine operator to provide the required facilities, and to document the circumstances for granting of the waiver. This gives the mine operator written documentation that the requirement(s) of the standard have been waived by MSHA and MSHA inspection personnel will not require the mine operator to comply with the part(s) of the standard included in the waiver. Without this written documentation MSHA inspection personnel can not be assured that a mine operator is not required to provide the required sanitary facilities.

### II. Desired Focus of Comments

MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed information collection request may be viewed on the Internet by accessing the MSHA Home Page (*http://www.msha.gov*) and selecting ''Statutory and Regulatory Information'' then ''Paperwork Reduction Act Submissions (*http://www.msha.gov/regspwork.htm*)'', or by contacting the employee listed above in the **FOR FURTHER INFORMATION CONTACT** section of this notice for a hard copy.

### III. Current Action

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Application for Waiver of Surface Facilities Requirement.

This information is necessary in order to assure the mine operator is not required to provide the surface facilities as required by the standard. This information provides written documentation that MSHA has waived the requirements for the applicable part(s) of the standard as outlined in the waiver.

*Type of Review:* Extension.

*Agency:* Mine Safety and Health Administration.

*Title:* Application for Waiver of Surface Facilities Requirements.

*OMB Number:* 1219–0024.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 225.

| Cite/reference | Annual responses | Frequency | Average time per response (in minutes) | Burden Hours (in hours) |
|---|---|---|---|---|
| 71.403 | 96 | On occasion | 30 | 48 |
| 71.404 | | | | |
| Initial | | | | |
| 71.403 | 437 | Annually | 20 | 146 |
| 71.404 | | | | |
| Extensions | | | | |
| 75.1712–4 | 129 | On occasion | 30 | 65 |
| 75.1712–5 | | | | |
| Initial | | | | |

| Cite/reference | Annual responses | Frequency | Average time per response (in minutes) | Burden Hours (in hours) |
|---|---|---|---|---|
| 75.1712–4 ..... 75.1712–5 Extension | 0 | Annually ..... | 20 | 0 |
| Totals ..... | 662 | ..... | ..... | 259 |

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintaining):* $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated at Arlington, Virginia, this 15th day of March, 2004.

**David L. Meyer,**

*Director, Office of Administration and Management.*

[FR Doc. 04–6447 Filed 3–22–04; 8:45 am]

**BILLING CODE 4510–43–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

**1. The Coteau Properties Company**

[Docket No. M–2004–009–C]

The Coteau Properties Company, 204 County Road 15, Beulah, North Dakota 58523–9475 has filed a petition to modify the application of 30 CFR 77.803 (Fail safe ground check circuits on high-voltage resistance grounded systems) to its Freedom Mine (MSHA I.D. No. 32–00595) located in Mercer County, North Dakota. The petitioner requests a modification of the existing standard to allow an alternative method of compliance when the boom/mast is raised or lowered during construction/maintenance, most likely only during disassembly or major maintenance. The petitioner proposes to use this procedure only to raise or lower the boom/mast on draglines using the on-board motor generator sets. The petitioner states that during this period of construction/maintenance, the machine will not move under its own power and will not perform mining operations. The procedure would most likely be used only in instances of disassembly or major maintenance, which require the boom to be raised or lowered, and a written procedure would be developed and implemented by the mine operator or contractor and the affected persons will be trained on the requirements of the procedure. The petitioner further states that this procedure does not replace other mechanical precautions or the requirements of 30 CFR 77.405(b) that are necessary to safely secure booms/masts during construction or maintenance procedures. The petitioner asserts that its proposed alternative method would not result in a diminution of safety to the miners.

**2. TXU-Mining Company LP**

[Docket No. M–2004–010–C]

TXU-Mining Company LP, 1601 Bryan Street, Dallas, Texas 75201–3411 has filed a petition to modify the application of 30 CFR 77.803 (Fail safe ground check circuits on high-voltage resistance grounded systems) to its Big Brown Strip Mine (MSHA I.D. No.41–01192) located in Freestone County, Texas; Winfield North Strip Mine (MSHA I.D. No. 41–01900) and Winfield South Strip Mine (MSHA I.D. No. 41–03658) located in Titus County, Texas; Beckville Strip Mine (MSHA I.D. No. 41–02632) and Tatum Strip Mine (MSHA I.D. No. 41–03659) located in Panola County, Texas; and Oak Hill Strip Mine (MSHA I.D. No. 41–03660) located in Rusk County, Texas. The petitioner requests a modification of the existing standard to allow an alternative method of compliance when the boom/mast is raised or lowered during necessary repairs. The petitioner states that during the procedure for raising and lowering the boom for construction/maintenance, the machine will not be performing mining operations. The procedure would also be applicable in instances of disassembly or major maintenance which require the boom to be raised or lowered. The petitioner further states that the procedures of raising and lowering the boom/mast during disassembly or major maintenance would be performed on an as needed basis; and training and review of the procedures would be conducted prior to each time it is needed since raising and lowering the boom is done infrequently with long intervals of time between each occurrence, and all persons involved in the process will be trained or retrained at that time. The petitioner has listed specific guidelines in this petition that would be followed to minimize the potential for electrical power loss during this critical boom procedure. The petitioner asserts that this procedure does not replace other mechanical precautions or the requirements 30 CFR 77.405(b) that are necessary to safely secure boom/masts during construction or maintenance procedures and that its proposed alternative method would not result in a diminution of safety to the miners.

**3. Speed Mining, Inc.**

[Docket No. M–2004–011–C]

Speed Mining, Inc., 1001 Pennsylvania Avenue, NW., Washington, DC 20004–2595 has filed a petition to modify the application of 30 CFR 75.1700 (Oil and gas wells) to its American Eagle Mine (MSHA I.D. No. 46–05437) located in Kanawha County, West Virginia. The petitioner requests that its previously granted petition for modification, docket number M–2002–082–C, be amended to permit the mining through of certain wells located within the projected workings of the Speed Mining, Inc., American Eagle Mine. The petitioner requests an amendment to the petition, but requests that no portion of the existing modification be revoked. The petitioner is requesting the petition to be amended because the existing modification does not address certain kinds of wells and plugging conditions that it expects to encounter imminently at the American Eagle Mine. The petitioner asserts that the granting of this petition to amend would at all times guarantee no less than the same measure of protection as the existing standard or the alternative requirements in Paragraph 1 of the existing modification and will prevent a diminution of safety to the miners.

**Request for Comments**

Persons interested in these petitions are encouraged to submit comments via

e-mail to comments@msha.gov, or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before April 22, 2004. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 17th day of March, 2004.

**Marvin W. Nichols, Jr.,**

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 04–6400 Filed 3–22–04; 8:45 am]

**BILLING CODE 4510–43–P**

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

**SUMMARY:** The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 11, Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material.

2. *Current OMB approval number:* 3150–0062.

3. *How often the collection is required:* New applications, certifications, and amendments may be submitted at any time. Applications for renewal are submitted every 5 years.

4. *Who is required or asked to report:* Employees (including applicants for employment), contractors, and consultants of NRC licensees and contractors whose activities involve access to or control over special nuclear material at either fixed sites or in transportation activities.

5. *The number of annual respondents:* 5.

6. *The number of hours needed annually to complete the requirement or request:* Approximately 0.25 hours annually per response, for an industry total of 1.25 hours annually.

7. *Abstract:* NRC regulations in 10 CFR part 11 establishes requirements for access to special nuclear material, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization. Personal history information which is submitted on applicants for relevant jobs is provided to OPM, which conducts investigations. NRC reviews the results of these investigations and makes determinations of the eligibility of the applicants for access authorization.

Submit, by May 24, 2004, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC World Wide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–5 F52, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV*.

Dated at Rockville, Maryland, this 16th day of March, 2004.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 04–6421 Filed 3–22–04; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 030–07710, License No. 50–14102–01, EA–03–126]**

### In the Matter of State of Alaska Department of Transportation & Public Facilities, Anchorage, AK Confirmatory Order Modifying License, (Effective Immediately)

**I**

The State of Alaska Department of Transportation & Public Facilities (ADOT&PF or Licensee) is the holder of NRC License No. 50–14102–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The license authorizes ADOT&PF to possess and use certain licensed material in portable gauging devices that have been registered either with the NRC or with an Agreement State and have been distributed in accordance with an NRC or Agreement State specific license. The license was most recently amended on February 4, 2004, and is due to expire on November 30, 2011.

**II**

On January 3, 2002, the NRC's Office of Investigations (OI) started an investigation of ADOT&PF to determine if ADOT&PF's Statewide Radiation Safety Officer (SRSO) was the subject of discrimination for raising safety and compliance concerns. In OI Report No. 4–2002–001, OI concluded that the SRSO was the subject of discrimination. By letter dated July 17, 2003, the NRC identified to ADOT&PF an apparent violation of employee protection requirements (10 CFR 30.7) and the supporting bases for the NRC's concern. A predecisional enforcement conference was conducted with ADOT&PF on November 18–19, 2003. During the conference, ADOT&PF denied that any discrimination occurred and asserted that no violation of 10 CFR 30.7 occurred.

After considering the information from the investigation and the information ADOT&PF presented during the conference, the NRC has concluded that a violation of 10 CFR 30.7 occurred. Specifically, the NRC has concluded that ADOT&PF discriminated against its SRSO for engaging in protected activities as documented in a Notice of Violation issued to ADOT&PF on this date. Further, the NRC is concerned that ADOT&PF's Safety Conscious Work Environment [1] has deficiencies, and that

[1] NRC defines Safety Conscious Work Environment as a work environment in which employees feel free to raise safety and compliance

ADOT&PF's actions to date have not been adequate to address these deficiencies.

By letters dated February 18 and March 4, 2004, ADOT&PF reiterated its position that discrimination did not occur. Notwithstanding ADOT&PF's disagreement with the NRC's conclusions, ADOT&PF has agreed to address its compliance with NRC's Employee Protection regulations (*i.e.*, 10 CFR 30.7) and the NRC's concerns about ADOT&PF's Safety Conscious Work Environment.

**III**

By letter dated March 4, 2004, ADOT&PF has agreed to take actions to ensure compliance with 10 CFR 30.7 and to ensure it has established and will maintain a Safety Conscious Work Environment. The agreed-upon actions noted in Section IV of this Confirmatory Order focus on (1) ensuring that ADOT&PF's internal policies and procedures establish and will support a Safety Conscious Work Environment by providing for a review of these policies and procedures by individuals who are independent of ADOT&PF and who have subject-matter expertise; (2) developing a plan to conduct training of ADOT&PF employees and their supervisors and managers on NRC's Employee Protection regulations and on establishing a Safety Conscious Work Environment; and (3) developing a long-term plan for maintaining a Safety Conscious Work Environment that includes culture surveys and annual refresher training.

On March 4, 2004, ADOT&PF consented to issuing this Confirmatory Order with the commitments as described in Section IV below. ADOT&PF further agreed in its March 4, 2004 letter that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing on this Confirmatory Order. The NRC has concluded that its concerns can be resolved through effective implementation of ADOT&PF's commitments.

I find that ADOT&PF's commitments as set forth in Section IV are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that ADOT&PF's commitments be confirmed by this Order. Based on the above and Licensee's consent, this Order is immediately effective upon issuance.

**IV**

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, *It is hereby ordered, effective immediately, that License No. 50–14102–01 is modified as follows:*

1. Within seventy-five (75) days from the date of this Confirmatory Order, ADOT&PF shall submit for NRC approval a plan to review ADOT&PF's internal policies and procedures pertaining to assuring compliance with NRC employee protection requirements (reference 10 CFR 30.7) and to establishing and maintaining a Safety Conscious Work Environment (reference ''Freedom of Employees in the Nuclear Industry to Raise Safety Concerns Without Fear of Retaliation,'' May 14, 1996 [61 FR 24336]). ADOT&PF shall complete the review within sixty (60) days from the date of NRC's approval of the plan.

(A) The plan shall include a discussion of the individual(s) who shall conduct the reviews. This discussion shall demonstrate that the individual(s) whom ADOT&PF selected have the expertise and capability to effectively conduct the reviews. The individuals shall meet the following criteria: (1) at least one individual shall have expertise in or prior experience in developing programs to assure compliance with NRC's Employee Protection regulations (*e.g.*, 10 CFR 30.7, 40.7, or 50.7); (2) the individual(s) shall be knowledgeable regarding the Commission's May 1996 Policy Statement on the ''Freedom of Employees in the Nuclear Industry to Raise Safety Concerns Without Fear of Retaliation'' [61 FR 24336]; (3) the individual(s) shall be independent of ADOT&PF; and (4) the individual(s) shall have expertise in the attributes of a Safety Conscious Work Environment as demonstrated by experience in evaluating or developing internal policies/procedures regarding a Safety Conscious Work Environment.

(B) The individual(s) above shall review and determine the adequacy of all ADOT&PF's policies and procedures regarding Safety Conscious Work Environment, including how ADOT&PF evaluates and resolves safety concerns while balancing other daily (production) duties. For any inadequacies that are identified, the individual(s) shall provide ADOT&PF with written recommendations.

2. Within seventy-five (75) days from the date of this Confirmatory Order, ADOT&PF shall submit for NRC approval a plan to conduct initial training on the NRC's Employee Protection regulations and the attributes of a Safety Conscious Work Environment. The training shall commence within ninety (90) days from the date of NRC's approval of the plan, and the training shall be completed within ninety (90) days of commencing. The plan shall specify which ADOT&PF workers, supervisors and managers shall receive the training, and shall include provisions for individuals who miss the training due to unforeseen circumstances such as illness. At a minimum, the training shall be provided to workers involved in the use of licensed material and the radiation safety program, as well as the supervisors and managers of these individuals.

(A) The plan shall include a discussion of the individual(s) who shall conduct the training. This discussion shall demonstrate that the individual(s) selected by ADOT&PF have the expertise and capability to effectively conduct the training. The individuals shall meet the criteria specified in item 1.(A) above. The plan shall include a listing of training courses conducted by the individual(s) on NRC's Employee Protection regulations and on the topic of Safety Conscious Work Environment.

(B) ADOT&PF's plan shall include a description of the topics to be covered in the training course. The training shall include discussions of: (1) 10 CFR 30.7, including a discussion of protected activities and adverse actions; (2) applicable federal and state laws pertaining to whistleblower protection; (3) enforcement actions that may be taken against licensees and individuals who violate these requirements; (4) the content of this Confirmatory Order; (5) establishing a Safety Conscious Work Environment; (6) the roles and responsibilities of the statewide and regional radiation safety officers in assuring compliance with NRC radiation safety requirements; and (7) what constitutes a hostile work environment and a ''chilling effect.''

(C) The plan shall include additional training to supervisors and managers on how to effectively evaluate and resolve safety concerns, while balancing safety concerns with other daily activities, especially when dealing with conflicts in the work place. This training shall also discuss the specific responsibilities and obligations of supervisors and managers under NRC's Employee

concerns to its employer or to the NRC without fear of retaliation. The NRC issued a Policy Statement for Nuclear Employees Raising Safety Concerns Without Fear of Retaliation on May 14, 1996 [61 FR 24336].

Protection regulations and ADOT&PF's internal policies and procedures.

3. Within 60 days of completing the review required by Condition 1 above, ADOT&PF shall submit for NRC approval a long-term plan for maintaining a Safety Conscious Work Environment. The plan shall include a discussion of the results of the review required by Condition 1 above, including a discussion of recommendations made by the individual(s) and ADOT&PF's plan and schedule for addressing the recommendations. The long-term plan shall describe a procedure for evaluating and approving future changes to the plan. The long-term plan shall, at a minimum, address a time period through calendar year 2005. The plan shall include the following elements.

(A) ADOT&PF shall perform an employee cultural survey which is developed by a consultant or entity that is independent of ADOT&PF. The long-term plan shall specify which ADOT&PF workers, supervisors and managers shall be included in the survey. At a minimum, the survey instrument (*i.e.*, questionnaire) shall be made available to workers, including temporary workers, involved in the use of licensed material and the radiation safety program, as well as the supervisors and managers of these individuals. At a minimum, this survey shall be performed in calendar years 2004 and 2005. ADOT&PF shall provide the NRC with annual reports for the years 2004 and 2005 summarizing the findings of the cultural survey, including the questions used, the methodology applied, and any follow-up actions. The survey shall be conducted such that the individual employee responses shall be kept confidential from management.

(B) ADOT&PF shall conduct annual refresher training of workers, including temporary workers, involved in the use of licensed material and the radiation safety program, as well as the supervisors and managers of these individuals. The long-term plan shall specify which ADOT&PF workers, supervisors and managers shall receive refresher training. No additional training in calendar year 2004 is needed beyond that required by Condition 2 above. Subsequent annual refresher training shall include a discussion of the NRC Employee Protection regulations and other applicable federal and state laws pertaining to whistleblower protection, ADOT&PF's policies and procedures for maintaining a Safety Conscious Work Environment, and the roles and responsibilities of the statewide and regional radiation safety officers in assuring compliance with NRC radiation safety requirements.

(C) The refresher training conducted in calendar year 2005 shall be conducted by individual(s) independent of ADOT&PF who meet Condition 1.(A) above. ADOT&PF's plan shall specify the minimum qualifications for individuals (including ADOT&PF personnel) who may provide Safety Conscious Work Environment training in subsequent years.

(D) ADOT&PF shall request an amendment to its license to require that its long-term plan for maintaining a Safety Conscious Work Environment be maintained and implemented. The license amendment request shall be submitted concurrent with submitting the long-term plan.

The Director, Office of Enforcement may relax or rescind, in writing, any of the above conditions upon a showing by ADOT&PF of good cause.

**V**

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to the Licensee. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to (301) 415–1101 or by e-mail to *hearingdocket@nrc.gov* and also 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*. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and propose at least one admissible contention, addressing the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. A request for hearing shall not stay the immediate effectiveness of this Order.

Dated this 15th day of March, 2004.

For the Nuclear Regulatory Commission.

**Frank Congel,**

*Director, Office of Enforcement.*

[FR Doc. 04–6423 Filed 3–22–04; 8:45 am]

BILLING CODE 7590–01–P

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## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–499]**

## STP Nuclear Operating Company, et al.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–80 issued to STP Nuclear Operating Company (the licensee) for operation of the South Texas Project (STP) Unit 2 located in Matagordo County, Texas.

The proposed amendment would allow STP Unit 2 to change modes with standby diesel generator (SDG) 22 inoperable. This is a one-time change that would expire 14 days after entering Mode 4 on restart from the STP Unit 2 Spring 2004 refueling outage.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the

amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

SDG 22 provides onsite electrical power to one of three trains of vital systems should offsite electrical power be interrupted. It is not an initiator to any accident previously evaluated. Therefore, allowing a mode change with SDG 22 out-of-service will not increase the probability of an accident previously evaluated.

SDG 22 acts to mitigate the consequences of design-basis accidents that assume a loss of offsite power. For that purpose, redundant standby diesel generators are provided to protect against a single failure. During the Technical Specification allowed outage time, an operating unit is allowed by the Technical Specifications to remove one of the standby diesel generators from service, thereby losing this single-failure protection. This operating condition is considered acceptable. The consequences of a design-basis accident coincident with a failure of the redundant standby diesel generator during the extended allowed outage time are the same as those during the 14-day allowed outage time. Therefore, during the changes in mode there is no significant increase in consequences of an accident previously evaluated.

Therefore, the proposed change will not involve [a] significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

There are no new failure modes or mechanisms created due to plant operation for changing mode with an inoperable standby diesel generator. The proposed change does not involve any modification in the operational limits or physical design of plant systems. There are no new accident precursors generated due to permitting mode changes with an inoperable standby diesel generator.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Plant mode changes with an [] inoperable [DG] have been shown to have a very small impact on plant risk using the criteria of RG [Regulatory Guide] 1.174 and RG 1.177. During the mode change, the electrical power system maintains the ability to perform its safety function of providing an available source of power to the Engineered Safety Feature (ESF) systems as assumed in the accident analyses. During the mode change with an inoperable standby diesel generator, risk impact will be managed through the application of 10 CFR 50.65(a)(4) and its implementation guidance, NRC Regulatory Guide 1.182, ''Assessing and Managing Risks Before Maintenance Activities at Nuclear Power Plants.'' The results of the risk assessment will be considered in determining the acceptability of entering the mode or other specified condition in the Applicability, and any corresponding risk management actions.

Therefore, the proposed change does not involve a significant reduction in a margin of safety as defined in the basis for any Technical Specification.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the

following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and or/petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to A. H. Gutterman, Esq., Morgan, Lewis & Bockius, 1111 Pennsylvania Avenue, NW., Washington, DC 20004, the attorney for the licensee.

For further details with respect to this action, see the application for amendment dated March 4, 2004, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 17th day of March 2004.

For the Nuclear Regulatory Commission.

**Michael K. Webb,**

*Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 04–6422 Filed 3–22–04; 8:45 am]

**BILLING CODE 7590–01–P**

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## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Nuclear Waste; Meeting on Planning and Procedures; Notice of Meeting

The ACNW will hold a Planning and Procedures meeting on April 20, 2004, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACNW, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

**Tuesday, April 20, 2004—8:30 a.m.–12 Noon**

The Committee will discuss proposed ACNW activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Howard J. Larson (Telephone: 301/415–6805) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: March 17, 2004.

**Maggalean W. Weston,**

*Acting Associate Director for Technical Support, CRS/ACNW.*

[FR Doc. E4–658 Filed 3–22–04; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Meeting of the ACRS Subcommittee on Regulatory Policies and Practices; Notice of Meeting

The ACRS Subcommittee on Regulatory Policies and Practices will hold a meeting on April 1, 2004, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

**Thursday, April 1, 2004—8:30 a.m. Until the Conclusion of Business**

The purpose of this meeting is to discuss the staff's proposed approach for responding to the Commission's March 31, 2003 SRM on risk-informing 10 CFR 50.46 and development of near-term LOCA frequencies. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Michael R. Snodderly (Telephone: 301–415–6927) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted during the meeting.

Further information regarding this meeting can be obtained by contacting the Designated Federal Officials between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated March 17, 2004.

**Maggalean W. Weston,**

*Acting Associate Director for Technical Support, ACRS/ACNW.*

[FR Doc. 04–6420 Filed 3–22–04; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Joint Meeting of the ACRS Subcommittees on Materials and Metallurgy and on Plant Operations; Notice of Meeting

The ACRS Subcommittees on Materials and Metallurgy and on Plant Operations will hold a joint meeting on April 2, 2004, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

**Friday, April 2, 2004—8:30 a.m. until 11:30 a.m.**

The Subcommittees will discuss possible generic communications regarding pressurizer dissimilar metal weld cracking issues. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee. Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Ms. Maggalean W. Weston (telephone: 301–415–3151) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted during the meeting.

Further information regarding this meeting can be obtained by contacting the Designated Federal Officials between 7:30 a.m. and 5 p.m. (e.t.). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: March 17, 2004.

**Maggalean W. Weston,**

*Acting Associate Director for Technical Support, ACRS/ACNW.*

[FR Doc. E4–654 Filed 3–22–04; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on April 14, 2004, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

**Wednesday, April 14, 2004—12:30 p.m. until 5:30 p.m.**

The purpose of this meeting is to review the license renewal application for the Dresden Nuclear Power Station, Units 2 and 3, and Quad Cities Nuclear Power Station, Units 1 and 2, and the associated draft Safety Evaluation Report with open items prepared by the NRC staff. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, Exelon Generation Company, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Bhagwat P. Jain (telephone 301/415–7270), five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (e.t.). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: March 17, 2004.

**Maggalean W. Weston,**

*Acting Associate Director for Technical Support, ACRS/ACNW.*

[FR Doc. E4–655 Filed 3–22–04; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on April 14, 2004, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly

unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

**Wednesday, April 14, 2004—11:15 a.m.–12:30 p.m.**

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301–415–7364) between 7:30 a.m. and 4:15 p.m. (e.t.) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (e.t.). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: March 17, 2004.

**Maggalean W. Weston,**

*Acting Associate Director for Technical Support, ACRS/ACNW.*

[FR Doc. E4–656 Filed 3–22–04; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Sunshine Act Meeting Notice

**DATES:** Weeks of March 22, 29, April 5, 12, 19, 26, 2004.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and closed.

**MATTERS TO BE CONSIDERED:**

**Week of March 22, 2004**

*Monday, March 22, 2004*

8 a.m. Discussion of Security Issues (Closed—Ex. 1 & 2)

*Tuesday, March 23, 2004*

1:30 p.m. Briefing on Status of Office of Nuclear Security and Incident Response (NSIR) Programs, Performance, and Plans (Public Meeting) (Contact: Jack Davis, 301–415–7256)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

2:30 p.m. Discussion of Security Issues (Closed—Ex. 1)

*Wednesday, March 24, 2004*

9:25 a.m. Affirmation Session (Public Meeting)

a: Private Fuel Storage, LLC (Independent Spent Fuel Storage Installation) Intervenor Ohngo Gaudadeh Devia's Motion to Reopen the Case Record on Contention ''O''—Environmental Justice

b: Private Fuel Storage (Independent Spent Fuel Storage Installation) Docket No. 72–22–ISFSI (Tentative)

9:30 a.m. Briefing on Status of Office of Nuclear Reactor Regulation (NRR) Programs, Performance, and Plans (Public Meeting) (Contact: Mike Case, 301–415–1275)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

**Week of March 29, 2004—Tentative**

There are no meetings scheduled for the Week of March 29, 2004.

**Week of April 5, 2004—Tentative**

There are no meetings scheduled for the Week of April 5, 2004.

**Week of April 12, 2004—Tentative**

*Tuesday, April 13, 2004*

9:30 a.m. Briefing on Status of Office of Nuclear Regulatory Research (RES) Programs, Performance, and Plans (Public Meeting) (Contact: Alan Levin, 301–415–6656)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

**Week of April 19, 2004—Tentative**

There are no meetings scheduled for the Week of April 19, 2004.

**Week of April 26, 2004—Tentative**

*Wednesday, April 28, 2004*

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Dave Gamberoni, (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: March 18, 2004.

**Dave Gamberoni,**

*Office of the Secretary.*

[FR Doc. 04–6521 Filed 3–19–04; 9:22 am]

BILLING CODE 7590–01–M

## POSTAL SERVICE

### Privacy Act of 1974, System of Records

**AGENCY:** Postal Service.

**ACTION:** Notice of modifications to an existing system of records.

**SUMMARY:** This document publishes notice of modifications to the Privacy Act system of records USPS 070.040, Inquiries and Complaints—Customer and Employee Complaint Records. The modifications amend the types of individuals covered, so that the system only covers Postal Service™ employees, not customers. The modifications also make other updates, such as amendments to the system manager and storage of records, to reflect current management practices.

**DATES:** Any interested party may submit written comments on the proposed modification. This proposal will become effective without further notice on May 3, 2004, unless comments received on or before that date result in a contrary determination.

**ADDRESSES:** Mail or deliver written comments on this proposal to the Records Office, United States Postal Service, 475 L'Enfant Plaza, SW., Room 5846, Washington, DC 20260–5846. Copies of all written comments will be available at the above address for public inspection and photocopying between 8 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Rowena Dufford at (202) 268–5246.

**SUPPLEMENTARY INFORMATION:** System of records USPS 070.040 contains records relating to inquiries and complaints from Postal Service customers and employees. The revisions to this system will limit the types of individuals covered to include only present or former Postal Service employees. This reflects the deletion of customer inquiries and complaints, which are no longer covered by this system. Customer inquiries and complaints are now

included in Privacy Act system USPS 530.000, Customer Service and Correspondence. The notice also clarifies that the system covers records that are created as a result of management-initiated investigations into workplace issues.

To reflect the correct scope, the notice proposes several changes to the system. These include changes to the categories of individuals covered by the system, categories of records in the system, the purpose of the system, the system manager, notification procedures, and records source categories. The modifications also make appropriate updates to the system, including changes to the system name, storage, and safeguards. This system does not contain records covered under 030.010, EEO Discrimination Complaint Files, or 120.036, Discipline, Grievance, and Appeals Records for Nonbargaining Unit Employees.

The Postal Service does not expect this amended notice to have any adverse effect on individual privacy rights. The amendment does not change the kinds of personal information about employees that are collected and maintained. The amendment deletes customer information, which is included in a different system of records. The amendment also ensures that information collected as part of a management investigation that is Privacy Act protected is appropriately covered in a system of records. The amendment also makes needed updates to the system, such as storage and safeguards revisions.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed system has been sent to Congress and to the Office of Management and Budget for their evaluation.

Privacy Act System of Records USPS 070.040 was last published in its entirety in the **Federal Register** on June 29, 1995 (60 FR 33882–33883) and was amended on February 23, 1999 (64 FR 8876–8892). The Postal Service proposes amending the system as shown below:

## USPS 070.040

### SYSTEM NAME:

[CHANGE TO READ:]

Employee Inquiry, Complaint, and Investigative Records, 070.040

* * * * *

### SYSTEM LOCATION:

[CHANGE TO READ:]

Employee Resource Management, Postal Service Headquarters; areas; performance clusters; districts; Post Offices; and contractor sites.

* * * * *

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

[CHANGE TO READ:]

Postal Service employees who have contacted the Postal Service with an inquiry or complaint and employees who are subject to management inquiries or investigations.

* * * * *

### CATEGORIES OF RECORDS IN THE SYSTEM

[CHANGE TO READ:]

Employee information such as name, address, title, finance number, and work location; nature of the inquiry, complaint, or investigation; assessment of concerns, findings, and recommendations; and resolution of same. Includes general correspondence about employees' complaints and inquiries and records related to management investigations of workplace issues, including but not limited to notes, statements, or statement summaries made during such investigations.

* * * * *

### AUTHORITY FOR MAINTENANCE OF THE SYSTEM

[CHANGE TO READ:]

39 U.S.C. 401, 404

### PURPOSE

[CHANGE TO READ:]

1. To enable review and response to employee inquiries and complaints.
2. To enable management to initiate, review, process, track, and resolve concerns, complaints, and inquiries relating to the workplace.
3. To support administrative or court litigation and/or arbitration proceedings.

* * * * *

### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine use statements a, b, c, d, e, f, g, h, j, k, l, and m listed in the prefatory statement at the beginning of the Postal Service's published system notices apply to this system.

* * * * *

### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM STORAGE

[CHANGE TO READ:]

Automated databases, computer storage media, and typed, printed, or handwritten paper.

* * * * *

### RETRIEVABILITY

[CHANGE TO READ:]

By alphabetic or chronological sequence within subject category as derived from correspondence; including employee identifiers, work location, or case number.

* * * * *

### SAFEGUARDS

[CHANGE TO READ:]

Paper records, computers, and computer storage tapes and disks are maintained in controlled-access areas or under general supervision of Human Resources personnel. Computers are protected by a cipher lock system, card key system, or other physical access control methods. Computer systems and electronic records are also protected with security software and operating system controls, including logon and password identifications, firewalls, terminal and use identifications, and file management. Access to these records is limited to authorized personnel. Contractors must provide similar protection subject to a security compliance review by the Postal Inspection Service.

* * * * *

### RETENTION AND DISPOSAL

[CHANGE TO READ:]

Destroy 4 years after response to inquiry, resolution of complaint, and/or after conclusion of investigation. **Note:** Some records may be retained longer when required for administrative or court litigation, or arbitration proceedings. Records custodians must determine if records are required for such proceedings before destroying.

* * * * *

### SYSTEM MANAGER(S) AND ADDRESS

[CHANGE TO READ:]

Vice President, Employee Resources Management, United States Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–4200.

* * * * *

### NOTIFICATION PROCEDURE

[CHANGE TO READ:]

Employees wanting to know if information about them is maintained in this system of records must submit a written request to the head of the facility to which they submitted their inquiry or complaint, or to the Human Resources representative responsible for the facility to which they are assigned. Inquiries must contain name, address, and other identifying information sufficient to identify the requestor as well as sufficient information to identify the inquiry, complaint, or investigation.

* * * * *

**RECORD ACCESS PROCEDURES:**

Requests for access must be made in accordance with the notification procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

**CONTESTING RECORDS PROCEDURES:**

See Notification Procedure and Record Access Procedures above.

**RECORDS SOURCE CATEGORIES**

[CHANGE TO READ:]

Postal Service employees or former employees.

* * * * *

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Records or information in this system that have been compiled in reasonable anticipation of a civil action or proceeding are exempt from individual access under 5 U.S.C. 552a(d)(5). In addition, the Postal Service has claimed exemptions from certain provisions of the Act for several of its other systems of records as permitted by 5 U.S.C. 552a(j) and (k). See 39 CFR 266.9. To the extent that copies of exempt records from those other systems are incorporated into this system, the exemptions applicable to the original primary system must continue to apply to the incorporated records.

**Neva Watson,**

*Attorney, Legislative.*

[FR Doc. 04–6399 Filed 3–22–04; 8:45 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–26389; File No. 812–13048]**

## Glenbrook Life and Annuity Company, et al.; Notice of Application

March 17, 2004.

**AGENCY:** Securities and Exchange Commission (''SEC'' or ''Commission'').

**ACTION:** Notice of an application for an order of exemption pursuant to section 17(b) of the Investment Company Act of 1940 (the ''Act'') from section 17(a) of the Act.

*Applicants:* Glenbrook Life and Annuity Company (''Glenbrook'') and Glenbrook Life Multi-Manager Variable Account (''Glenbrook Multi-Manager''), Glenbrook Life Variable Life Separate Account A (''Glenbrook VL''), Glenbrook Life and Annuity Company Variable Annuity Account (''Variable Annuity Account''), Glenbrook Life Scudder Variable Account A (''Scudder Account''), and Glenbrook Life AIM Variable Life Separate Account A (''AIM VL Account'') (collectively, the ''Separate Accounts'').

*Summary of Application:* Applicants seek an order of exemption to the extent necessary to permit a transfer of assets and assumption of liabilities of (1) Variable Annuity Account and Scudder Account by Glenbrook Multi-Manager; and (2) AIM VL Account by Glenbrook VL.

*Filing Date:* The application was filed on November 25, 2003, and amended and restated on March 10, 2004.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on April 12, 2004, and must 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 Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, Charles Smith, Esq., Assistant Counsel, Glenbrook Life and Annuity Company, 3100 Sanders Road, Northbrook, Illinois 60062.

**FOR FURTHER INFORMATION CONTACT:** Alison White, Senior Counsel, or Lorna MacLeod, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

### Applicants' Representations

1. Glenbrook is a stock life insurance company organized under the laws of the State of Arizona in 1998. Previously, Glenbrook Life was organized under the laws of the State of Illinois in 1992. Glenbrook Life was originally organized under the laws of the State of Indiana in 1965. From 1965 to 1983 Glenbrook Life was known as ''United Standard Life Assurance Company'' and from 1983 to 1992 as ''William Penn Life Assurance Company of America.'' Glenbrook's home office is located at 3100 Sanders Road, Northbrook, Illinois, 60062. Glenbrook is currently licensed to operate in the District of Columbia, Puerto Rico, and all states except New York. Glenbrook is a direct, wholly owned subsidiary of Allstate Life Insurance Company. Allstate Life Insurance Company is a wholly owned subsidiary of Allstate Insurance Company, a stock property-liability insurance company incorporated under the laws of Illinois. All of the outstanding capital stock of Allstate Insurance Company is owned by The Allstate Corporation.

2. Glenbrook established Glenbrook Multi-Manager, Glenbrook VL, Variable Annuity Account, Scudder Account, and AIM VL Account as separate account pursuant to Illinois law. Each is a ''separate account,'' as defined by section 2(a)(37) of the Act, and is registered with the Commission pursuant to the Act as a unit investment trust.

3. Certain variable annuity contracts sponsored by Glenbrook and issued through Glenbrook Multi-Manager, Variable Annuity Account and Scudder Account are registered with the Commission pursuant to the Securities Act of 1933 (the ''Securities Act'').

4. Certain variable life insurance contracts sponsored by Glenbrook and issued through Glenbrook VL and AIM VL Account are registered with the Commission pursuant to the Securities Act.

5. Glenbrook Multi-Manager is divided into 88 sub-accounts, each of which invests exclusively in shares of a corresponding portfolio of an open-end, diversified management investment company registered under the Act (the ''Funds''). Variable Annuity Account is divided into 39 sub-accounts, each of which invests exclusively in shares of a corresponding portfolio of the Funds. Scudder Account is divided into 10 sub-accounts, each of which invests exclusively in shares of a corresponding portfolio of the Funds.

6. Glenbrook VL is divided into 57 sub-accounts, each of which invests exclusively in shares of a corresponding portfolio of the Funds. AIM VL Account is divided into 18 sub-accounts, each of which invests exclusively in shares of a corresponding portfolio of the Funds.

7. After considering the nature and purpose of each separate account, the Boards of Directors of Glenbrook has determined that the efficiency of the operations of the separate accounts could be improved, and the overall administration enhanced, by merging: (a) Variable Annuity Account and Scudder Account into Glenbrook Multi-Manager; and (b) AIM VL Account into Glenbrook VL (together, the ''Merger'').

The Merger will be structured so there will be no change in the rights and benefits of persons having an interest in any of the Contracts issued by those Separate Accounts.

8. The Merger provides for the transfer of Variable Annuity Account and Scudder Account assets to Glenbrook Multi-Manager and the assumption of the liabilities and contractual obligations of each of Variable Annuity Account and Scudder Account by Glenbrook Multi-Manager in return for the crediting of accumulation units of Glenbrook Multi-Manager to Variable Annuity Account and Scudder Account contract owners. Once this process has been completed, the units of Variable Annuity Account and Scudder Account would be cancelled, Variable Annuity Account and Scudder Account would each submit an application to the Commission pursuant to section 8(f) of the Act to effect its deregistration as an investment company and would cease to exist, and Glenbrook Multi-Manager would continue to exist.

9. Immediately following the Merger, each Variable Annuity Account and Scudder Account contract owner will possess a number of Glenbrook Multi-Manager units (both full and fractional) that, when multiplied by the unit value of Glenbrook Multi-Manager units, would result in an aggregate unit value equal to the aggregate unit value of the units the contract owner had in the respective Separate Account immediately before the consummation of the Merger.

10. Glenbrook will distribute to each existing Variable Annuity Account and Scudder Account contract owner: (a) A contract rider indicating that such contracts are thereafter funded by Glenbrook Multi-Manager; (b) a letter informing such contract owners of the Merger; and (c) a prospectus supplement that reflects Glenbrook Multi-Manager as the separate account funding the contracts.

11. The Merger also provides for the transfer of AIM VL Account assets to Glenbrook VL and the assumption of the liabilities and contractual obligations of AIM VL Account by Glenbrook VL in return for the crediting of accumulation units of Glenbrook VL to AIM VL Account contract owners. Once this process has been completed, the units of AIM VL Account would be cancelled, AIM VL Account would submit an application to the Commission pursuant to section 8(f) of the Act to effect its deregistration as an investment company and would cease to exist, and Glenbrook VL would continue to exist.

12. Immediately following the Merger, each AIM VL Account contract owner will possess a number of Glenbrook VL units (both full and fractional) that, when multiplied by the unit value of Glenbrook VL units, would result in an aggregate unit value equal to the aggregate unit value of the units the contract owner had in the respective Separate Account immediately before the consummation of the Merger.

13. Glenbrook will distribute to each existing AIM VL Account contract owner: (a) A contract rider indicating that such contracts are thereafter funded by Glenbrook VL; (b) a letter informing such contract owners of the Merger; and (c) a prospectus supplement that reflects Glenbrook VL as the separate account funding the contracts.

14. Except for the change in the separate account funding the variable annuity contracts and variable life contracts, all the rights and benefits of the contract owners will remain unchanged after the Merger. Further, the fees and charges under the contracts will not change as a result of the Merger.

15. Glenbrook asserts that the Merger will have no tax consequences for Glenbrook contract owners. In addition, no payments will be required or charges imposed under the Glenbrook contracts in connection with, or by virtue of, the Merger that would not otherwise be required or imposed.

**Applicants' Legal Analysis**

1. Section 17(a) of the Act provides generally that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal to knowingly purchase or to sell any security or other property from or to such registered company.

2. Section 17(b) of the Act provides generally that the Commission may grant an order exempting a transaction otherwise prohibited by section 17(a) of the Act if evidence establishes that: (a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. The Merger may be subject to the provisions of section 17(a) of the Act because it could be viewed as involving an investment company (VA Account, Scudder Account, AIM VL Account) selling its assets to another investment company (Glenbrook Multi-Manager, Glenbrook VL) that is affiliated by reason of having sponsoring insurance companies that are under common control, or by reason of having common directors.

4. Applicants request an order of the Commission pursuant to section 17(b) of the Act to the extent necessary to exempt the Merger from the provisions of section 17(a) of the Act.

5. Applicants assert that the terms of the Merger are fair and reasonable. The transfer of assets held by Variable Annuity Account, Scudder Account and AIM VL Account respectively, will be made at the relative net asset values of the sub-accounts. Consequently, the interests of Glenbrook Multi-Manager and Glenbrook VL owners will not be diluted by the Merger. Each Variable Annuity Account and Scudder Account contract will be credited, immediately after the Merger, with units of Glenbrook Multi-Manager having the same aggregate value as the aggregate value of the units of Variable Annuity Account and Scudder Account credited to such contract immediately prior to the Merger. Likewise, each AIM VL Account contract will be credited, immediately after the Merger, with units of the Glenbrook VL having the same aggregate value as the aggregate value of the units of AIM VL Account credited to such contract immediately prior to the Merger. The Merger will not result in any change in charges, costs, fees or expenses borne by any Contract owner. No direct or indirect costs will be incurred by any Separate Account concerned as a result of the Merger. Therefore, the proposed transactions will not result in dilution of the economic interests of any Contract owners. In addition, the Merger will result in no change in the investment options available to Glenbrook contract owners. Each sub-account of the Separate Accounts will continue to invest in the same Fund as that sub-account invested in prior to the Merger.

6. The consolidation of any overlapping sub-accounts will take place at their respective net asset values and each Glenbrook Contract owner holding units of interest in one of the merging sub-accounts will have those units exchanged for units of equal value in the corresponding surviving sub-account. The values of the exchanged interests under the Contracts will thus be equivalent. The accumulation unit values for these sub-accounts will not change, and the Contract value of any affected Contract owner immediately after the sub-account consolidation will be the same as the value immediately before the sub-account consolidation.

7. Applicants assert that the Merger do not involve overreaching on the part of any party involved and is consistent with the general purposes of the Act.

The purposes of the Merger are to consolidate three variable annuity separate accounts, each of which issue variable annuity contracts, into a single separate account and to consolidate two variable life separate accounts, each of which issue variable life contracts, into a single separate account. The Merger will allow for administrative efficiencies and cost savings by Glenbrook because it can consolidate its separate account operations. The Merger will not dilute or otherwise adversely affect the economic interests of the owners of the Glenbrook contracts, nor will the Merger affect the values determined under the Glenbrook contracts.

8. Applicants represent that the Merger are consistent with the policy of each Separate Account as set forth in its registration statement. The policy of each Separate Account is to invest in the Funds. As noted above, the Merger will result in no change to any Fund underlying the Glenbrook Separate Accounts. Each sub-account of the Separate Accounts will continue to invest in the same Fund as that sub-account invested in prior to the Merger. Accordingly, the assets underlying the Contracts will continue to be invested in accordance with the policies recited in the Separate Accounts' respective registration statements.

**Conclusion**

For the reasons summarized above, Applicants assert that the terms of the Merger, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, are consistent with the policies of the Glenbrook Separate Accounts as recited in their registration statements, are consistent with the general purposes of the Act, and therefore meet the conditions for exemptive relief established by section 17(b).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04–6451 Filed 3–22–04; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

## In the Matter of: Queénch, Inc.; Order of Suspension of Trading

March 19, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Queénch, Inc. (''Queénch'') because of questions regarding the accuracy and adequacy of assertions by Queénch, and by others, in press releases to investors, concerning, among other things:

(1) Vendor contracts between Queénch and Time-Warner, Inc., 7–Eleven, Disney World Property-Grosvenor Resorts and others;

(2) The ''exclusive distribution'' of Queénch products through Sysco Food Service;

(3) The launching of Queénch's new distribution channel covering the 700 islands of the Bahamas; and

(4) The accuracy of Queénch's published financial information.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in securities related to the above company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in all securities, as defined in section 3(a)(10) of the Securities Exchange Act of 1934, issued by the above company, is suspended for the period from 9:30 a.m. EST on March 19, 2004 and terminating at 11:59 p.m. EST on April 1, 2004.

By the Commission.

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 04–6572 Filed 3–19–04; 1:30 pm]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–49421; File No. SR–FICC–2003–14]**

## Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Amending Impractical or Inconsistent Rules, Eliminating the Need for Routine Waivers of Various Rules Provisions, and Adding Rules to Protect the Clearing Corporation and Its Members

March 16, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 17, 2003, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') and on January 15, 2004, and March 3, 2004, amended the proposed rule change as described in items I, II, and III below, which items have been prepared primarily by FICC. 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 proposed rule change will eliminate and amend certain of FICC's Government Securities Division (''GSD'') and Mortgage-Backed Securities Division (''MBSD'') rules that (i) require routine waivers, (ii) are inconsistent with current practice, and (iii) are impractical.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, FICC 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. FICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The proposed rule change would eliminate and amend certain of GSD's and MBSD's rules that (i) require routine waivers, (ii) are inconsistent with current practice, and (iii) are impractical. Specifically, the proposed rule changes would:

1. Remove the Term ''Clearing Agent Bank Member'' and Corresponding References to It in GSD's Rules

This category of GSD membership no longer has any practical meaning and is not used. Entities that are clearing agent banks that wish to join the netting service currently become bank netting members.[3]

2. Amend GSD's Rules To Remove Outdated Eligibility Qualifications for Comparison-Only Members

Currently, GSD's rules allow the following types of entities to be eligible to apply to become a comparison-only member: (i) a registered government securities broker or dealer, (ii) a clearing agent bank, or (iii) if neither (i) nor (ii), an entity that has demonstrated to FICC

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by FICC.

[3] GSD Rule 1.

that its business and capabilities are such that it could reasonably expect material benefit from direct access to FICC's services.[4]

FICC believes that GSD's comparison system provides a riskless service that any entity, regardless of its legal or regulatory structure, that is an active market participant can and should take advantage of. Accordingly, FICC believes that a better approach to the eligibility criteria for comparison-only entities, which would also be consistent with the way that FICC's management views the purpose of comparison-only membership, would be to replace (i) and (ii) with the requirement that the comparison-only applicant be a legal entity that is eligible to apply to be a GSD netting member and maintain the current (iii).

3. Clarify GSD's Rule on Voluntary Termination of Membership

The proposed change would modify the language in GSD Rule 2, section 11, to provide that: (i) A member must provide 10 days written notice of terminating its membership but GSD can accept such notice of termination within a shorter period, (ii) the requested termination of membership would not be effective until accepted by GSD, and (iii) GSD's acceptance would be evidenced by a notice to all members announcing the termination date of such member.

4. Add a Provision to GSD's Rules To Permit It To Have Access to the Books and Records of Members

GSD's rules currently permit GSD to access an applicant's books and records but not a member's books and records. Extending GSD's authority to review member's books and records is consistent with other clearing agencies' rules such as those of the National Securities Clearing Corporation.[5]

5. Add a Provision to MBSD's Rules To Provide for the Confidential Treatment of Documents Submitted by Applicants as Part of the Application Process

This rule change would provide appropriate comfort to applicants and would make MBSD's rules consistent with GSD's rules.[6]

6. Add a New Provision to MBSD's Rules That Provides That at the Request of FICC a Non-Domestic Participant Must Provide an Update of the Legal Opinion Submitted by the Foreign Member or a Written Status Report on FICC's Rights Under the Relevant Non-Domestic Law and Add a Similar New Provision to GSD Rules[7]

FICC believes that the current language of this MBSD rule is ambiguous and potentially burdensome for members. FICC believes that a better approach would be to provide that, if FICC is alerted to a change in circumstances or to an issue of law that brings into question the reliability of the legal opinion submitted by a non-domestic participant, FICC would have the right to require the participant to revisit its legal opinion and provide an update as to the status of FICC's rights under the relevant non-domestic law. FICC proposes to add this provision to GSD's rules as well.

FICC believes that the proposed rule change is consistent with the requirements of section 17A of the Act[8] and the rules and regulations thereunder because it will eliminate impractical rules, clarify unclear rules, and add necessary rule provisions to protect FICC and its members.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

FICC does not believe that the proposed rule change will have any impact or impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

FICC has not solicited or received written comments relating to the proposed rule change. FICC will notify the Commission of any written comments it receives.

## 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 such longer period (i) as the Commission may delegate up to ninety days of such date if it finds such longer period to be appropriate and published 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 5th Street, NW., Washington, DC 20549–0069. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR–FICC–2003–14. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent either in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at FICC's principal office and on FICC's Web site at *http://www.ficc.com/gov/gov.docs.jsp?NS-query=* and *http://www.ficc.com/mbs/mbs.docs.jsp?NS-query=*. All submissions should refer to File No. SR–FICC–2003–14 and should be submitted by April 13, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04–6408 Filed 3–22–04; 8:45 am]

BILLING CODE 8010–01–P

[4] GSD Rule 2, section 1.

[5] Proposed new section 13 of GSD rule 2.

[6] Proposed new section 11 of MBSD rules, Article III, Rule 1.

[7] Proposed new language to subsection (g) of GSD Rule 2, section 3; proposed new subsection (iii) of MBSD Article III, Rule 1, section 14.

[8] 15 U.S.C. 78q–1.

[9] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–49427; File No. SR–NASD–2004–032]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. To Modify NASD Rule 4619 With Respect to Certain Excused Withdrawal Requests

March 16, 2004.

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 February 24, 2004, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), submitted to the Securities and Exchange Commission (''Commission'' and ''SEC'') the proposed rule change as described in items I, II and III below, which items have been prepared by Nasdaq. On March 15, 2004, the NASD filed Amendment No. 1 to the proposed rule change.[3] Nasdaq filed this proposal pursuant to section 19(b)(3)(A)(iii) of the Act [4] and Rule 19b–4(f)(3) [5] thereunder, as one concerned solely with the administration of the self-regulatory organization, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, as amended.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to modify NASD Rule 4619, which will shift the administration of a limited subset of existing excused withdrawal requests from one department to another department.

Below is the text of the proposed rule change. Proposed new language is *italics*; proposed deletions are in [brackets].

* * * * *

**4619. Withdrawal of Quotations and Passive Market Making**

(a) [A]*Except as provided in paragraph (b) of this Rule, a* market maker that wishes to withdraw quotations in a security or have its quotations identified as the quotations of a passive market maker shall contact Nasdaq MarketWatch to obtain excused withdrawal status prior to withdrawing its quotations or identification as a passive market maker. Withdrawals of quotations or identifications of quotations as those of a passive market maker shall be granted by Nasdaq MarketWatch only upon satisfying one of the conditions specified in this Rule.

(b) *A market maker that wishes to obtain excused withdrawal status based on a market maker's systemic equipment problems, such as defects in a market maker's software or hardware systems or connectivity problems associated with the circuits connecting Nasdaq's systems with the market maker's systems, shall contact Nasdaq Market Operations. Nasdaq Market Operations may grant excused withdrawal status based on systemic equipment problems for up to five (5) business days, unless extended by Nasdaq Market Operations.*

*(c)* Excused withdrawal status based on circumstances beyond the market maker's control*, other than systemic equipment problems,* may be granted for up to five (5) business days, unless extended by Nasdaq MarketWatch. Excused withdrawal status based on demonstrated legal or regulatory requirements, supported by appropriate documentation and accompanied by a representation that the condition necessitating the withdrawal of quotations is not permanent in nature, may, upon notification, be granted for not more than sixty (60) days (unless such request is required to be made pursuant to paragraph (d) below). Excused withdrawal status based on religious holidays may be granted only if written notice is received by the Association one business day in advance and is approved by the Association. Excused withdrawal status based on vacation may be granted only if:

(1) The written request for withdrawal is received by the Association one business day in advance, and is approved by the Association

(2) The request includes a list of the securities for which withdrawal is requested; and

(3) The request is made by a market maker with three (3) or fewer Nasdaq level 3 terminals. Excused withdrawal status may be granted to a market maker that has withdrawn from an issue prior to the public announcement of a merger or acquisition and wishes to re-register in the issue pursuant to the same-day registration procedures contained in Rule 4611 above, provided the market maker has remained registered in one of the affected issues. The withdrawal of quotations because of pending news, a sudden influx of orders or price changes, or to effect transactions with competitors shall not constitute acceptable reasons for granting excused withdrawal status.

[(c)]*(d)* Excused withdrawal status may be granted to a market maker that fails to maintain a clearing arrangement with a registered clearing agency or with a member of such an agency and is withdrawn from participation in the Automated Confirmation Transaction service, thereby terminating its registration as a market maker in Nasdaq issues. Provided however, that if the Association finds that the market maker's failure to maintain a clearing arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused pursuant to Rule 4620 and the Rule 4700 Series governing the Nasdaq National Market Execution System. Market makers that fail to maintain a clearing relationship will have their NNMS system status set to ''suspend'' and be thereby prevented from entering, or executing against, any quotes/orders in the system.

[(d)]*(e)* Excused withdrawal status or passive market maker status may be granted to a market maker that is a distribution participant (or, in the case of excused withdrawal status, an affiliated purchaser) in order to comply with SEC Rule 101, 103, or 104 under the Act on the following conditions:

(1) A member acting as a manager (or in a similar capacity) of a distribution of a Nasdaq security that is a subject security or reference security under *SEC* Rule 101 and any member that is a distribution participant or an affiliated purchaser in such a distribution that does not have a manager shall provide written notice to Nasdaq MarketWatch and the Market Regulation *D*[d]epartment of NASD Regulation, Inc. no later than the business day prior to the first entire trading session of the one-day or five-day restricted period under SEC [r]*R*ule 10*1*, unless later notification is necessary under the specific circumstances.

(A) [t]*T*he notice required by subparagraph [(d)]*(e)*(1) of this Rule shall be provided by submitting a completed Underwriting Activity Report that includes a request on behalf of each market maker that is a distribution

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[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 March 12, 2004 (''Amendment No. 1''). Amendment No. 1 replaces the original filing in its entirety.

[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(f)(3).

participant or an affiliated purchaser to withdraw the market maker's quotations, or that includes a request on behalf of each market maker that is a distribution participant (or an affiliated purchaser of a distribution participant) that its quotations be identified as those of a passive market maker and includes the contemplated date and time of the commencement of the restricted period.

(B) The managing underwriter shall advise each market maker that it has been identified as a distribution participant or an affiliated purchaser to Nasdaq MarketWatch and that its quotations will be automatically withdrawn or identified as passive market maker quotations, unless a market maker that is a distribution participant (or an affiliated purchaser of a distribution participant) notifies Nasdaq MarketWatch as required by subparagraph [(d)]*(e)*(2), below.

(2) A market maker that has been identified to Nasdaq MarketWatch as a distribution participant (or an affiliated purchaser of a distribution participant) shall promptly notify Nasdaq MarketWatch and the manager of its intention not to participate in the prospective distribution or not to act as a passive market maker in order to avoid having its quotations withdrawn or identified as the quotations of a passive market maker.

(3) If a market maker that is a distribution participant withdraws its quotations in a Nasdaq security in order to comply with the net purchases limitation of SEC Rule 103 or with any other provision of SEC Rules 101, 103, or 104 and promptly notifies Nasdaq MarketWatch of its action, the withdrawal shall be deemed an excused withdrawal. Nothing in this subparagraph shall prohibit the Association from taking such action as is necessary under the circumstances against a member and its associated persons for failure to contact Nasdaq MarketWatch to obtain an excused withdrawal as required by subparagraphs (a) and [(d)]*(e)* of this Rule.

(4) The quotations of a passive market maker shall be identified on Nasdaq as those of a passive market maker.

(5) A member acting as a manager (or in a similar capacity of a distribution subject to subparagraph [(d)]*(e)*(1) of this *R*[r]ule shall submit a request [a] to Nasdaq MarketWatch and the *M*[m]arket Regulation Department of NASD Regulation, Inc. to rescind the excused withdrawal status or passive market making status of distribution participants and affiliated purchasers, which request shall include the date and time of the pricing of the offering, the offering price, and the time the offering terminated, and, if not in writing, shall be confirmed in writing no later than the close of business the day the offering terminates. The request by this subparagraph may be submitted on the Underwriting Activity Report.

[(e)]*(f)* The Market Operations Review Committee shall have jurisdiction over proceedings brought by [M]*m*arket [M]*m*akers seeking review of the denial of an excused withdrawal pursuant to this Rule 4619, or the conditions imposed on their reentry.

* * * * *

## 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 proposed rule change seeks to reflect the administrative shift of certain responsibilities under NASD Rule 4619 from Nasdaq MarketWatch to Nasdaq Market Operations. NASD Rule 4619 identifies Nasdaq MarketWatch as the Nasdaq department responsible for administration of this rule. Nasdaq has determined that, in order to ensure continued and effective administration of NASD Rule 4619, it would be appropriate and desirable to transfer responsibility of handling excused withdrawal requests based on systemic equipment problems that prevent a market maker from meeting its obligations from Nasdaq MarketWatch to Nasdaq Market Operations. Systemic equipment problems include, but are not limited to, defects in the software or hardware of a market maker's systems or connectivity problems associated with the circuits connecting Nasdaq's systems with a market maker's systems. Nasdaq believes that excused withdrawal requests based on systemic equipment problems are more appropriately handled by Nasdaq Market Operations because of that department's particular expertise in technology and connectivity related issues. The proposed rule change does not create a new basis for excused withdrawals. Excused withdrawals based on systemic equipment problems are currently granted under existing NASD Rule 4619. The proposed rule change is only intended to separate out a limited subset of current excused withdrawal requests for administration by Nasdaq Market Operations.

The transfer of the administration of excused withdrawal requests based on systemic equipment problems from Nasdaq MarketWatch to Nasdaq Market Operations will not adversely impact Nasdaq's record keeping and surveillance efforts with respect to excused withdrawals. Both Nasdaq MarketWatch and Nasdaq Market Operations maintain detailed databases of all excused withdrawals. The databases for excused withdrawals tracks detailed information of each excused withdrawal, including the reason for the excused withdrawal, the date an excused withdrawal is requested, the name of the requester, the firm name, the security or securities involved, the date for the excused withdrawal, and the date reinstated. Nasdaq MarketWatch and Nasdaq Market Operations review the excused withdrawal databases on a periodic basis and have begun to develop procedures for inter-departmental communications and reviews of these databases, which are expected to be implemented by the end of April. All excused withdrawals granted by Nasdaq Market Operations are communicated to Nasdaq MarketWatch through same-day announcements made over Nasdaq's internal intercom system. Finally, additional surveillance is provided by the NASD, which receives a copy of the excused withdrawal databases from Nasdaq MarketWatch and Nasdaq Market Operations on a quarterly basis.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with section 15A of the Act,[6] in general, and with section 15A(b)(6) of the Act,[7] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Because Nasdaq Market Operations has particular expertise in technology and connectivity issues, Nasdaq believes

[6] 15 U.S.C. 78*o*–3.

[7] 15 U.S.C. 78*o*–3(b)(6).

that this department, rather than Nasdaq MarketWatch, is the most appropriate department to handle excused withdrawal requests based on a market maker's systemic equipment problems. As such, the organizational realignment and the corresponding proposed rule change are consistent with the requirements of the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposal has become effective pursuant to section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(3) [9] thereunder as one concerned solely with the administration of the self-regulatory organization. At any time within 60 days of the filing of such 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.[10]

**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. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR–NASD–2004–032. The file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, 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 Exchange. All submissions should refer to the File No. SR–NASD–2004–032 and should be submitted by April 13, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 04–6407 Filed 3–22–04; 8:45 am]

**BILLING CODE 8010–01–P**

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(3).

[10] For purposes of calculating the 60-day abrogation period, the Commission considers the abrogation period to have begun on March 15, 2004, the date Nasdaq submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[11] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–49415; File No. SR–NYSE–2003–29]**

## Self-Regulatory Organizations; New York Stock Exchange; Order Granting Approval of a Proposed Rule Change Relating Partial Transfers and Other Non-Standard Customer Account Transfers

March 12, 2004.

On October 1, 2003, the New York Stock Exchange (''NYSE'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NYSE–2003–29 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on December 29, 2003.[2] Three comment letters in support of the proposed rule change were received.[3] For the reasons discussed below, the Commission is granting approval of the proposed rule change.

**I. Description**

Rule 412 of the NYSE's Rules (''Customer Account Transfer Contracts'') prescribes procedures for member organizations to transfer customer accounts. It requires use of the Automated Customer Account Transfer Service (''ACATS''), an electronic system administered by the National Securities Clearing Corporation (''NSCC'') to facilitate the transfer of customer account assets from one broker-dealer or bank to another broker-dealer or bank, where both the carrying and receiving broker-dealers are members of NSCC. Since ACATS inception in 1985, numerous enhancements to it and to Rule 412 have allowed for faster and more efficient transfers of customer accounts. For example, the most recent amendments to the Interpretation of Rule 412 provided for the expedited transfer of accounts containing third party or proprietary products (*e.g.*, mutual funds).[4]

*A. Non-Standard Account Transfers*

Prior to this rule change, Rule 412 and its Interpretation applied only to ''standard'' transfers (*e.g.*, where customer account assets in their entirety are transferred from one member organization to another) processed through ACATS. Rule 412 and its Interpretation, as currently applied to standard transactions, include specified response times which a delivering firm and a receiving firm are to verify assets, resolve discrepancies, and complete the transfer. Standard transfers processed through ACATS are also subject to the automated processing of transfer-related fails (*e.g.*, monies posted by a delivering firm where the security to be transferred is not transferred), reclaims (*e.g.*, claims by delivering firm for the return of securities transferred), and of residual credits (*e.g.*, transfer of dividends, *etc.* received after an account has been transferred).

While ACATS could also used to process non-standard transfers, such as ''partial'' transfers (*i.e.*, the transfer of only specifically designated assets from a customer account), Rule 412 did not require the use of the automated processing capabilities of ACATS or that non-standard transfers be accomplished in accordance with Rule 412 timeframes.

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 48958, (December 18, 2003), 68 FR 75008 (December 29, 2003)(File No. SR–2003–29).

[3] Letters from Steven P. Callan, Associate Director, Bear, Stearns Securities Corp., (January 12, 2004); John Cusumano, President, and Kristie Thompson, Vice President, Customer Account Transfer Division, Securities Industry Association (January 20, 2004); Kristie Thompson, Department Leader, Customer Account Transfer, Edward Jones (January 20, 2004).

[4] Securities Exchange Act Release No. 44596 (July 26, 2001), 66 FR 40306 (August 2, 2001) (SR–NYSE–00–61); NYSE Information Memorandum No. 01–23 (August 16, 2001).

As amended, Rule 412 and its Interpretation will generally apply the same procedural standards to both standard and non-standard transfers (*e.g.*, partial transfers, fail reversals, reclaims, and mutual fund fail clean ups) processed through ACATS. The amendments will mandate use of ACATS for non-standard transfers unless otherwise specifically requested by a customer.[5] For example, customers will not be precluded from using authorized alternate instructions to effect partial transfers.

However, certain aspects of Rule 412 and its Interpretation will continue to be applicable to standard transfers only. The amendments to Rule 412 distinguish between the transfer of security account assets ''in whole'' (*i.e.*, standard transfers) and security account assets ''in specifically designated part'' (*i.e.*, partial transfers). This distinction is necessary given differing customer and broker-dealer obligations that result from transferring an entire account from a delivering firm as opposed to obligations related to the transfer of specified assets from an account that will remain active at the delivering firm.

For example, should a customer request the transfer of an entire account, she must authorize the liquidation of any nontransferable proprietary money market fund assets in the account and the transfer of any resulting credit balance to the receiving organization.[6] In addition, any residual credit balance resulting from dividend payments subsequent to the transfer must be forwarded to the receiving organization.[7] Clearly, these are obligations that would attach only in instances of account asset transfers in whole, and not in instances of specifically designated asset transfers.

Another procedural distinction between the transfer of an entire account and the transfer of specifically designated asset transfers can be found in the treatment of ''non-transferable assets.'' Non-transferable assets are defined as either a proprietary product of a delivering organization or as an asset that is the product of a third party (*e.g.*, a mutual fund). When transferring account assets in whole, the Interpretation of Rule 412 requires that a customer be provided a letter with disposition options consistent with closing out an account regarding any non-transferable assets.[8] This requirement would not be applicable to partial transfers since a request to transfer specifically designated assets would not result in closing the customer's account at the delivering firm.

*B. Customer Authorization*

Rule 412 and its Interpretation currently make reference to ''written'' customer authorization requirements. The amendments to Rule 412(a) clarify the scope of such customer authorization to include electronic signatures ''in a format recognized as valid under federal law to conduct interstate commerce.'' This modification contemplates legal alternatives to ''pen and paper'' methods of customer authorization on the condition that such methods otherwise comply with Rule 412 and its Interpretation.

*C. Prescribed Forms*

The interpretation of Supplementary Material .30 to Rule 412 had required members use the transfer instructions and provide the reports prescribe by the NYSE when making account transfers pursuant to Rule 412 and that such instructions and reports must be substantially similar to those required by NSCC. Since NSCC no longer requires specific formats with respect to transfer instructions or reports, the Interpretation to Supplementary Material .30 is being deleted.

In order to allow member organizations sufficient time to develop and implement necessary system changes to comply with amended Rule 412, the NYSE will set an effective date six months from the date of Commission approval of the proposed amendments.

## II. Comment Letters

The Commission received three comment letters, all in support of the proposed rule change.[9] The commenters supported both the application of standard procedures to non-standard transfers (including partial transfers, fail reversals, reclaims, and mutual fund fail clean ups) and supported the clarification that client authorizations includes electronic signatures in a format recognized as valid under federal law to conduct interstate commerce.[10] The commenters believe that these changes will enhance and streamline the account transfer process and will ultimately benefit investors.

## III. Discussion

Section 6(b)(5) of the Act that requires rules of an exchange are designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.[11] As amended, Rule 412 expands the scope of transactions required to be processed through ACATS in order to include non-standard transfers (*e.g.*, partial transfers, fail reversals, reclaims, and mutual fund fail clean-ups) and allows broker-dealers to accept electronic signatures in a format recognized as valid under Federal law for such transactions. In so doing, the rule change should expedite the transfer of customer assets between broker-dealers, increase broker-dealer accountability in transferring customer accounts, and further competition among broker-dealers by more easily allowing investors to transfer their assets to the broker-dealer of their choice. For these reasons, the Commission believes that the NYSE's rule change is consistent with the exchange's obligations under the Act.

## IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 6 of the Act and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NYSE–2003–29) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 04–6405 Filed 3–22–04; 8:45 am]

BILLING CODE 8010–01–P

[5] Rule 412(e)(1) will not provide an exception to the members' obligation to accomplish transfers in accordance with NSCC's rules when the customer authorizes alternative instructions to transfer ''specifically designated assets.'' The phrase ''specifically designated assets'' refers to partial transfers only. Telephone conversation between the NYSE, NSCC, and Commission staff (November 20, 2003).

[6] Rule 412 Interpretation (b)(1)/01.

[7] NYSE Rule 412(e)(3) and (e)(4).

[8] Rule 412 Interpretation (b)(1)/06.

[9] *Supra* note 3.

[10] The commenters noted that the description of the proposed rule change only mentioned partial transfers as non-standard functionality, but the rule change as filed by the NYSE encompasses all non-standard transfers such as fail reversals, reclaims, and mutual fund fail clean ups.

[11] 15 U.S.C. 78f(b)(5).

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–49417; File No. SR–PCX–2004–07]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. To Amend PCX Rule 1.26 To Clarify and Update Its Registration Rule for Employees of Member Organizations

March 15, 2004.

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 February 9, 2004, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), through its subsidiary PCX Equities, Inc. (''PCXE''), 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 Exchange. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6)[4] thereunder, which renders the proposal effective upon filing with the Commission.[5] 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

PCX proposes to amend PCX Rule 1.26 in order to clarify PCX's registration rule for employees of Member Organizations. The text of the proposed rule is below. Proposed new language is in italics; proposed deletions are in brackets.

**Rule 1: Memberships; Employees of Member Organizations**

Registration

Rule 1.26(a). [Every] *Each* employee [, including branch office managers,] of a *M*[m]ember *O*[o]rganization [who is] compensated directly or indirectly for the solicitation or handling of business in securities, including trading in securities for the account of the *M*[m]ember *O*[o]rganization, [whether such securities are those dealt in on the Exchange or those dealt in over-the-counter,] must be registered with [and approved by] the Exchange.

[The Exchange may waive compliance with the requirements of Rule 1.26(a) in the event a member organization is also a member organization of another national securities exchange having comparable requirements.]

(b) *In order to satisfy the* [R]registration *requirement,* [of registered] employees [shall] *of Member Organizations must satisfy applicable examination requirements as prescribed by the Exchange, complete documentation and pay the related fees.* [be in such form as the Exchange shall prescribe and the c]*C*ontinuance of any registered employee [in that capacity shall] *is* at [all times be in] the sole discretion of the Exchange.

*(i) For employees of Member Organizations for which the Exchange serves as the Designated Examining Authority, all the requirements of subsection (b) apply;*

*(ii) For employees of Member Organizations for which the Exchange does not serve as the Designated Examining Authority, such employees shall be deemed registered with the PCX if the Member Organization has recorded the registration of such employees with the PCX via Web CRD.*

(c) The Exchange may require each applicant for employment as a registered employee to [pass such] *successfully complete* examinations as the Exchange may prescribe to establish the applicant's qualification for such registration. *The Exchange may exempt an individual from the examination requirements if such individual has successfully completed comparable examinations* (*e.g.*, *Series 7 Examination).*

**Rule 1.26(d)–(g)—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 PCX included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified item IV below. The PCX 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 Exchange is proposing to amend PCX Rule 1.26 in order to clarify and update its registration rule for employees of Member Organizations.

The Exchange proposes to amend PCX Rule 1.26(a) so that the registration requirement applies to employees of Member Organizations irrespective of whether the Member Organization is a member of another national securities exchange. This amendment is necessary for the PCX to maintain a complete and accurate listing of PCX Member Organizations and their employees. The Exchange also proposes to clarify PCX Rule 1.26(b) to clearly outline that employees of Member Organizations must satisfy the applicable examination requirements as prescribed by the Exchange, complete any documentation, and pay the related fees. The Exchange also proposes to clarify the difference in the process depending on whether the PCX serves as the Member Organization's Designated Examining Authority. This is intended to prevent any ambiguity regarding the registration process. Lastly, the Exchange proposes to include in PCX Rule 1.26(c) an exemption for an individual from the examination requirements if such individual has successfully completed comparable examinations. The purpose of this provision is to avoid duplicative examinations.

The requirements for registration of employees of Member Organizations outlined above are existing requirements that are currently in place at the Exchange pursuant to PCX Rule 1.26. The Exchange currently mandates these requirements for registration and merely seeks to codify them in the Exchange rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[6] in general, and furthers the objectives of section 6(b)(5),[7] in particular, because it is designed to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments and perfect the mechanisms of a free and open market and to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The PCX does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[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 PCX provided the Commission with written notice of its intention to file the proposed rule change on January 30, 2004. *See* 17 CFR 240.19b–4(f)(6).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change 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[8] and Rule 19b–4(f)(6) thereunder.[9] 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 Exchange asked the Commission to waive the 30-day operative delay. The Commission believes such waiver is consistent with the protection of investors and the public interest. Because these proposed rules merely codify existing procedures, the proposed rule change does not raise any new regulatory issues, significantly affect the protection of investors or the public interest, or impose any significant burden on competition. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[10]

**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. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–PCX–2004–07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to file number SR–PCX–2004–07 and should be submitted by April 13, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04–6452 Filed 3–22–04; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 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).

[11] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–49418; File No. SR–PCX–2004–18]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Bid-Ask Differentials

March 15, 2004.

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 March 11, 2004, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the PCX. The PCX filed the proposal pursuant to Section 19(b)(3)(A) under 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 comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The PCX proposes to amend PCX Rule 6.37, ''Obligations of Market Makers,'' to permit the Options Floor Trading Committee (''OFTC'') to establish, with respect to options trading with a bid price of less than $2, bid-ask differentials that are no more than $0.50 wide (''double-width'') when the primary market for the underlying security: (1) Reports a trade outside of its disseminated quote (including any Liquidity Quote); or (2) disseminates an inverted quote. The double-width relief must terminate automatically when the condition that necessitated the double-width relief is no longer present. The text of the proposed rule change appears below. Additions are *italicized*.[6]

**Obligations of Market Makers**

Rule 6.37(a)—No change.

Rule 6.37(b)(1)(A)—(E)—No change.

*(F) The OFTC may, with respect to options trading with a bid price less than $2, establish bid-ask differentials that are no more than $0.50 wide (''double-width'') when the primary market for the underlying security: (a) Reports a trade outside of its disseminated quote (including any Liquidity Quote); or (b) disseminates an inverted quote. The imposition of double-width relief must automatically terminate when the condition that necessitated the double-width relief i.e., condition (a) or (b)) is no longer present. Market makers that have not automated this process may not avail themselves of the relief provided herein (i.e. they may not manually adjust prices.)*

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared

[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 PCX has 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).

[6] The PCX indicated that the proposed rule should be paragraph (F) of PCX Rule 6.37(b)(1). *See* e-mail message from Steven B. Matlin, Senior Attorney, Regulatory Policy, PCX, to Yvonne Fraticelli, Special Counsel, Division of Market Regulation, Commission, dated March 12, 2004.

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

PCX Rule 6.37 sets forth the obligation of market makers and establishes bid-ask differentials. The PCX proposes to amend PCX Rule 6.37 to codify two instances when the bid-ask differential for options trading with a bid price of less than $2 may be wider than the $0.25 interval expressly required for such options in PCX Rule 6.37(b)(1)(A). Specifically, with respect to options trading with a bid price of less than $2, the proposal would authorize the OFTC to establish bid-ask differentials that are no more than $0.50 wide when the primary market for the underlying security: (1) Reports a trade outside of its disseminated quote (including any Liquidity Quote); or (2) disseminates an inverted quote.[7] The proposed quote width relief will apply to options on stocks and options on exchange-traded funds (''ETFs'').

The proposed quote width relief will apply only to options that trade with a bid price of less than $2. Thus, options trading at a price of $2 (bid) or higher will not be eligible for the proposed quote width relief. The PCX notes that options trading at less than $2 are subject to a $0.25 bid-ask differential, which generally means that market makers have only $0.125 of pricing latitude on either side of the theoretical value to widen their quotes to take into account any pricing discrepancy in the underlying security.

Under the proposal, PCX market makers will not be permitted to widen their quotes when the New York Stock Exchange, Inc. (''NYSE'') prints a trade at or within its Liquidity Quote. Because the NYSE disseminates Liquidity Quotes, which are quotes of substantial size outside of the regular disseminated quote, the PCX notes that PCX market makers should not be surprised if the NYSE prints a trade outside of its regular quote but at or within its Liquidity Quote. For this reason, the PCX does not propose to allow the OFTC to authorize PCX market makers to widen their quotes when the NYSE prints a trade at or within the Liquidity Quote. However, if the NYSE prints a trade outside of the Liquidity Quote, a PCX market maker would be able to widen its quotes.

A PCX market maker will be eligible for the proposed relief only if the market maker has an automated quotation system that returns the market maker's quotes to normal width upon the termination of the triggering event. Double-width relief will not be available to market makers who must rely on manual input to restore quote values to normal width. Automation of this process ensures that double-width relief will take effect only when permissible and, more importantly, will last only as long as the condition that necessitated it occurs.[8] Thus, there will be no sustained dissemination of stale double-wide quotes when one of the triggering events is not present.

2. Statutory Basis

The PCX believes that the proposal is consistent with Section 6(b) of the Act,[9] in general, and Section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The PCX does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

The PCX neither solicited nor received written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The PCX has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. As required under Rule 19b–4(f)(6)(iii), the PCX provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to filing the proposal with the Commission or such shorter period as designated by the Commission.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The PCX has requested that the Commission waive the 30-day operative delay specified in Rule 19b–4(f)(6) because the PCX's proposal provides quote width relief similar to that provided under the rules of the CBOE. Accordingly, the PCX believes that its proposal does not raise new regulatory issues, significantly affect the protection of investors or the public interest, or impose any significant burden on competition.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change is substantially similar to a rule adopted previously by the CBOE.[13] The CBOE's proposed rule was published for comment and the Commission received no comments regarding the CBOE's proposal. The Commission believes that the PCX's proposal raises no new issues or regulatory concerns that the Commission did not consider in

[7] The proposed rule is based on Chicago Board Options Exchange, Inc. (''CBOE'') Rule 8.7(b)(iv). *See* Securities Exchange Act Release No. 48990 (December 23, 2003), 68 FR 75673 (December 31, 2003) (File No. SR–CBOE–2003–25) (order approving CBOE Rule 8.7(b)(iv)) (''CBOE Approval Order'').

[8] Thus, to be eligible for the proposed double-wide relief, a market maker must automate this process in his or her own proprietary trading software. Market makers who do not automate this process will not be eligible for the proposed relief. At this time, the PCX will not be making the necessary software changes to the POETS system to automate this process.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] *See* CBOE Rule 8.7(b)(iv) and CBOE Approval Order, *supra* note 7. For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

approving the CBOE's proposal. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and the Commission designates the proposal to be operative upon filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it 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. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–PCX–2004–18. The file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2004–18 and should be submitted by April 13, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 04–6406 Filed 3–22–04; 8:45 am]

**BILLING CODE 8010–01–P**

[14] 17 CFR 200.30–3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Aviation Proceedings, Agreements filed the week ending March 5, 2004

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* OST–2004–17219.
*Date Filed:* March 1, 2004.
*Parties:* Members of the International Air Transport Association.
*Subject:*
PTC12 MEX-EUR 0064 dated 13 February 2004
North Atlantic Mexico-Europe Resolutions r1–15
Minutes—PTC12 MEX-EUR 0065 dated 26 February 2004
Tables—PTC12 MEX-EUR Fares 0027 dated 13 February 2004
Intended effective date: 01 May 04

*Docket Number:* OST–2004–17225.
*Date Filed:* March 2, 2004.
*Parties:* Members of the International Air Transport Association.
*Subject:*
PTC12 SATL-EUR 0119 dated 13 February 2004
TC12 South Atlantic-Europe Resolutions r1–r11
Minutes—PTC12 SATL-EUR 0120 dated 02 March 2004
TC12 South Atlantic-Europe Minutes
Tables—PTC12 SATL-EUR Fares 0037 dated 20 February 2004
TC12 South Atlantic-Europe Specified Fares Tables
Intended effective date: 01 April 2004

*Docket Number:* OST–2004–17226.
*Date Filed:* March 2, 2004.
*Parties:* Members of the International Air Transport Association.
*Subject:*
PTC12 MATL-EUR 0086 dated 13 February 2004
TC12 Mid Atlantic-Europe Resolutions r1-r15
Minutes—PTC12 MATL-EUR 0087 dated 02 March 2004
TC12 Mid Atlantic-Europe Minutes
Tables—PTC12 MATL-EUR Fares 0034 dated 20 February 2004
TC12 Mid Atlantic-Europe Specified Fares Tables
Intended effective date: 01 April 2004

*Docket Number:* OST–2004–17228.
*Date Filed:* March 2, 2004.
*Parties:* Members of the International Air Transport Association.
*Subject:*
Mail Vote 351
PTC12 NMS-ME 0206 dated 24 February 2004
TC12 Mid Atlantic-Middle East Resolutions r1–r9
Mail Vote 352
PTC12 NMS–ME 0207 dated 24 February 2004
TC12 South Atlantic-Middle East Resolutions r10–r17
Tables—PTC12 NMS-ME Fares 0118 dated 27 February 2004 (Mid Atlantic)
PTC12 NMS-ME Fares 0119 dated 27 February 2004 (South Atlantic)
Intended effective date: 01 April 2004

*Docket Number:* OST–2004–17250.
*Date Filed:* March 4, 2004.
*Parties:* Members of the International Air Transport Association.
*Subject:*
PTC12 NMS-ME 0205 dated 13 February 2004
TC12 North Atlantic-Middle East Resolutions
Mail Vote 355
PTC12 NMS-ME 0209 dated 02 March 2004
TC12 North Atlantic-Middle East Resolutions 064y r1–r25
Minutes—PTC12 NMS-ME 0208 dated 02 March 2004
Tables—PTC12 NMS-ME Fares 0117 dated 20 February 2004
Intended effective date: 01 April 2004

*Docket Number:* OST–2004–17253.
*Date Filed:* March 5, 2004.
*Parties:* Members of the International Air Transport Association.
*Subject:*
Mail Vote 356
PTC2 ME-AFR 0118 dated 05 March 2004
Resolution 002LL Special Amending Resolution between Middle East and Africa
Intended effective date: 01 April 2004

*Docket Number:* OST–2004–17254.
*Date Filed:* March 5, 2004.
*Parties:* Members of the International Air Transport Association.
*Subject:*
Mail Vote 357
PTC2 ME-AFR 0119 dated 05 March 2004
Resolutions between Middle East and Africa r1–r15
Intended effective date: 01 May 04

*Docket Number:* OST–2004–17255.
*Date Filed:* March 5, 2004.
*Parties:* Members of the International Air Transport Association.
*Subject:*
Mail Vote 358
PTC12 NMS-AFR 0180 dated 05 March 2004

TC12 South Atlantic-Africa Expedited Resolution 002jj r1

Intended effective date: 01 April 2004

*Docket Number:* OST–2004–17257.

*Date Filed:* March 5, 2004.

*Parties:* Members of the International Air Transport Association.

*Subject:*

Mail Vote 360

PTC12 NMS-AFR 0181 dated 05 March 2004

TC12 North Atlantic-Africa Resolutions except between USA and Reunion

Mail Vote 362

PTC12 NMS-AFR 0182 dated 05 March 2004

TC12 Mid Atlantic-Africa Resolutions

Mail Vote 361

PTC12 NMS-AFR 0183 dated 05 March 2004

TC12 North Atlantic-Africa Resolutions between USA and Reunion

Mail Vote 359

PTC12 NMS-AFR 0184 dated 05 March 2004

TC12 South Atlantic-Africa Resolutions r1–r44

Intended effective date: 01 May 2004

**Andrea M. Jenkins,**

*Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. 04–6379 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–62–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Aircraft Registration Application

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

**ACTION:** Notice—Aircraft Registration Applications, AC Form 8050–1.

**SUMMARY:** The Federal Aviation Administration will no longer accept Aircraft Registration Applications, AC Form 8050–1, which do not contain the printed or typed name of the signer in the signature block.

**EFFECTIVE DATE:** June 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Walter Binkley, Manager, Aircraft Registration Branch (AFS–750), Mike Monroney Aeronautical Center, Federal Aviation Administration (AFS–750), Post Office Box 25504, Oklahoma City, OK 73125. Telephone (405) 954–3131.

**SUPPLEMENTARY INFORMATION:** Incident to the Federal Aviation Drug Enforcement Assistance Act, Section 44111 of Title 49, United States Code, directs the Administrator to address certain deficiencies in the aircraft registration system. Subsection 44111(c)(3)(E) determines that the submission of names of individuals on applications for registration of aircraft that are not identifiable is a deficiency in the system.

Accordingly, the Administrator will address this deficiency by no longer accepting Aircraft Registration Applications, AC Form 8050–1, unless the printed or typed name of the signer is included in the signature block.

Issued in Oklahoma City, OK, on March 10, 2004.

**Mark Lash,**

*Manager, Civil Aviation Registry.*

[FR Doc. 04–6383 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Noise Exposure Map Notice; Westover Metropolitan Airport; Chicopee, MA

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

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps for Westover Metropolitan Airport, as submitted by the Westover Metropolitan Development Corporation under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150, are in compliance with applicable requirements.

**EFFECTIVE DATE:** The effective date of the FAA's determination on the noise exposure maps is March 4, 2004.

**FOR FURTHER INFORMATION CONTACT:** John C. Silva, Federal Aviation Administration, New England Region, Airports Division, ANE–600, 12 New England Executive Park, Burlington, Massachusetts 01803.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA finds that the noise exposure maps submitted for Westover Metropolitan Airport are in compliance with applicable requirements of part 150, effective March 4, 2004.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps that meet applicable regulations and that depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted such noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval that sets forth the measures the operator has taken, or proposes, for the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure map and related descriptions submitted by the Westover Metropolitan Development Corporation. The specific maps under consideration were Figure 4–1, ''2003 Noise Exposure Map'', and Figure 4–2, ''2008 Noise Exposure Map'' in the submission. The FAA has determined that these maps for Westover Metropolitan Airport are in compliance with applicable requirements. This determination is effective on March 4, 2004.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 1077 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government.These local responsibilities are not changed in any way under part 150 or through FAA's review of a noise exposure map. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted the map

or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Westover Metropolitan Development Corporation, Westover Metropolitan Airport, 255 Padgette Street, Chicopee, Massachusetts 01022.

Federal Aviation Administration, New England Region, Airports Division, ANE–600, 16 New England Executive Park, Burlington, Massachusetts 01803.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Burlington, Massachusetts, on March 4, 2004.

**Vincent A. Scarano,**

*Manager, Airports Division.*

[FR Doc. 04–6386 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2004–20]**

### Petitions for Exemption; Summary of Petitions Received

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

**ACTION:** Notice of petitions for exemption received.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before April 12, 2004.

**ADDRESSES:** You may submit comments (identified by DOT DMS Docket Number FAA–2003–16554) by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; US Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

*Docket:* For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** John Linsenmeyer (202) 267–5174, Tim Adams (202) 267–8033, or Sandy Buchanan-Sumter (202) 267–7271, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC on March 17, 2004.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

### Petition for Exemption

*Docket No.:* FAA–2003–16554.

*Petitioner:* Explorer Aircraft, Inc.

*Section of 14 CFR Affected:* 14 CFR 21.183(c).

*Description of Relief Sought:* To permit the Eagle 150B–23 aircraft, which will be issued a 14 CFR 21.29 type certificate and is manufactured in a foreign country, to be eligible for a FAA standard airworthiness certificate in accordance with 14 CFR 21.183(c).

[FR Doc. 04–6384 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Air Traffic Procedures Advisory Committee

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

**SUMMARY:** The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

**DATES:** The meeting will be held from Monday, April 5, from 1 p.m. to 4:30 p.m., Tuesday, April 6 from 9 a.m. to 4:30 p.m. and if required Wednesday, April 7 from 9 a.m. to 4:30 p.m.

**ADDRESSES:** The meeting will be held at the Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. John A. Clayborn, Executive Director, ATPAC, Air Traffic Planning and Procedures, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3725.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2) notice is hereby given of a meeting of the ATPAC to be held Monday, April 5, from 1 p.m. to 4:30 p.m., Tuesday, April 6 from 9 a.m. to 4:30 p.m. and if required Wednesday, April 7 from 9 a.m. to 4:30 p.m.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.
4. Report from Executive Director.
5. Items of Interest.
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statement should notify the person listed above no later than March 26, 2004. The next quarterly meeting of the FAA ATPAC is planned to be held from July 12–15, 2004, in Seattle, WA.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on March 15, 2004.

**John A. Clayborn**

*Executive Director, Air Traffic Procedures Advisory Committee.*

[FR Doc. 04–6385 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Application 04–C–00–PQI Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Northern Maine Regional Airport, Presque Isle, ME

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

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Northern Maine Regional Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

**DATES:** Comments must be received on or before April 22, 2004.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, ANE–600, attn: Priscilla Scott, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Thomas Stevens, City Manager of the City of Presque Isle at the following address: 650 Airport Drive, Suite 11, Presque Isle, Maine 04769.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Presque Isle under § 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Priscilla Scott, PFC Program Manager at (781) 238–7614. The application may be reviewed in person at the FAA Airport's Division, 16 New England Executive Park, Burlington, Massachusetts.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Northern Maine Regional Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 27, 2004, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Presque Isle was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 28, 2004.

The following is a brief overview of the application.

*Proposed charge effective date:* August 1, 2004.

*Proposed charge expiration date:* October 1, 2007.

*Level of the proposed PFC:* $4.50.

*Total estimated PFC revenue:* $245,893.

*Brief description of proposed projects:*

Airport master plan and PFC application costs;

Design only for rehabilitation of taxiways, terminate apron, runway 1–19, preparation of Maine DEP site location permit application, improvements to runway safety areas and replacement of HIRLS;

Rehabilitation of taxiway ''C'', a portion of taxiway ''N'', taxiway ''B'', taxiway ''A'' and the main terminal apron and the expansion of main terminal apron;

Acquisition of snow removal equipment and aircraft rescue and firefighting vehicle and the installation of guidance signs and communication equipment;

Property acquisition, obstruction removal and construct terminal ramp and ramp equipment storage building;

Construct aircraft rescue and firefighting and snow removal equipment building and development of airport sign and guidance plan.

Class or classes of air carriers, which the public agency has requested not be required to collect PFCs: Non-schedule/on-demand air taxi commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Presque Isle.

Issued in Burlington, Massachusetts on March 5, 2004.

**Vincent A. Scarano,**

*Manager, Airports Division, New England Region.*

[FR Doc. 04–6387 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No. FAA–2004–17349]**

### Collaborative Decisionmaking Pilot Program

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

**ACTION:** Notice of proposed guidelines for Collaborative Decisionmaking pilot program.

**SUMMARY:** This notice announces proposed guidelines that would establish and implement a Collaborative Decisionmaking (CDM) pilot program to facilitate authorized communications among participating carriers at selected airports during a period of reduced capacity.

**DATES:** Comments must be received by April 22, 2004.

**ADDRESSES:** You may send comments, identified by Docket Number FAA–2004–17349, using any of the following methods:

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; US Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Fax: 1–202–493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on this process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* To read this document and other pertinent documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lorraine Vomacka, Manager, Procedures Branch, Air Traffic Tactical Operations Program, Air Traffic Control System Command Center, telephone number: 703 925–3112.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

The FAA invites interested persons to comment by submitting written comments, data, or views. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this document. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this Notice between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

*Privacy Act:* Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment 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 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Before adopting the guidelines, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay.

If you want the FAA to acknowledge receipt of your comments, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

## Background

### *Public Law 108–176*

Public Law 108–176 was enacted on December 12, 2003. Section 423 of this law, codified at title 49 of the United States Code (U.S.C.) section 40129, requires the FAA to establish a collaborative decision making (CDM) pilot program within 90 days of enactment.[1] This pilot program would facilitate certain communications among participating carriers at a designated airport over their flight schedules during a time period for which the airport experiences or is expected to experience reduced capacity. Under the law, subject to concurrence by the Department of Justice, the FAA is directed to issue guidelines governing the pilot program.

Section 40129 further directs that the guidelines, at a minimum, shall: (1) Define a capacity reduction event; (2) establish the criteria and process for determining when a capacity reduction event exists that warrants the use of CDM among carriers at airports participating in the pilot program; and (3) prescribe the methods of communication among carriers during such an event.

The FAA is to select two airports to participate in the pilot program from the most capacity constrained airports identified in the FAA's Capacity Benchmark Report 2001, or based on more recent data available to the FAA. The statute also specifies that, in selecting the two airports for participation in the two-year pilot program, the FAA must determine that the use of CDM among the carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

Upon a determination that a capacity reduction event exists, the FAA may authorize carriers operating at a participating airport to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The FAA is to facilitate and monitor these communications, and the Department of Justice may monitor such communications as well.

Any U.S. or foreign air carrier operating at the selected airports is eligible to participate in the pilot program upon determination by the FAA that the carrier possesses the operational and communications capabilities necessary for participation. Any carrier may be banned from participation in the pilot program if the FAA determines that the airport or the carrier does not further the purpose of the program. A carrier may also be banned from participation upon a finding by the Secretary of Transportation (the Secretary), and concurred with, by the Department of Justice, that the carrier's participation has had, or is having, an adverse effect upon competition.

The Secretary may exempt a carrier's activities that are necessary to participate in the program from the antitrust laws for the purpose of participating in the pilot program, but such exemption shall not apply to any discussions, agreements, or activities beyond the scope of the pilot program.

Lastly, the statute provides for an evaluation of the pilot program and a determination as to whether the program has facilitated more effective use of air traffic capacity and whether the program has had an adverse effect on airline competition or the availability of air service to communities. The program may be extended for an additional two years with up to seven airports added to the program. The program also may be terminated prior to its expiration upon determination by the FAA and Department of Justice that it is unlikely to achieve its stated purposes.

### *Proposed Guidelines*

Existing procedures followed by the Air Traffic Organization (ATO) allow for limited collaboration between the FAA and members of industry to reduce delays. Under these procedures, officials in the FAA's Air Traffic Tactical Operations Program located at the agency's David J. Hurley Air Traffic Control System Command Center (ATSCC) in Herndon, Virginia, convene frequent daily telephone conferences with air carrier representative and others. During these conference calls, also known as Strategic Planning Tellcons, the FAA reviews the status of air traffic operations so as to inform the air carriers about possible delays within the National Airspace system as well as ground delay programs or other traffic management decisions that may affect the carriers' operations. The carriers, in turn, update the FAA about their planned operations. Based on the information exchanged during these calls, carriers may then unilaterally choose to adjust their flight schedules (including canceling or substituting flights) in order to minimize the impact of delays on their passengers. This program has sometimes been referred to within the FAA as ''collaborative decision-making'' because the agency and industry together discuss solutions to projected delays. See *http://www.atcscc.faa.gov/Information/CDM/cdm.html*

The proposed CDM pilot program would expand the concept of the Strategic Planning Telcons by adding additional telecons for coordinating capacity reduction events. Although the

[1] The FAA acknowledges that this Notice is being published beyond the 90 day period. This delay was the result of the need to consult with air carriers and their trade associations, the military and other users, the Departments of Transportation and Justice, and the time needed by the ATCSCC and the users to prepare and test various computer simulations.

Strategic Planning Telcons have widely been viewed as successful in mitigating the impact of traffic management measures (such as ground delay programs and ground stops) on air carrier operations, they do not typically, avoid the need for such measures in the first instance. Thus, a primary objective of the CDM pilot program authorized under section 423 of Vision 100 is to determine whether additional, carefully monitored communications among air carriers serving the demonstration airports over schedule adjustments (including cancellations, substitutions and rerouting of flights) could reduce the total number of delays that are attributable to capacity-reducing events at those airports. Such an effect would likely be discernible in a reduction of delay minutes at each of the airports in question and, assuming other factors remain constant, in the number of passengers who do not reach their destinations on time.

Significant delays at certain hub airports almost inevitably result in delays throughout the National Airspace System (NAS). Such delays translate into higher costs for the carriers serving the airport, in terms of increased fuel consumption, additional crew flight time, missed connections, lost gate access, re-positioning of aircraft, and compensation to passengers for overbooking. Delays also pose a burden on the FAA, adding to the complexity of airspace management and increasing staffing requirements. Therefore, a secondary purpose of the pilot program is to examine the impact of CDM at the demonstration airports on the overall efficiency of the NAS, as measured by the greater utilization of the available capacity at the demonstrations airport(s).

When ground delay programs are imposed, affected carriers are required by ATO procedures to obtain specific reservation times for arrivals—known as ''arrival slots''[2]—at the destination airports of their flights. These arrival slots are rationed by ATO based on filed schedules. However, even during such programs, not all such slots are used; carriers may choose not to relinquish their reservations until it is too late for other carriers to take advantage of them. Thus, a third purpose of the pilot CDM program is to determine whether communication among carriers concerning arrival slots available during ground delay programs could result in greater, or full, utilization of such arrival slots, thereby increasing the throughput of traffic at the demonstration airports during times of reduced capacity.

The proposed guidelines would govern CDM procedures at the two airports specified for the CDM pilot program in accordance with 49 U.S.C. 40129(e) and would provide for limited, collaborative decision making among air carriers when a Capacity Reduction Event (CRE) exists that meets the Triggering Criteria, as defined below. The FAA is proposing that one of the two airports selected for the pilot program be Chicago O'Hare International Airport (ORD). ORD is major hub airport, and delays there frequently ripple throughout the NAS as a whole. Therefore, the agency has concluded that the use of CDM at ORD should be beneficial in reducing delays at that airport and in the NAS as a whole.[3] The second airport to be selected will be determined by reference to the statutory requirement and in consideration of the comments received in response to this Notice.

As part of its review of the effectiveness of the CDM pilot program and its consideration of these guidelines, the FAA is preparing a computer simulation of a capacity-reducing event using ORD as a model. The purpose of the simulation is to evaluate the effectiveness of different delay-avoidance strategies that may be employed by the FAA and its customers in handling Capacity Reduction Events. The simulation will be designed to explore the complexities, costs, and benefits of allowing limited coordination over schedule adjustments in the period preceding a capacity-reduction event. By examining several different scenarios at ORD, the simulation should help produce metrics for determining participation in, and the success of, the program when implemented. Additionally, the simulation will provide insight into any new technologies, processes or software that may be required to support allowable information-sharing under the CDM pilot program.

In addition, as part of the FAA's continuing effort to anticipate growth in the system, and to provide for traffic growth without gridlock, the FAA has received input from general aviation users, the military, labor organizations, and air carriers, in developing a plan to augment existing traffic management procedures so as to better manage system flows when delays are created by over-scheduling (even in good weather). Such procedures may include rerouting of traffic and imposition of ground stops or ground delays at airports that are not experiencing delays, in order to improve traffic flows at congested airports. The FAA anticipates that these developing methodologies will contribute to reducing delays in the NAS as a whole and, consequently, at the demonstration airports in the CDM pilot program.

**Capacity Reduction Event (CRE)**

A CRE is an unplanned occurrence or emergency that reduces the Airport Arrival Rate (AAR) so as to cause a material increase in flight delays, including but not limited to adverse weather or wind conditions, unanticipated runway or taxiway maintenance or other airport construction or maintenance that limits the airport arrival rate, and acts constituting Force Majeure.

**Triggering Criteria**

A CRE may warrant collaborative decision making among carriers in the CDM pilot program if the CRE is expected to, or results in, (i) a reduction in the AAR, as determined under optimal weather conditions, of 30 percent or more; and (ii) where such reduction would last for a period of three hours or longer. Based on current experience, the FAA would not expect the conditions to be met more than approximately 20 times a year. In any case, it is not necessarily the intent of the FAA to declare a CRE on every occasion where the criteria are met.

Any U.S. or foreign air carrier that operates at either or both of the specified airports has the option of participating in the pilot program, provided it possesses the operational and communications capabilities necessary for participation.

**Permitted Communications**

When a CRE is declared that meets the Triggering Criteria, and the FAA determines that CDM is necessary, authorized air carriers may engage in Permitted Communications during a period designated by the FAA not to exceed twenty-four hours. Permitted Communications consists of: (1) Offers to reroute or retime flights; (2) offers to reduce the total number of operations conducted during any one hour period (but without reference to specific flights or markets); and (3) offers to relinquish arrival slots obtained during ground delay programs. Such offers may be communicated to the FAA as part of the Strategic Planning Telcons concerning the demonstration airports or via the

[2] These ''arrival slots'' are an informal pacing device used by Air Traffic Control and do not relate to takeoff and landing slots allocated under Subpart K-High Density Traffic Airports (the HDR rule), 14 CFR 93.121.

[3] See Order Limiting Scheduled Operations (Operating Limitations at Chicago O'Hare International Airport, Docket FAA–2004–16944), at 2–4.

pilot program Web site. Permitted Communications also include general discussions over measures by the FAA taken to reduce delays including traffic management initiatives.

Only communications made to the FAA as part of the Strategic Planning Telcons or to the FAA via the pilot program Web site shall qualify as Permitted Communications. Other carriers and foreign air carriers participating in the pilot program may receive such communication by participating in the Strategic Planning Telcon or by viewing the pilot program Web site.

Permitted Communications do not include: (1) Offers to cancel specifically identified flights (as opposed to a total number of operations); (2) discussions of fares; (3) discussions of passenger revenues attributable to cancelled, retimed or rerouted operations; (4) discussions of marketing strategies or passenger accommodations, including but not limited to amounts paid in compensation to, or other consideration provided to, passengers whose flights are cancelled, retimed or rerouted; and (5) any other discussions likely to result in an agreement violative of the antitrust laws, except as expressly authorized under these guidelines as Permitted Communications. However, nothing in these guidelines precludes any carrier from taking unilateral action based on information gained during conference calls or other communications permitted under the pilot program.

The Department of Justice, in addition to the FAA, may monitor all communications that occur during the telephone conferences or via the pilot program Web site. For this purpose, the telephone conferences will be recorded and an electronic record of the activity on the pilot program Web site will be preserved for 45 days.

**Antitrust Immunity**

As authorized by section 40129(h), and subject to concurrence by the Attorney General, during the period the pilot program is in effect, the Secretary intends to exempt U.S. and foreign air carriers participating in the program from the antitrust laws for activities they engage in to the extent those activities are necessary for their participation in the program. The antitrust exemption is for the sole purpose of participating in the pilot program, and shall not extend to any discussions, agreements, or activities outside the scope of the pilot program as described in these guidelines. It shall apply only to the extent that the U.S. or foreign air carrier complies with the conditions imposed by these guidelines. The FAA reserves the authority to modify or terminate the exemption prospectively, or to otherwise modify or terminate the program or a particular carrier's participation in it, if it is determined by the FAA or the Secretary, respectively, and with the concurrence of the Department of Justice, that the purpose of the program is not being furthered or that the program or the particular carrier's participation is having an adverse effect on competition. This statement shall serve as the notice required by section 40129(h) that states the Secretary's intention to use the authority created by that section to grant antitrust immunity.

**Evaluation**

The FAA will evaluate the pilot program to determine whether it has reduced total passenger delays, facilitated a more effective use of air traffic capacity through improvements in the realized airport arrival rate, or enabled a greater utilization of reservation times during ground delay programs. The FAA will also consider whether benefits from one airport's participation in the program have brought benefits to other parties of the National Airspace System.

The Department is obligated to evaluate the pilot program's effects on airline competition and service to communities. We ask for comment on what kinds of data should be obtained by us to conduct the evaluation. This data could include the following, but commenters may suggest alternatives or discuss whether the following data would be unnecessary:

(1) Identification of flights scheduled, including number of seats sold, average fare, markets scheduled to be served, and times from the selected airports, during the CRE;
(2) Identification of flights cancelled during the CRE; flights operated during the CRE and within 24 hours afterwards including average fares, destinations, etc.;
(3) Identification of communities that lost service during the CRE; and
(4) Data on the extent, if any, the program disadvantages carriers with limited flight schedules.

We welcome other ideas as to how the program's effectiveness should be evaluated.

Additionally, while we recognize (as described above) that flight delays impose additional costs on air carriers, airports and the FAA, it would also be beneficial to obtain information about the direct effect of this program on the traveling public. Such information would allow us to evaluate the amount of delay experienced by passengers traveling on airlines participating in the program compared to the delay experienced during similar events that occurred before the program went into effect. Such information could include the number of passengers given prior notification of an impending CRE, the number of passengers who are rebooked on flights that depart in advance, during, or immediately after a CRE, reductions in the number of passengers who are offered compensation because of ''overbooking'' during the relevant time period, the number of passengers who are rebooked on other carriers' flights in response to notification of an impending CRE, or the speed with which carriers are able to accommodate all passengers wishing to travel during or immediately following a CRE.

Issued in Washington, DC, on March 16, 2004.

**Marion C. Blakey,**

*Administrator.*

[FR Doc. 04–6353 Filed 3–17–04; 4:05 pm]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Denial of a Petition for an Investigation Into the Adequacy of Recall Remedy, RP03–001

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

**ACTION:** Denial of petition for an investigation into the adequacy of a recall remedy.

**SUMMARY:** This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30120(e), requesting that the agency investigate the adequacy of a remedy to address a defect in the adjustable brake and accelerator pedals on model year (MY) 2000 Mercury Sable vehicles. The petition is identified as RP03–001.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jonathan White, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–5226.

**SUPPLEMENTARY INFORMATION:** Ms. Linda Rodman of North Hollywood, CA, submitted a petition to NHTSA by letter dated September 5, 2003, requesting NHTSA to further investigate the adjustable brake/accelerator pedal movement on MY 2000 Mercury Sable vehicles manufactured by Ford Motor Company (Ford). Ms. Rodman reported that on June 21, 2003, her mother was

turning into a parking space when her MY 2000 Mercury Sable suddenly accelerated on to a grassy median, struck a light pole head on, and then came to rest after hitting a parked car.

NHTSA had previously conducted an investigation (PE02–035) into this issue. Consistent with facts developed in that investigation, on October 1, 2002, Ford notified NHTSA that it would recall 369,614 MY 2000 through 2002 Ford Taurus and Mercury Sable vehicles (subject vehicles) to address a safety-related defect (NHTSA Recall 02V–266). Under that recall, Ford and Mercury dealers were to inspect the lateral separation distance between the brake pedal and the accelerator pedal and, if needed, adjust the pedals to obtain a minimum lateral separation of 50 mm. This would reduce the likelihood of a driver contacting both the brake and accelerator pedals, which could result in unwanted vehicle acceleration.

The petitioner stated that she brought her vehicle to her dealer in response to this recall and was told that no adjustment was needed. Subsequently, while the petitioner's mother was driving the vehicle, it allegedly suddenly accelerated and struck a light pole and a parked car. The petitioner therefore claims that the remedy identified by Ford for this recall does not sufficiently correct the brake and accelerator pedal lateral movement in the subject vehicles.

A review of the ODI complaint database revealed only one complaint regarding the adequacy of the recall remedy, that of the petitioner.

On December 10, 2003, an ODI investigator inspected Ms. Rodman's vehicle with the special tool used by Ford and Mercury dealers to perform the recall inspection. The brake/accelerator pedal lateral separation distance on Ms. Rodman's vehicle was 63 mm, well in excess of the 50 mm minimum specified under the recall. This measurement was performed as in the recall with the lash, or lateral movement, accounted for by moving the brake pedal towards the accelerator with light pressure.

The lateral movement of the pedal in the Rodman vehicle brake pedal was found to be comparable to other similarly equipped Sable and Taurus vehicles, approximately 30 mm.

Considering the fact that there were over 369,000 MY 2000–2002 Ford Taurus and Mercury Sable vehicles recalled and that the only alleged remedy failure reported to ODI was by the petitioner, there is no basis to open an investigation to examine whether the recall remedy is adequate. It is unclear what caused the unwanted vehicle acceleration reported by Ms. Rodman. The brake/accelerator pedal lateral separation distance on her vehicle was significantly more than the 50 mm minimum specified under the recall and the lateral movement of the brake pedal was not excessive.

In view of the foregoing, it is unlikely that NHTSA would issue an order requiring Ford to provide a different remedy for this defect. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

**Authority:** 49 U.S.C. 30120(e); delegations of authority at CFR 1.50 and 501.8.

Issued on: March 18, 2004.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

[FR Doc. 04–6455 Filed 3–22–04; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Section 5a Application No. 46 (Sub-No. 20)]**

### Southern Motor Carriers Rate Conference, Inc.

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Request for comments.

**SUMMARY:** The Surface Transportation Board is reopening the record regarding the application of the Southern Motor Carriers Rate Conference, Inc. (SMCRC) to expand the geographic scope of its collective ratemaking authority from regional to nationwide. The Board is taking this action to update the record for this matter by providing the opportunity for SMCRC to submit additional information in support of its application and for interested persons to file comments in reply to SMCRC's proposal. SMCRC will then be allowed to file rebuttal.

**DATES:** Initial statement from SMCRC is due by April 22, 2004. Replies are due by May 24, 2004. Rebuttal from SMCRC is due by June 7, 2004.

**ADDRESSES:** Send an original and 10 copies of pleadings, referring to STB Section 5a Application No. 46 (Sub-No. 20), to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. Also, send one copy to the representative of applicant SMCRC in STB Section 5a Application No. 46 (Sub-No. 20): Law Office of John R. Bagileo, No. 300, 1101 30th Street, NW., Washington, DC 20007.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565–1609. [Federal Information Relay Service for the hearing impaired: 1–800–877–8339.]

**SUPPLEMENTARY INFORMATION:** SMCRC is one of several motor carrier rate bureaus (associations of motor carriers of property) that have antitrust immunity to set rates collectively under Board jurisdiction and oversight pursuant to 49 U.S.C. 13703. SMCRC currently engages in collective ratemaking on a regional (non-nationwide) basis. In 1994, SMCRC filed an application with the Interstate Commerce Commission, the Board's predecessor agency, for authority to operate collectively on a nationwide basis,[1] and six other regional rate bureaus responded with separate requests that they be granted nationwide authority in the event that nationwide authority was granted to SMCRC. The territorial expansion requests were eventually (a) consolidated for decision, (b) merged into a broader proceeding to determine whether there was still a need for antitrust immunity for collective ratemaking, and (c) made the subject of two requests in the **Federal Register** for comments.[2] In a decision served on December 18, 1998, in *EC–MAC Motor Carriers Service Assoc., Inc., et al.,* 3 S.T.B. 926, 935 (1998) (*EC–MAC*), the Board commented favorably on territorial expansion, provided that the bureaus reduce their class rate levels, but the agency declined to resolve the issue with finality due to a request for delay from certain members of Congress. In December 1999, Congress amended the Board's governing statute to prohibit the agency from authorizing regional rate bureaus to operate nationwide.[3] Recognizing this amendment in its February 2000 decision in *EC–MAC,*[4] the Board thereafter took no further action to rule on the requests for nationwide authority, although most of

[1] SMCRC's application for nationwide authority was originally docketed as Section 5a Application No. 46 (Amendment No. 19). On December 19, 1996, SMCRC resubmitted its request for nationwide authority in a new application that was docketed as Section 5a Application No. 46 (Sub-No. 20), the subject of the instant notice. SMCRC's (Sub-No. 20) application also proposed minor, unrelated changes that were separately approved in a decision served on September 4, 1997.

[2] *See* 59 FR 25121 (May 13, 1994) (consolidating the territorial expansion requests and seeking comments); 62 FR 27653 (May 20, 1997) (broadening the issues to include the need for continued antitrust immunity for bureaus and seeking additional comments on all issues).

[3] *See* former 49 U.S.C. 13703(d) (2000).

[4] *EC–MAC Motor Carriers Service Association, Inc., Et Al.,* Sec. 5a Application No. 118 (Amendment No. 1), *et al.* (STB served Feb. 11, 2000). See also the decisions in *EC–MAC* served on November 20, 2001, and March 27, 2003.

them were never formally dismissed.[5] On February 20, 2003, Congress removed the prohibition against granting nationwide collective ratemaking authority.[6]

By petition filed on November 5, 2003, SMCRC asks the Board to reopen and to reconsider its prior request for nationwide collective ratemaking authority in light of the repeal of the statutory prohibition against it. SMCRC argues that the Board previously expressed an intent to approve nationwide collective ratemaking authority and would have done so but for the prior statutory prohibition. SMCRC maintains that its request for nationwide authority can be approved on the present record.

On November 25, 2003, the National Small Shipments Traffic Conference, Inc., (NASSTRAC) filed a reply opposing SMCRC's request that the Board approve its application for nationwide authority without seeking new evidence to supplement the record. NASSTRAC states that it has expressed general support for nationwide authority in the past, to promote competition among rate bureaus. However, NASSTRAC argues that the current record is out-of-date, and it urges the Board to consider in detail how the expanded authority sought by SMCRC would affect competition among rate bureaus and collectively set rates.

On December 15, 2003, the United States Department of Transportation (DOT) filed a reply opposing SMCRC's request for nationwide authority. DOT argues that any expansion of the territorial scope of collective ratemaking would be ''contrary to the public interest.'' Alternatively, DOT urges that, if the Board wishes to give SMCRC's request serious consideration, the agency should develop a new record. Similar objections were raised in two other replies filed on the same date by (a) the National Industrial Transportation League and (b) two other rate bureaus (EC–MAC Motor Carriers Service Association, Inc., jointly with the Rocky Mountain Motor Tariff Bureau, Inc.). The two other rate bureaus suggest that the issue of territorial expansion be resolved in the periodic (5-year) review proceeding that the Board is required to begin again in 2004 to evaluate current bureau agreements under 49 U.S.C. 13703(c)(2).

The Board will reopen the record to seek additional information and comments. The present record is at least 6 years old. Additional information and the opportunity for public comments are needed in light of industry changes, subsequent statutory revisions, and the Board's decisions in *EC–MAC,* cited above. After the comments are received and analyzed, the Board will schedule an oral argument on the issues raised by SMCRC's application.

Board decisions, notices, and filings are available on its Web site at *http://www.stb.dot.gov.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: March 12, 2004.

By the Board, Chairman Nober.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 04–6192 Filed 3–22–04; 8:45 am]

**BILLING CODE 4915–01–P**

[5] The only exception was the application of the Niagara Frontier Tariff Bureau, Inc., which was dismissed at its own request in *EC–MAC Motor Carriers Service Association, Inc., Et Al.,* Sec. 5a Application No. 118 (Amendment No. 2), *et al.* (STB served Oct. 16, 2003).

[6] *See* section 354 of the Omnibus Appropriations Act FY 2003, Pub. L. No. 108–7, 117 Stat. 11 (Feb. 20, 2003), H.R. Conf. Rep. No. 108–10 (2003).

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

### Release of Waybill Data

The Surface Transportation Board has received a request from Michael Behe representing FRN, LLC (WB604–1–3/11/04) for permission to use certain data from the Board's 1999–2001 Carload Waybill Samples. A copy of this request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

**FOR FURTHER INFORMATION CONTACT:** Mac Frampton, (202) 565–1542.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 04–6440 Filed 3–22–04; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Area 4 Taxpayer Advocacy Panel (Including the States of Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, and Wisconsin)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice.

**SUMMARY:** An open meeting of the Area 4 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Monday, April 19, 2004, 8 a.m. to 3 p.m., and Tuesday, April 20, 8 a.m. to 12 p.m., central daylight time.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Delzer at 1–888–912–1227, or (414) 297–1604.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1988) that a meeting of the Area 4 Taxpayer Advocacy Panel will be held Monday, April 19, 2004, 8 a.m. to 3 p.m., and Tuesday, April 20, 8 a.m. to 12 p.m., central daylight time, at the Embassy Suites Hotel Chicago Downtown, 600 North State Street, Chicago, IL 60610. You can submit written comments to the panel by faxing to (414) 297–1623, or by mail to Taxpayer Advocacy Panel, Stop1006MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *www.improveirs.org.* This meeting is not required to be open to the public, but because we are always interested in community input, we will accept public comments. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 297–1604 for more information.

The agenda will include the following: Various IRS issues.

Dated: March 17, 2004.

**Bernard Coston,**

*Director, Taxpayer Advocacy Panel.*

[FR Doc. 04–6469 Filed 3–22–04; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Area 5 Taxpayer Advocacy Panel (That Represents the States of North Dakota, South Dakota, Minnesota, Iowa, Nebraska, Kansas, Missouri, Oklahoma, and Texas); Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice.

**SUMMARY:** This document corrects a notice regarding an Open Meeting of the Area 5 Taxpayer Advocacy Panel that was published in the **Federal Register** on Thursday, March 11, 2004 (69 FR 11710). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the IRS.

**FOR FURTHER INFORMATION CONTACT:** Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or 718–488–2085 (non toll-free).

**SUPPLEMENTARY INFORMATION:**

#### Background

This notice reflects changes made to the date of the open meeting of the Area 5 Taxpayer Advocacy Panel.

#### Need for Correction

As published, this notice contains errors that may prove to be misleading and are in need of clarification.

#### Correction of Publication

Accordingly, this notice, which is the subject of FR Doc. 04–5411, is corrected as follows:

1. On page 11710, column 2, under the caption **DATES**, line 2, the language ''Monday, April 5, 2004.'' is corrected to read ''Monday, April 12, 2004.''.

2. On page 11710, column 2, under the caption **SUPPLEMENTARY INFORMATION**, lines 3 and 4, the language ''Advocacy Panel will be held Monday, April 5, 2004, from 3 p.m. to 4 p.m. c.t.'' is corrected to read ''Advocacy Panel will be held Monday, April 12, 2004, from 3 p.m. to 4 p.m. c.t.''.

**Cynthia E. Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).*

[FR Doc. 04–6470 Filed 3–22–04; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

**[AC–01: OTS Nos. H–4068 and 02612]**

### St. Edmond's Federal Savings Bank, Philadelphia, PA; Approval of Conversion Application

Notice is hereby given that on March 15, 2004, the Managing Director, Examinations, Supervision and Consumer Protection, Office of Thrift Supervision (''OTS''), or his designee, acting pursuant to delegated authority, approved the application of St. Edmond's Federal Savings Bank, Philadelphia, Pennsylvania, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail: *Public.Info@OTS.Treas.gov*) at the Public Reading Room, OTS, 1700 G Street, NW., Washington, DC 20552, and OTS Northeast Regional Office, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: March 18, 2004.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 04–6472 Filed 3–22–04; 8:45 am]

**BILLING CODE 6720–01–M**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0572]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before April 22, 2004.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0572.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0572'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Title:* Application for Benefits for Certain Children with Disabilities Born of Vietnam and Certain Korea Service Veterans, VA Form 21–0304.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* 38 U.S.C 1815, Children of Women Vietnam Veterans Born with Certain Birth Defects, authorizes payment of monetary benefits to, or on behalf of, certain children of female veterans who served in Republic of Vietnam. To be eligible, the child must be the biological child; conceived after the date the veteran first served in Vietnam during the period February 28, 1961, to May 7, 1975; and have certain birth defects resulting in permanent physical or mental disability.

38 U.S.C. 1805, Spina Bifida Benefits Eligibility, authorizes payment to a spina bifida child-claimant to parent(s) who performed active military, naval, or air service during the Vietnam era during the period January 9, 1962, to May 7, 1975. The child must be the natural child of a Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the veteran first entered the Republic of Vietnam during the Vietnam era. Spina Bifida benefits are payable for all types of spina bifida except spina bifida occulta. The law does not allow payment of both benefits at the same time. If entitlement exists under both laws, benefits will be paid under 38 U.S.C. 1815. VA Form 21–0304 is used to gather the necessary information to determine eligibility for a monetary allowance and appropriate level of payment.

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 **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on December 10, 2003, at pages 68971–68972.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 72 hours.

*Estimated Average Burden Per Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 430.

By direction of the Secretary.

Dated: March 11, 2004.

**Loise Russell,**

*Director, Records Management Service.*

[FR Doc. 04–6464 Filed 3–22–04; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0376]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before April 22, 2004.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail to: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0376.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0376'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Title:* Agent Orange Registry Code Sheet, VA Form 10–9009.

*OMB Control Number:* 2900–0376.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* VA in an on-going effort to maintain an Agent Orange Registry (AOR) developed a reporting format to facilitate the collection of information obtained from veterans during the Agent Orange registry examination process. VA is required to organize and update the information contained in AOR to enable VA to notify Vietnam era veterans who served in the Republic of Vietnam of any increased health risks resulting from exposure to dioxin or other toxic agents. VA may also provide, upon request, a health examination, consultation, and counseling to a veteran who is eligible for listing or inclusion in any health-related registry administered by VA that are similar to the Persian Gulf War Veterans Health Registry. Registry examinations are provided to veterans who served in Korea in 1968 or 1969, and/or any U.S. veteran who may have been exposed to dioxin, or other toxic substances in a herbicide or defoliant, during the conduct of, or as a result of, the testing, transporting, or spraying of herbicides, and who requests an Agent Orange Registry examination. The information obtained from the veteran during the interview is entered on VA Form 10–9009, Agent Orange Registry Code Sheet. The registry will provide a mechanism to catalogue prominent symptoms, reproductive health, and diagnoses and to communicate with Agent Orange veterans. VA informs the veterans on research findings or new compensation policies through periodic newsletters. The registry is not designed or intended to be a research tool and therefore the results cannot be generalized to represent all Agent Orange veterans.

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 **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 7, 2003, at page 63193.

*Affected Public:* Individuals or households.

*Estimated Total Annual Burden:* 12,000 hours.

*Estimated Average Burden Per Respondent:* 20 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 36,000.

By direction of the Secretary.

Dated: March 11, 2004.

**Jacqueline Parks,**

*IT Specialist, Records Management Service.*

[FR Doc. 04–6465 Filed 3–22–04; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–New (NVVLS)]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before April 22, 2004.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''2900–New (NVVLS).''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''2900–New (NVVLS).''

**SUPPLEMENTARY INFORMATION:**

*Title:* National Vietnam Veterans Longitudinal Study, VA Form 10–21064.

*Type of Review:* New collection.

*Abstract:* The National Vietnam Veterans Longitudinal Study (NVVLS) is a follow-up to the National Vietnam Veterans Readjustment Study (NVVRS) conducted in 1986 through 1987 to sample veterans who served in the U.S. Army, Navy, Air Force, or Marines between August 5, 1964, and May 7, 1975. The NVVRS found that 15.2 percent of the men and 8.5 percent of the women who had served in Vietnam were current cases of posttraumatic stress disorder (PTSD). The rates of PTSD for those veterans exposed to high levels of war-zone stress were dramatically higher than the rates for those with low/moderate levels of war-zone stress exposure. Because of the

high rates of PTSD, the strong evidence for the persistence of this syndrome, and the strength of its association with war-zone stress exposure, it is imperative that the VA has information about the current functioning of the participants in the original study. To address the important need for follow-data and for an understanding of the current functioning of Vietnam veterans, the VA has contracted with Research Triangle Institute to conduct the NVVLS, follow-up study of the original cohort from the NVVRS. This follow-up of the NVVRS sample will be unique in the field and will enhance and supplement the original findings. The specific aims of this study are to assess:

a. Current prevalence of PTSD, with particular attention to changes in cases from initial assessment and to variables that might be associated with such changes;

b. Current prevalence of cardiovascular disorders and their precursors and risk factors, with particular attention to their relationship to war-zone stress exposure and PTSD;

c. Current prevalence of other psychiatric disorders and other postwar readjustment problems, with particular attention to their relationship to chronic disease outcomes; and

d. Healthcare utilization patterns, with particular attention to sociodemographic and other variables that moderate service use.

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 **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on December 15, 2003 at pages 69772–69773.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 4,426 hours.

*Estimated Average Burden Per Respondent:* 18 hours 58 minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 1,605.

By direction of the Secretary.

Dated: March 11, 2004.

**Loise Russell,**

*Director, Records Management Service.*

[FR Doc. 04–6466 Filed 3–22–04; 8:45 am]

BILLING CODE 8320–01–P

# Corrections

Federal Register

Vol. 69, No. 56

Tuesday, March 23, 2004

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER03–343–004, et al.]**

### ITC Holdings Corp., et al.; Electric Rate and Corporate Filings

*Correction*

In notice document E4–536 beginning on page 11613 in the issue of Thursday, March 11, 2004, make the following correction:

On page 11614, in the second column, under the heading ''**9. Commonwealth Edison Company**'', in the first line, ''[Docket No. ER04–96–000]'' should read ''[Docket No. ER04–596–000]''.

[FR Doc. Z4–536 Filed 3–22–04; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
March 23, 2004

# Part II

# Department of Justice

## 28 CFR Part 79

## Civil Division; Claims Under the Radiation Exposure Compensation Act Amendments of 2000; Amendments Contained in the 21st Century Department of Justice Appropriations Authorization Act of 2002; Final Rule

**DEPARTMENT OF JUSTICE**

**28 CFR Part 79**

**[Docket No. CIV101F; AG Order No. 2711–2004]**

**RIN 1105–AA75**

## Civil Division; Claims Under the Radiation Exposure Compensation Act Amendments of 2000; Amendments Contained in the 21st Century Department of Justice Appropriations Authorization Act of 2002

**AGENCY:** Civil Division, Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Department of Justice (''the Department'') revises its existing regulations implementing the Radiation Exposure Compensation Act (''the Act'' or ''RECA''), to reflect changes to RECA contained in two legislative enactments: the Radiation Exposure Compensation Act Amendments of 2000 (''2000 Amendments''), enacted on July 10, 2000; and the 21st Century Department of Justice Appropriations Authorization Act (''Appropriations Authorization Act''), enacted on November 2, 2002.

After enactment of the 2000 Amendments, the Department published two related rulemakings in the **Federal Register** to implement the legislation. The first, a final rule published on August 7, 2002, reflected technical changes to the Act made by the 2000 Amendments. The second, also published on August 7, 2002, was a proposed rule implementing those changes in the 2000 Amendments that required public notice and comment. Since publication of these two rulemakings, the Appropriations Authorization Act was passed; that legislation required modification to both the final and proposed rules. Therefore, this rulemaking accomplishes two essential tasks: discusses comments received regarding the ''proposed'' rule and reflects relevant changes made by the Department in connection with those comments; and incorporates technical revisions to the rule in order to implement the Appropriations Authorization Act.

**DATES:** Effective date: April 22, 2004. This final rule will apply to all claims pending with the Radiation Exposure Compensation Act Program (''Program'') as of this date.

**FOR FURTHER INFORMATION CONTACT:** Gerard W. Fischer (Assistant Director), (202) 616–4090, and Dianne S. Spellberg (Senior Counsel), (202) 616–4129.

**SUPPLEMENTARY INFORMATION:**

### Background

On July 10, 2000, the RECA Amendments of 2000 were enacted, providing expanded coverage to individuals who developed one of the diseases specified in the Act following exposure to radiation related to the Federal Government's atmospheric nuclear weapons program or as a result of employment in the uranium production industry. Pub. L. 106–245. On August 7, 2002, the Attorney General published two related rulemakings implementing the 2000 Amendments: (1) A final rule (67 FR 51422) adopting the technical revisions contained in the 2000 Amendments by providing conforming amendments that incorporated the legislative language; and (2) a proposed rulemaking (67 FR 51440) setting forth amendments that primarily addressed compensation for two new claimant categories: uranium millers and individuals employed in the transport of uranium ore or vanadium-uranium ore. Comments were received over a period of 60 days, ending on October 7, 2002. In response to several requests from the public for additional time, the comment period was reopened on November 27, 2002, for an additional 60-day period ending on January 27, 2003.

On November 2, 2002, the President signed the 21st Century Department of Justice Appropriations Authorization Act, Pub. L. 107–273. Section 11007 of the Act makes additional changes to RECA that include: re-inserting a ''downwinder'' area; clarifying the medical eligibility criteria; providing an alternative radiation exposure standard for uranium miners; and correcting drafting errors contained in the 2000 Amendments.

Accordingly, in conjunction with the comments received on the proposed rule, this rulemaking: describes the expanded population of eligible uranium mine workers created by lowering the radiation exposure threshold for miners; identifies the new uranium worker states; includes provisions for compensation to ''aboveground'' miners; sets forth employment eligibility criteria for the new claimant categories (millers and ore transporters); describes the documentation required to establish proof of employment in a uranium mine or mill or as an ore transporter; describes the medical documentation necessary to establish the existence of renal cancer and chronic renal disease; and revises the provision concerning attorney representation of claimants before the Department of Justice with respect to claims brought under the Act.

Also, in order to implement the technical changes contained in the Appropriations Authorization Act, this rule incorporates the following revisions to the regulation: inserts a portion of Mohave County, Arizona, previously covered under RECA and erroneously stricken from the 2000 Amendments, as a radiation-affected area for ''downwinder'' claimants; clarifies the requirement that lung cancer be ''primary'' for all claimant categories; adds a duration of employment standard as an alternative to a minimum radiation exposure standard for uranium miners; amends the documentation required to establish lung cancer for uranium miner, miller, and ore transporter claimants; and makes other minor revisions consistent with the Appropriations Authorization Act.

### Discussion of Changes and Comments Related to the 2000 Amendments

Following publication of the proposed regulations, the Department received nearly 50 letters, some containing more than one comment regarding the proposed amendments. Commenters included both interested individuals and organizations. Most of the comments were positive, supporting the proposed changes, and praising what one commenter asserted was the Department's ''thoughtful'' approach. Other commenters suggested changes to medical provisions that were subsequently amended by enactment of the Appropriations Authorization Act. Specifically, these commenters noted that the medical criteria for establishing a diagnosis of lung cancer required the submission of documentation relevant to establishing a different type of illness, namely, a nonmalignant respiratory disease. Furthermore, some commenters requested clarification on whether a diagnosis of ''lung cancer'' (added by the 2000 Amendments as one of the new specified diseases for downwinders and onsite participants) must be ''primary'' in order to establish eligibility for compensation. Again, the Appropriations Authorization Act addressed this issue and clarified that a diagnosis of ''lung cancer'' must be ''primary'' in order to establish eligibility for compensation. Lastly, several commenters requested other technical changes that have subsequently been remedied by enactment of the Appropriations Authorization Act, or were contained in the 2000 Amendments.

The Department carefully reviewed all of the comments, several of which resulted in changes to the proposed rule. Some of the comments requested edits to the text for purposes of

clarification; other suggested changes were more substantive. For example, comments submitted by the National Institute for Occupational Safety and Health (NIOSH), relating to the interpretation of pulmonary function tests (PFTs) for purposes of establishing a diagnosis of a nonmalignant respiratory disease, have prompted two substantive changes in the final rule. These changes will bring the PFT testing criteria in step with the guidelines provided by the American Thoracic Society as set forth in its most recent publication ''Lung Function Testing: Selection of Reference Values and Interpretative Strategies.'' The Department is certain these changes will ensure a more equitable treatment of claims in a manner consistent with current scientific standards.

In regard to other substantive changes, the Department met with two renal specialists to discuss the diagnostic criteria claimants are required to satisfy to prove chronic renal disease. The physicians reviewed the proposed criteria, made suggestions, provided guidance, and shared their specialized expertise in this area. In addition, they provided useful medical and scientific information. The final rule reflects many of the recommendations of those specialists as well as suggestions received by several commenters.

Below are summaries and discussions of the comments received related to the proposed regulations, which have been organized according to content. Minor or technical issues are not discussed.

In some cases, commenters suggested that the Department incorporate certain regulatory provisions that would alter statutory requirements relating to the criteria for compensation. For example, several commenters suggested that the regulations include additional compensable diseases and illnesses. Some argued that the covered illnesses for uranium millers and ore transporters should be identical to those illnesses specified for uranium miners. The regulations, however, cannot expand upon the list of diseases set forth in the statute. With respect to those comments requesting changes that would require legislative modification, the Department has no discretion in the matter. The implementing regulations must reflect the statutory limitations. Stated simply, the Department cannot modify a statute by regulation.

**Subpart E—Uranium Miners**

*Section 79.40 Scope of Subpart*

Several commenters requested that the ''exploratory stage of uranium mining'' be included for compensation and that the scope of the subpart therefore be broadened to include ''exploratory drillers'' or ''core drillers.'' Under the Act's uranium miner provisions, compensation is available to an ''individual . . . employed in a uranium mine . . . and [who] was a miner exposed to at least 40 or more working level months of radiation or worked for at least 1 year during the [designated time] period.'' 42 U.S.C. 2210 (note), Sec. 5(a)(1). The first issue to consider is whether core drillers were ''employed in a uranium mine.'' The Act defines a uranium mine as any ''underground excavation . . . or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted.'' *Id.* at Sec. 5(b)(7). Core drillers, however, did not work ''in'' uranium mines so much as ''at'' prospective sites where uranium deposits were generally located. The purpose of core drilling was to determine whether uranium ore existed in a given location and to determine whether the content of that ore was metallurgically significant to make it useful or marketable. The intent was not to ''mine'' the uranium, but to test or sample half-dollar size ''cores'' for suitable uranium-rich locations. If any ore-rich sites were located, uranium miners could then extract the ore. Some core drillers may never have come into contact with uranium ore. Others who were successful did not typically stay to mine the site. Rather, the core drillers routinely left such sites in order to explore new ones.

The crux of the argument to include core drillers is that they ''extracted'' ore by drilling core samples from a site, and while not technically ''miners,'' they nonetheless engaged in the same broad type of work (extraction) and should therefore be eligible for compensation.

The Act's provisions, however, require an individual to be ''employed in a uranium mine'' as a ''miner.'' While the work performed by core drillers was crucial to the success of the uranium production industry, these individuals were not employed in a uranium mine nor were they considered to be miners, and commenters did not generally claim otherwise. For example, one commenter advocating the expansion of this subpart to include core drillers implicitly recognized that core drillers were not employed in a uranium mine when he suggested changing the scope of the subpart to cover those employed ''in or around a uranium mine.'' The plain language of the Act clearly describes the requirements for satisfying the definition of ''miner.'' Extracting uranium ore from within a mine is one of the strict definitional limits that cannot be expanded by regulation.

For all of these reasons, broadening the scope of this subpart to include ''exploratory'' work would not be consistent with the terms of the Act. We note, however, that a core driller who is able to establish that he worked ''in a uranium mine'' as a ''miner'' may satisfy the eligibility criteria.

*Section 79.41 Definitions*

Section 79.41(d) Fibrosis of the Lung or Pulmonary Fibrosis; See Also 79.51(e), 79.61(f)

One commenter correctly noted that since enactment of the 2000 Amendments, individuals establishing proof of fibrosis of the lung or pulmonary fibrosis are no longer required to demonstrate evidence of ''impairment.'' The definition of ''fibrosis of the lung or pulmonary fibrosis'' in the proposed rule inadvertently required proof of impairment and this error has been corrected in the final rule.

Prior to the 2000 Amendments, the medical documentation protocol contained in the regulations required the submission of either pulmonary function tests or arterial blood gas studies—both of which demonstrated evidence of impairment. The 2000 Amendments, however, eliminated this requirement. While individuals may provide such evidence, submission of pulmonary function tests or arterial blood gas studies is no longer mandatory. The Act now provides a broader range of diagnostic evidence that individuals may submit to establish the existence of fibrosis of the lung or pulmonary fibrosis. The final rule revises the definition of ''fibrosis of the lung or pulmonary fibrosis'' accordingly.

Section 79.41(m) Uranium Mine

One commenter asked whether compensation was available for those miners who worked aboveground doing tasks such as stock piling ore and operating loaders (dump trucks). Those activities would be considered aboveground mining activities. In the 2000 Amendments, Congress expanded the definition of a uranium mine to include ''aboveground'' mines. The Department has incorporated this expanded definition into these regulations. Thus, miners employed in aboveground mines may be eligible for compensation so long as they satisfy other eligibility criteria.

Section 79.41(p) Written Diagnosis by a Physician; See Also 79.51(s) and 79.61(s)

One commenter requested clarification regarding the requirement that a physician submitting a written diagnosis of a nonmalignant respiratory disease in the case of a living claimant under § 79.46 must be employed by the Indian Health Service, the Department of Veterans Affairs, or be certified by a state medical board. Specifically, the commenter questions what the phrase ''certified by a state medical board'' means. There are several tiers of credentials that physicians may acquire. As an initial requirement, physicians practicing in the United States must be licensed by one (or more) states. Licensing requirements are written into state law, and vary slightly from state to state. The Federation of State Medical Boards maintains a listing of every physician's licensure status. In addition to being a licensed physician, many physicians obtain additional training, typically called ''residency,'' in a specialized field. After successful completion of a residency training program, and other requirements that vary from one specialty to another, a physician may become ''Board Certified'' by passing the Board exam in his or her chosen specialty. The Act requires that a written diagnosis of a nonmalignant respiratory disease be made by a ''board certified physician.'' 42 U.S.C. 2210 (note), Sec. 5(c)(1)(B)(ii). This requirement must, therefore, be satisfied by Board certification in a relevant specialty. The Department has accordingly revised the final rule in order to clarify this requirement and ensure that the regulatory provision is consistent with the Act.

*Section 79.44 Proof of Working Level Month Exposure to Radiation and Proof of Employment for at Least One Year*

One commenter requested that language be inserted in this section to explain that in addition to any other material that may be used to substantiate the claimant's uranium mining employment history for purposes of determining working level months, an affidavit may be submitted under certain circumstances. While the limited use of affidavits is described in § 79.4, the Department concurs with the commenter and relevant language has been inserted in the regulation under this section.

*Section 79.45 Proof of Lung Cancer*

One commenter noted that the term ''primary'' had been omitted from this section and requested that it be reinserted to avoid confusion. The Act defines ''lung cancer,'' for purposes of subparts E, F, and G, as ''any physiological condition of the lung, trachea, or bronchus that is recognized as lung cancer by the National Cancer Institute.'' 42 U.S.C. 2210 (note), Sec. 5(b)(6). The National Cancer Institute uses the term ''lung cancer'' to describe a cancer with a primary origin in the lung. The requested changes to this subsection and several corresponding changes in subparts E, F, and G have been made to clearly reflect the requirement that a diagnosis of primary lung cancer must be established to satisfy the eligibility criteria.

*Section 79.46 Proof of Nonmalignant Respiratory Disease; See Also 79.55 and 79.65*

One commenter suggested inserting the words ''reproducible'' and ''time/volume'' in describing the three tracings required on a pulmonary function test. These suggestions are consistent with American Thoracic Society (ATS) standards, and accurately describe the recorded tracings that are required to demonstrate the claimant's pulmonary function.

The same commenter noticed that the word ''restrictive'' was added to the descriptions of lung function and pulmonary function tests (PFTs) in all relevant provisions of the regulation. The commenter argues that inclusion of this word would disqualify those claimants filing under the Act's uranium worker provisions who suffer from ''obstructive'' lung disease. The addition of the term ''restrictive'' with respect to lung function was one of the many legislative changes contained in the 2000 Amendments. *See* 42 U.S.C. 2210 (note), Sec. 5(b)(5)(B)(iv). Its inclusion in the regulation reflects conformity with the Act. That being said, this provision will not result in the disqualification of all claimants diagnosed with obstructive lung disease who may have previously qualified. The measure of a claimant's ''forced expiratory volume in one second'' (FEV–1), which is an indicator of obstructive lung disease, remains one of the testing variables that is used as part of the diagnostic protocol. Additionally, those claimants with obstructive lung disease may submit one of the other forms of medical documentation listed in § 79.46(d)(3)(ii) in lieu of pulmonary function tests.

The National Institute for Occupational Safety and Health (NIOSH) submitted a comment suggesting that the Department discontinue the use of a fixed value (presently 80% of the predicted value) for determining evidence of restrictive or obstructive lung disease from a pulmonary function test. Instead, NIOSH recommends using the ''lower limit of normal,'' rather than a fixed percentage of the predicted value, as this would be consistent with the standards articulated by the ATS. Specifically, when determining the existence and severity of impairment from a pulmonary function test, the ATS recommends the use of the lowest 5% of the reference population to establish the lower limit of normal and recommends against using a fixed percentage value. Accordingly, the Department has amended the standard set forth in the regulations at Appendix A, under which a pulmonary function test is determined to be demonstrative of restrictive or obstructive lung disease. This rule, at § 79.46(d)(3)(ii)(D), provides that a forced vital capacity (FVC) or FEV–1 value will be interpreted as demonstrating evidence of restrictive or obstructive lung disease if the value shown is equal to or below the lower limit of normal. The use of the lower limit of normal rather than a fixed percentage value is in keeping with ATS standards and will ensure a more scientifically sound measurement for determining the presence and extent of lung function abnormality demonstrated by pulmonary function testing.

NIOSH also raised concerns regarding use of the specific reference values contained in the pulmonary function tables for determining whether a PFT demonstrates evidence of restrictive lung disease. The Department had been using the predicted spirometry values provided in a study conducted by Knudson, *et al.* ''Changes in the Normal Maximal Expiratory Flow-Volume Curve with Growth and Aging.'' NIOSH recommends against the continued use of the reference values provided by the Knudson study. These values were developed strictly from Caucasian subjects and did not take into consideration race and ethnicity. Consequently, other ethnic groups, such as Mexican Americans and Native Americans, who have been shown to have different spirometric reference values, are not represented by the Knudson study. NIOSH instead recommends the use of the reference values provided in the study conducted by Hankinson, *et al.* ''Spirometric Reference Values from a Sample of the General U.S. Population,'' as this study differentiates between reference values for Caucasians, African Americans, and Mexican Americans. This recommendation is consistent with ATS standards. Accordingly, the Department

has amended the pulmonary function tables found at Appendix A to reflect the reference values provided in the Hankinson study.

It is noted, however, that the Hankinson study does not include reference values for Native Americans, an ethnic group that comprises a large percentage of the claimants filing under the uranium worker provisions of the Act. Consequently, the Department has determined that it would be appropriate to incorporate reference values specific to Native Americans in the pulmonary function tables. Scientifically reliable reference values specific to Native Americans may be found in the study conducted by Crapo, *et al.* ''Normal Spirometric Values in Healthy American Indians.'' Accordingly, the pulmonary function tables at Appendix A have been amended to include the reference values found in the Crapo study as well as those found in the Hankinson study. The Department has decided that these changes will provide reference values consistent with ATS's recommendation to consider factors of race and ethnicity.

**Subpart F—Uranium Millers**

*Section 79.53 Proof of Employment as a Miller*

One commenter asserted that the use of affidavits to establish employment as a miller (and as an ore transporter under § 79.63(c)) was included in the 2000 Amendments. The 2000 Amendments, however, only extended the use of affidavits for a limited purpose. The Act provides: ''in addition to any other material that may be used to substantiate employment history for purposes of determining working level months, an individual filing a claim under those procedures may make such a substantiation by means of an affidavit described in subparagraph (B).'' 42 U.S.C. 2210 (note). This provision does not pertain to millers or ore transporters because such claimants are not required to demonstrate exposure to working level months of radiation. The relevant regulatory provision concerning affidavits (§ 79.4) simply adopts the Act's language regarding the limited submission of affidavits for purposes of determining working level months and, as such, does not permit the use of affidavits by co-workers to substantiate employment as a miller or ore transporter.

*Section 79.55 Proof of Nonmalignant Respiratory Disease*

One commenter, a physician from the Indian Health Service, noted specific concerns found in three identical provisions at §§ 79.46(d)(3)(ii)(A)(2); 79.55(d)(3)(ii)(A)(2); and 79.65(d)(3)(ii)(A)(2) of the proposed rule. These provisions reflected language contained in the statute at 42 U.S.C. 2210 (note), Sec. 5(c)(2)(B). The statutory provision, although under the heading entitled ''Chest x-rays,'' involved the conclusiveness of evidence that would be afforded to a written diagnosis made by a physician of a nonmalignant respiratory disease. The ''Supplementary Information'' section of the proposed rule discussed the apparent confusion concerning the Act's text: ''The proposed rule does not independently address the provisions concerning conclusive evidence in section 5(c)(2)(B) of the Act, because that section is substantially identical to section 5(c)(1)(B) and appears to have been included in the 2000 Amendments in error. The Department requests public comments on whether the regulations should accord any additional, independent effect to section 5(c)(2)(B).'' 67 FR 51441 (Aug. 7, 2002). After further review, the Department has decided to delete those regulatory provisions purporting to implement section 5(c)(2)(B) of the Act. The Department has concluded that section 5(c)(2)(B) of the Act does not relate to the interpretation of chest x-rays and that any attempt to link the statutory provision to chest x-rays would be contrary to the plain meaning of the Act. As described in section 5(b)(5)(B), chest x-rays must be interpreted by a maximum of two NIOSH certified B readers. As such, section 5(c)(2)(B) has no relevance to the interpretation of chest x-rays and is merely repetitive of section 5(c)(1)(B), which addresses the conclusiveness to be afforded a written diagnosis made by a physician.

*Section 79.57 Proof of Chronic Renal Disease; See Also 79.67*

Several commenters noted that the most common cause of chronic renal failure is diabetes. Diabetes occurs in approximately 10% of the entire population; it occurs in approximately 20% to 30% of the Native American population. A commenter from the Indian Health Service noted that the exclusion of diabetic individuals may dramatically affect the population of Navajo patients where the diabetes prevalence is quite high in comparison to Caucasian patients. Other commenters, including one from St. Mary's Saccomanno Research Center, suggested further study of the relationship between diabetes or diabetic nephropathy and chronic renal disease. After further review of this section, the Department has determined that diabetic claimants should not be treated differently than other claimants for purposes of establishing chronic renal disease. Rather, in evaluating all claims involving chronic renal disease, the Department will examine the relevant medical documentation and evaluate whether claimants developed chronic renal disease following employment as a miller or ore transporter. See §§ 79.52(c) and 79.62(c). Consequently, if any claimant, whether diabetic or not, suffered from chronic renal disease prior to employment as a miller or ore transporter, he or she would not be eligible for compensation.

**Subpart G—Ore Transporters**

*Section 79.61 Definitions*

Section 79.61(e) Employment as an Ore Transporter

One commenter argued that all aboveground miners who moved or carried uranium ore at a mine should be considered ''ore transporters.'' The regulations, however, may not collapse separate statutorily designated claimant categories. The statute provides that uranium miners, employed in an aboveground uranium mine, are eligible for compensation. *See* 42 U.S.C. 2210 (note), Sec. 5(a)(1) and Sec. 5(b)(7). However, the statute requires that, to receive compensation as an ore transporter, an individual must be ''employed in the transport of uranium ore or vanadium-uranium ore from such mine or mill.'' *Id.* at 5(a)(1)(A)(i). It is plain from this language that ore transporters are those individuals who transported ore away from a mine or mill rather than transported ore within a mine or mill. It would be inconsistent with the plain meaning of the Act for every individual who worked aboveground at the mine surface moving or carrying uranium ore to be considered an ore transporter. Consequently, those individuals employed in aboveground uranium mining activities will be considered aboveground miners for purposes of determining eligibility under the Act.

Several commenters asked whether mechanics, mine road maintenance workers, and other shop workers would be classified as ore transporters. While the definitions of miner, miller, and ore transporter are drafted broadly, the extension of coverage to mechanics, mine road maintenance workers, and other shop workers would not be consistent with the Act. As reviewed above, ore transporters include individuals ''employed in the transport of uranium ore or vanadium-uranium ore'' from a mine or mill. *See* 42 U.S.C. 2210 (note), Sec. 5(a)(1)(A)(i).

*Section 79.74 Representatives and Fees*

One commenter expressed the view that claimants and beneficiaries should have the ''option'' of hiring an attorney or filing by themselves. Nothing in the Act or regulations makes attorney representation mandatory. The regulatory provision provides: ''In submitting and presenting a claim to the Program, a claimant or beneficiary *may, but need not, be represented* by an attorney or by a representative of an Indian Tribe or tribal organization.'' § 79.74(a) (emphasis added). In fact, a majority of all claimants do not retain counsel, and most have successfully established their eligibility for compensation. The Program strives to provide assistance to claimants in obtaining documents to establish eligibility criteria.

Another commenter asserted that the monetary penalty of $5,000 for attorneys who charge in excess of the Act's fee limitations is too low and that such attorneys should also be disqualified from filing RECA claims. The Department notes that the penalty for attorneys who charge in excess of the Act's fee arrangement is specified in Section 9(c) of the Act. The relevant regulatory provision (§ 79.74(b)(3)) merely implements this statutory mandate.

In the event a claimant elects to retain an attorney, it is important to the Department that only duly qualified attorneys be permitted to assist RECA claimants. The attorney must be an active member in good standing of the bar of the highest court of the state, 5 U.S.C. 500(b), which provides assurance that an attorney will be subject to oversight and disciplinary rules that will best guarantee faithful, ethical, and adequate representation of claimants and beneficiaries. In addition, the final regulation requires an attorney to submit a signed representation agreement, retainer agreement, fee agreement, or contract to the Department, authorizing the attorney to represent the claimant or beneficiary and acknowledging that the Act's fee limitations are satisfied.

One commenter stated that the following language from the ''Supplementary Information'' section of the proposed rule was confusing: ''The Department has determined generally not to permit non-attorneys to represent claimants and beneficiaries before the Program.'' 67 FR 51441 (Aug. 7, 2002). Based on this language, the commenter requested whether he could, as a non-attorney, represent claimants before the Department for RECA benefits. The Department is of the view that claimants and beneficiaries would be best served by relying on the expertise and legal training of attorneys in cases where such claimants and beneficiaries determine it would be beneficial to use the services of a representative. The Department has revised this section in the final regulation in order to clarify the issue regarding non-attorney representation and the prohibition against permitting non-attorneys to engage in the unauthorized practice of law. The final regulation provides that non-attorneys (other than representatives of an Indian Tribe or tribal organization) are not permitted to represent claimants or beneficiaries before the Program.

Two commenters objected, however, to allowing representatives of an Indian Tribe or tribal organization to assist RECA claimants before the Department. One of the commenters argued that the Department is attempting to regulate non-lawyers, which would be outside the scope of the Act and constitute an inappropriate expansion of the statute. Actually, this exception to the rule prohibiting non-attorneys from representing claimants and beneficiaries before the Department is consistent with the Act's directive, contained in section 6(d)(5), which provides: ''*Native American considerations*. Any procedures under this subsection shall take into consideration and incorporate, to the fullest extent feasible, Native American law, tradition, and custom with respect to the submission and processing of claims by Native Americans.'' Refusing to allow representatives of Indian Tribes and tribal organizations to assist claimants and beneficiaries would fail to recognize the important role such tribal representatives traditionally play in representing claimants. These representatives have specialized knowledge and expertise with respect to the language, culture, and familial relationships of claimants. Such claimants would be unnecessarily disenfranchised without assistance from these representatives. Moreover, these services to members of Indian Tribes are provided by formally constructed organizations of the tribal government. These organizations are accountable to tribal authorities for responsibly fulfilling its duties in assisting claimants.

Another commenter expressed confusion regarding the relevant fee structure when an attorney hires assistants or experts to work on a particular claim or claims. The ''Supplementary Information'' section at the beginning of the proposed rule explains: ''An attorney representative may hire, and make use of experts, aids, paralegals, and other persons who are not attorneys. The use of such assistants and experts, however, will not affect the fee limitations specified in the Act and in this proposed rule, which establish an overall limitation on the total amount of fees that a representative, along with his or her assistants and experts, may receive.'' 67 FR 51441 (Aug. 7, 2002). Accordingly, if an attorney is entitled to a 2% fee in the event of a successful claim, then the 2% fee limitation applies to the total amount paid to the attorney and any assistants, such as experts, aids, or paralegals, he or she has hired to work on the claimant's behalf.

Several commenters argued that if ''costs'' must be absorbed by the attorney, regardless of the claim's outcome, this will have the unintended effect of prohibiting many deserving claimants from being able to document their claims. These commenters proposed that this section be amended so that the statutory fee limitations imposed on the payment that the attorney may receive for services rendered do not apply to reimbursement for certain costs and expenses that the attorney incurs. In particular, commenters urged that certain costs, including those costs incurred to obtain necessary medical testing specified in the Act, be reimbursable to the attorney. They also argued that attorneys will not take claims that may not succeed because they cannot afford to absorb the costs associated with preparing claims that are denied. Finally, the commenters speculated that failure to reimburse costs will result in a reduced number of attorneys willing to assist claimants, which will then create a subsequent increase in the number of denied claims due to lack of proper documentation.

In regard to the issue of costs, the Department gave a great deal of consideration to the arguments asserted. Looking to the Act, section 9(a) provides: ''Notwithstanding any contract, the representative of an individual may not receive, for *services rendered* in connection with the claim of an individual under this Act [this note], more than that percentage specified in subsection (b) of a payment made under this Act on such claim.'' (Emphasis added.) The Department construes the Act's plain language as including costs within the term ''services rendered.'' Because the costs of obtaining records are indispensable to providing legal services for RECA claimants, it is reasonable and practical to consider those costs as part of the ''services rendered in connection with a

claim of an individual under this Act.'' In determining eligibility, the Department conducts a pure record review of each claim submitted. The process is non-adversarial, there is no formal discovery, nor are there court appearances or other ''judicial'' procedures involved in pursuing a claim. Obtaining and submitting the documentation necessary to substantiate a claim is a large part of the ''service'' rendered to a client. Although most attorneys who submit claims perform valuable services, documentation is often gathered by the Department on behalf of claimants even in instances where the claimant *has* attorney representation. In nearly every uranium worker claim, regardless of whether there is attorney representation, the Department reviews the information supplied on the claim form (work history information for uranium worker or onsite participant claimants), then searches its database to confirm an individual's employment or contacts another agency for verification. For other claims, when a specified cancer diagnosis is reported on the claim form, the Department contacts the relevant state cancer registry to confirm the diagnosis. In some instances, sometimes for valid reason, claims filed by attorneys contain very little supporting documentation. To reimburse attorneys for costs in addition to the maximum statutory attorney fee will reduce the claimant's share of the award, many times without justification.

With respect to the argument that fewer attorneys will be willing to assist claimants given the limitation on reimbursement of costs, the Department has taken a close look at the actual statistics for claims filed by attorneys under the Act. Since enactment of the 2000 Amendments on July 10, 2000, claims filed by attorneys have decreased by less than 3%, too small an amount from which to infer a reduction in access to legal services. Moreover, the rate of approved claims during this period has increased from approximately 50% to more than 75%, reflecting the elimination of many hurdles to compensation that existed prior to the 2000 Amendments. The Department therefore is not convinced that claimants will be unable to find qualified legal assistance in filing their claims.

The Department has revised § 79.74(b)(3)(ii) of the rule by striking language applying the higher attorney fee limit (10%) to claims administratively appealed to the designated Appeals Officer pursuant to § 79.73 of these regulations. Also stricken is the application of the higher fee for actions for review filed in United States District Court. It is the Department's position that the plain meaning of a ''resubmission of a denied claim'' as provided in section 9(b)(2)(B) of the Act includes only those instances where a claim, previously denied by the Program, is resubmitted or re-filed with the Program. This revision is consistent with section 8(b) of the Act, permitting a claimant who has been denied compensation the opportunity to ''resubmit a claim for consideration by the Attorney General in accordance with this Act not more than three times.'' Considering both these sections together, the interpretation of the language contained in section 9 is clear. The ''resubmission of a denied claim,'' for which an attorney would be entitled (if the claim is successful) to the higher attorney fee, is limited specifically to those claims, after having been denied by the Program, that are subsequently re-filed with the Program.

Regarding the text of the rule generally, the Department received other technical or administrative comments suggesting minor edits to the text. These comments were carefully considered and in many instances, the textual edits were adopted. In some cases, however, the Department declined to make the requested edits because they were inconsistent with the terms of the Act.

**Discussion of Final Changes Related to the Appropriations Authorization Act**

This rule amends the list of compensable ''downwinder'' geographical areas to include a portion of Mohave County, Arizona, located north of the Grand Canyon. This geographical area, previously compensable under the original Radiation Exposure Compensation Act, was erroneously stricken as a compensable area under the 2000 Amendments and has been reinserted by the Appropriations Authorization Act.

The rule also clarifies the requirement that lung cancer be ''primary'' for all claimant categories. The 2000 Amendments added ''lung cancer'' as a covered disease for downwinder and onsite participant claimants. It was unclear whether this illness had to be diagnosed as ''primary'' for purposes of compensation of these claimants. The Appropriations Authorization Act clarified this issue by including ''lung cancer'' within the list of primary cancers for downwinders and onsite participants, the onset of which must have occurred at least five years after first exposure.

In addition, this rule allows a uranium miner to satisfy the radiation exposure requirement by demonstrating at least 12 months of employment in uranium mining as an alternative to satisfying a radiation level exposure standard. The 2000 Amendments added miller and ore transporters as new claimant categories and required that they satisfy a 12–month duration of employment standard; however, the 2000 Amendments did not extend this method of establishing exposure to uranium miners. The Appropriations Authorization Act remedies this disparity among the uranium worker claimants.

This rule also removes the statutory requirement that written medical documentation relevant to establishing a nonmalignant respiratory disease also be provided to establish lung cancer in the case of living claimants. The 2000 Amendments required identical forms of medical evidence to establish proof of a nonmalignant respiratory disease *and* lung cancer. Because of the recognizable differences between these two illnesses, however, it was difficult for those individuals diagnosed with lung cancer to satisfy this requirement. The Appropriations Authorization Act remedies the problem caused by this apparent draftsmanship error and eliminates the requirement that living claimants diagnosed with lung cancer submit the same medical documentation as claimants with a nonmalignant respiratory disease. The rule reflects this change.

Finally, the Appropriations Authorization Act strikes restrictive language requiring new uranium mining states to contain an ''Atomic Energy Commission'' uranium mine in order to be eligible for coverage; the rule incorporates this change as well.

**Regulatory Flexibility Act**

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities for the following reason: The claimant population benefited by these regulations is limited to individuals who developed a specified illness following exposure to radiation related to the Federal Government's atmospheric nuclear weapons program or as a result of employment in the uranium production industry. The regulations set forth eligibility criteria that claimants must satisfy in order to receive compensation. They will have no impact on small businesses.

**Executive Order 12866**

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'' section 1(b), Principles of Regulation. The compensation payments provided for by the Radiation Exposure Compensation Act, the 2000 Amendments, and the Appropriations Authorization Act and implemented by this rule will exceed $100,000,000 a year for several years. Because of the aggregate size of these payments to eligible individuals, the Office of Management and Budget has determined that this rule is ''economically significant'' as defined by section 3(f)(1) of Executive Order 12866. Accordingly, this rule has been reviewed by OMB.

This rule will not adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. Rather, the RECA system is an administrative compensation program that serves to provide payments to individuals who meet the eligibility requirements of the Act and implementing regulations. Accordingly, qualifying individuals receive monetary compensation for certain diseases they developed following exposure to radiation under the conditions set forth in the rule.

**Executive Order 13132**

This regulation 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. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Executive Order 12988**

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

**Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

**Small Business Regulatory Enforcement Fairness Act of 1996**

The compensation payments provided for by the Radiation Exposure Compensation Act, the 2000 Amendments, and the Appropriations Authorization Act and implemented by this rule will exceed $100,000,000 a year for several years. Because of the aggregate size of these payments to eligible individuals, the Office of Management and Budget has determined that this rule is a ''major rule'' as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804.

However, this rule will not result in a major increase in costs or prices or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. Rather, the RECA system is an administrative compensation program that serves to provide payments to individuals who meet the eligibility requirements of the Act and implementing regulations. Accordingly, qualifying individuals receive monetary compensation for certain diseases they developed following exposure to radiation under the conditions set forth in the rule.

Further, this rule merely conforms Department regulations to the Appropriations Authorization Act, makes other technical changes, and following a period of public notice and comment, implements the 2000 Amendments with respect to the two new claimant categories. For the foregoing reasons, the Department finds that it would be unnecessary and contrary to the public interest for the effectiveness of this rule to be deferred for the time specified by 5 U.S.C. 801. Accordingly, the Department invokes the exception allowed by 5 U.S.C. 808 and determines that this rule should take effect on April 22, 2004, as set forth above in the **DATES** section.

**Paperwork Reduction Act**

Information collection associated with this regulation has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995. The OMB control number for this collection is 1105–0052.

**List of Subjects in 28 CFR Part 79**

Administrative practice and procedure, Authority delegations (Government agencies), Cancer, Claims, Radiation Exposure Compensation Act, Radioactive materials, Reporting and recordkeeping requirements, Uranium, Uranium mining.

■ Accordingly, Part 79 of Chapter I of Title 28 of the Code of Federal Regulations is revised to read as follows:

## PART 79—CLAIMS UNDER THE RADIATION EXPOSURE COMPENSATION ACT

### Subpart A—General

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79.1 Purpose.
79.2 General definitions.
79.3 Compensable claim categories under the Act.
79.4 Determination of claims and affidavits.
79.5 Requirements for medical documentation, contemporaneous records, and other records or documents.

### Subpart B—Eligibility Criteria for Claims Relating to Leukemia

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79.11 Definitions.
79.12 Criteria for eligibility for claims relating to leukemia.
79.13 Proof of physical presence for the requisite period and proof of participation onsite during a period of atmospheric nuclear testing.
79.14 Proof of initial exposure prior to age 21.
79.15 Proof of onset of leukemia more than two years after first exposure.
79.16 Proof of medical condition.

### Subpart C—Eligibility Criteria for Claims Relating to Certain Specified Diseases Contracted After Exposure in an Affected Area (''Downwinders'')

79.20 Scope of subpart.
79.21 Definitions.
79.22 Criteria for eligibility for claims relating to certain specified diseases contracted after exposure in an affected area (''downwinders'').
79.23 Proof of physical presence for the requisite period.
79.24 Proof of initial or first exposure after age 20 for claims under § 79.22(b)(1).
79.25 Proof of onset of leukemia at least two years after first exposure, and proof of onset of a specified compensable disease more than five years after first exposure.
79.26 Proof of medical condition.
79.27 Indication of the presence of hepatitis B or cirrhosis.

### Subpart D—Eligibility Criteria for Claims by Onsite Participants

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79.32 Criteria for eligibility for claims by onsite participants.
79.33 Proof of participation onsite during a period of atmospheric nuclear testing.
79.34 Proof of medical condition.
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79.36 Indication of the presence of hepatitis B or cirrhosis.

**Subpart E—Eligibility Criteria for Claims by Uranium Miners**

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79.42 Criteria for eligibility for claims by miners.
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79.44 Proof of working level month exposure to radiation.
79.45 Proof of primary lung cancer.
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**Subpart F—Eligibility Criteria for Claims by Uranium Millers**

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79.52 Criteria for eligibility for claims by uranium millers.
79.53 Proof of employment as a miller.
79.54 Proof of primary lung cancer.
79.55 Proof of nonmalignant respiratory disease.
79.56 Proof of primary renal cancer.
79.57 Proof of chronic renal disease.

**Subpart G—Eligibility Criteria for Claims by Ore Transporters**

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79.61 Definitions.
79.62 Criteria for eligibility for claims by ore transporters.
79.63 Proof of employment as an ore transporter.
79.64 Proof of primary lung cancer.
79.65 Proof of nonmalignant respiratory disease.
79.66 Proof of primary renal cancer.
79.67 Proof of chronic renal disease.

**Subpart H—Procedures**

79.70 Attorney General's delegation of authority.
79.71 Filing of claims.
79.72 Review and resolution of claims.
79.73 Appeals procedures.
79.74 Representatives and attorney's fees.
79.75 Procedures for payment of claims.
Appendix A to Part 79—FVC and FEV–1 Lower Limits of Normal Values
Appendix B to Part 79—Blood Gas Study Tables
Appendix C to Part 79—Radiation Exposure Compensation Act Offset Worksheet—On Site Participants

**Authority:** Secs. 6(a), 6(i) and 6(j), Pub. L. 101–426, 104 Stat. 920, as amended by secs. 3(c)–(h), Pub. L. 106–245, 114 Stat. 501 and sec. 11007, Pub. L. 107–273, 116 Stat. 1758 (42 U.S.C. 2210 note; 5 U.S.C. 500(b)).

## Subpart A—General

### § 79.1 Purpose.

The purpose of the regulations in this part is to implement the Radiation Exposure Compensation Act (''Act''), as amended by the Radiation Exposure Compensation Act Amendments of 2000 (''2000 Amendments'') and by the 21st Century Department of Justice Appropriations Authorization Act (''Appropriations Authorization Act''). The Act authorizes the Attorney General of the United States to establish procedures for making certain payments to qualifying individuals who contracted one of the diseases listed in the Act. The amount of each payment and a general statement of the qualifications are indicated in § 79.3(a). The procedures established in this part are designed to utilize existing records so that claims can be resolved in a reliable, objective, and non-adversarial manner, quickly and with little administrative cost to the United States or to the person filing the claim.

### § 79.2 General definitions.

(a) *Act* means the Radiation Exposure Compensation Act, Public Law 101–426, as amended by sections 3139 and 3140 of Public Law 101–510, the Radiation Exposure Compensation Act Amendments of 2000, Public Law 106–245 (*see* 42 U.S.C. 2210 note), and the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107–273.

(b) *Child* means a recognized natural child of the claimant, a stepchild who lived with the claimant in a regular parent-child relationship, or an adopted child of the claimant.

(c) *Claim* means a petition for compensation under the Act filed with the Radiation Exposure Compensation Program by a claimant or by his or her eligible surviving beneficiary or beneficiaries.

(d) *Claimant* means the individual, living or deceased, who is alleged to satisfy the criteria for compensation set forth either in section 4 or in section 5 of the Act.

(e) *Contemporaneous record* means any document created at or around the time of the event that is recorded in the document.

(f) *Eligible surviving beneficiary* means a spouse, child, parent, grandchild or grandparent who is entitled under section 6(c)(4)(A) or (B) of the Act to file a claim or receive a payment on behalf of a deceased claimant.

(g) *Grandchild* means a child of a child of the claimant.

(h) *Grandparent* means a parent of a parent of the claimant.

(i) *Immediate family member* of a person means a spouse or child if the person is an adult; but if the person is a minor, *immediate family member* means a parent.

(j) *Indian Tribe* means any Indian Tribe, band, nation, pueblo, or other organized group or community that is recognized as eligible for special programs and services provided by the United States to Indian Tribes.

(k) *Medical document, documentation, or record* means any contemporaneous record of any physician, hospital, clinic, or other certified or licensed health care provider, or any other records routinely and reasonably relied on by physicians in making a diagnosis.

(l) *Onset* or *incidence* of a specified compensable disease means the date a physician first diagnosed the disease.

(m) *Parent* means the natural or adoptive father or mother of the claimant.

(n) *Program* or *Radiation Exposure Compensation Program* means the component of the Constitutional and Specialized Torts Litigation Section of the Torts Branch of the Civil Division of the United States Department of Justice designated by the Attorney General to execute the powers, duties, and responsibilities assigned to the Attorney General pursuant to pertinent provisions of the Act.

(o) *Spouse* means a wife or husband who was married to the claimant for a period of at least one (1) year immediately before the death of the claimant.

(p) *Tribal organization* means any formally organized group or other entity that is chartered, registered or sponsored by an Indian Tribe to perform duties for an Indian Tribe and is accountable for its actions to the tribal government.

(q) *Trust Fund* or *Fund* means the Radiation Exposure Compensation Trust Fund in the Department of the Treasury, administered by the Secretary of the Treasury pursuant to section 3 of the Act.

### § 79.3 Compensable claim categories under the Act.

(a) In order to receive a compensation payment, each claimant or eligible surviving beneficiary must establish that the claimant meets each and every criterion of eligibility for at least one of the following compensable categories designated in the Act:

(1) *Claims of leukemia.* (i) For persons exposed to fallout from the atmospheric detonation of nuclear devices at the Nevada Test Site due to their physical presence in an affected area during a designated time period, the amount of compensation is $50,000.

(ii) For persons exposed to fallout from the atmospheric detonation of nuclear devices due to their participation onsite in a test involving the atmospheric detonation of a nuclear device, the amount of compensation is $75,000. The regulations governing these claims are set forth in subpart B of this part.

(2) *Claims related to the Nevada Test Site fallout.* For persons who contracted

certain specified diseases after being exposed to fallout from the atmospheric detonation of nuclear devices at the Nevada Test Site due to their physical presence in an affected area during a designated time period, the amount of compensation is $50,000. The regulations governing these claims are set forth in subpart C of this part.

(3) *Claims of onsite participants.* For persons who contracted certain specified diseases after onsite participation in the atmospheric detonation of a nuclear device, the amount of compensation is $75,000. The regulations governing these claims are set forth in subpart D of this part.

(4) *Miners' claims.* For persons who contracted lung cancer or certain nonmalignant respiratory diseases after being employed in uranium mines located in specified states during the designated time period who were exposed to a specified minimum level of radiation during the course of their employment or worked for at least one year (12 consecutive or cumulative months) in a uranium mine in specified states during the designated time period, the amount of compensation is $100,000. The regulations governing these claims are set forth in subpart E of this part.

(5) *Millers' claims.* For persons who contracted lung cancer, certain nonmalignant respiratory diseases, renal cancer, or chronic renal disease (including nephritis and kidney tubal tissue injury) following employment for at least one year (12 consecutive or cumulative months) in a uranium mill in specified states during the designated time period, the amount of compensation is $100,000. The regulations governing these claims are set forth in subpart F of this part.

(6) *Ore transporters' claims.* For persons who contracted lung cancer, certain nonmalignant respiratory diseases, renal cancer, or chronic renal disease (including nephritis and kidney tubal tissue injury) following employment for at least one year (12 consecutive or cumulative months) as a transporter of uranium ore or vanadium-uranium ore from a uranium mine or uranium mill located in specified states during the designated time period, the amount of compensation is $100,000. The regulations governing these claims are set forth in subpart G of this part.

(b) Any claim that does not meet all the criteria for at least one of these categories, as set forth in paragraph (a) of this section, must be denied.

(c) All claims for compensation under the Act must comply with the claims procedures and requirements set forth in subpart H of this part before any payment can be made from the Fund.

#### § 79.4 Determination of claims and affidavits.

(a) The claimant, eligible surviving beneficiary, or beneficiaries bear the burden of providing evidence of the existence of each element necessary to establish eligibility under any compensable claim category set forth in § 79.3(a).

(b) In the event that reasonable doubt exists with regard to whether a claim meets the requirements of the Act, that doubt shall be resolved in favor of the claimant or eligible surviving beneficiary.

(c) Written affidavits or declarations, subject to penalty for perjury, will be accepted only for the following purposes:

(1) To establish eligibility of family members as set forth in § 79.71(e), (f), (g), (h), or (i);

(2) To establish other compensation received as set forth in § 79.75(c) or (d);

(3) To establish employment in a uranium mine, mill or as an ore transporter on the standard claim form in the manner set forth in §§ 79.43(d), 79.53(d) and 79.63(d), respectively; and

(4) To substantiate the claimant's uranium mining employment history for purposes of determining working level months of radiation exposure by providing the types of information set forth in § 79.43(d), so long as the affidavit or declaration:

(i) Is provided in addition to any other material that may be used to substantiate the claimant's employment history as set forth in § 79.43;

(ii) Is made subject to penalty for perjury;

(iii) Attests to the employment history of the claimant; and

(iv) Is made by a person other than the individual filing the claim.

#### § 79.5 Requirements for medical documentation, contemporaneous records, and other records or documents.

(a) All medical documentation, contemporaneous records, and other records or documents submitted by a claimant or eligible surviving beneficiary to prove any criterion provided for in this part must be originals, or certified copies of the originals, unless it is impossible to obtain an original or certified copy of the original. If it is impossible for a claimant to provide an original or certified copy of an original, the claimant or eligible surviving beneficiary must provide a written statement with the uncertified copy setting forth the reason why it is impossible to provide an original or a certified copy of an original.

(b) All documents submitted by a claimant or eligible surviving beneficiary must bear sufficient indicia of authenticity or a sufficient guarantee of trustworthiness. The Program shall not accept as proof of any criterion of eligibility any document that does not bear sufficient indicia of authenticity, or is in such a physical condition, or contains such information, that otherwise indicates the record or document is not reliable or trustworthy. When a record or document is not accepted by the Program under this section, the claimant or eligible surviving beneficiary shall be notified and afforded the opportunity to submit additional documentation in accordance with § 79.72(b) or (c).

(c) To establish eligibility the claimant or eligible surviving beneficiary may be required to provide additional records to the extent they exist. Nothing in this section shall be construed to limit the Assistant Director's (specified in § 79.70(a)) ability to require additional documentation.

### Subpart B—Eligibility Criteria for Claims Relating to Leukemia

#### § 79.10 Scope of subpart.

The regulations in this subpart describe the criteria for eligibility for compensation under section 4(a)(1) of the Act and the evidence that will be accepted as proof of the various eligibility criteria. Section 4(a)(1) of the Act provides for a payment of $50,000 to individuals exposed to fallout from the detonation of atmospheric nuclear devices at the Nevada Test Site due to their physical presence in an affected area during a designated time period and who later developed leukemia, and $75,000 to individuals who participated onsite in a test involving the atmospheric detonation of a nuclear device and who later developed leukemia.

#### § 79.11 Definitions.

(a) *Affected area* means one of the following geographical areas, as they were recognized by the state in which they are located, as of July 10, 2000:

(1) In the State of Utah, the counties of Beaver, Garfield, Iron, Kane, Millard, Piute, San Juan, Sevier, Washington, and Wayne;

(2) In the State of Nevada, the counties of Eureka, Lander, Lincoln, Nye, White Pine, and that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71;

(3) In the State of Arizona, the counties of Coconino, Yavapai, Navajo,

Apache, Gila, and that part of Arizona that is north of the Grand Canyon.

(b) *Atmospheric detonation of a nuclear device* means only a test conducted by the United States prior to January 1, 1963, as listed in § 79.31(d).

(c) *Designated time period* means the period beginning on January 21, 1951, and ending on October 31, 1958, or the period beginning on June 30, 1962, and ending on July 31, 1962, whichever is applicable.

(d) *First exposure* or *initial exposure* means the date on which the claimant was first physically present in the affected area during the designated time period, or the date on which the claimant first participated onsite in an atmospheric detonation of a nuclear device, whichever is applicable.

(e) *Leukemia* means any medically recognized form of acute or chronic leukemia other than chronic lymphocytic leukemia.

(f) *Onsite* means physical presence above or within the official boundaries of any of the following locations:

(1) The Nevada Test Site (NTS), Nevada;

(2) The Pacific Test Sites (Bikini Atoll, Enewetak Atoll, Johnston Island, Christmas Island, the test site for the shot during Operation Wigwam, the test site for Shot Yucca during Operation Hardtack I, and the test sites for Shot Frigate Bird and Shot Swordfish during Operation Dominic I) and the official zone around each site from which non-test affiliated ships were excluded for security and safety purposes;

(3) The Trinity Test Site (TTS), New Mexico;

(4) The South Atlantic Test Site for Operation Argus and the official zone around the site from which non-test affiliated ships were excluded for security and safety purposes;

(5) Any designated location within a Naval Shipyard, Air Force Base, or other official government installation where ships, aircraft, or other equipment used in an atmospheric nuclear detonation were decontaminated; or

(6) Any designated location used for the purpose of monitoring fallout from an atmospheric nuclear test conducted at the Nevada Test Site.

(g) *Participant* means an individual—

(1) Who was:

(i) A member of the armed forces;

(ii) A civilian employee or contract employee of the Manhattan Engineer District, the Armed Forces Special Weapons Project, the Defense Atomic Support Agency, the Defense Nuclear Agency, or the Department of Defense or its components or agencies or predecessor components or agencies;

(iii) An employee or contract employee of the Atomic Energy Commission, the Energy Research and Development Administration, or the Department of Energy;

(iv) A member of the Federal Civil Defense Administration or the Office of Civil and Defense Mobilization; or

(v) A member of the United States Public Health Service; and

(2) Who:

(i) Performed duties within the identified operational area around each atmospheric detonation of a nuclear device;

(ii) Participated in the decontamination of any ships, planes, or equipment used during the atmospheric detonation of a nuclear device;

(iii) Performed duties as a cloud tracker or cloud sampler;

(iv) Served as a member of the garrison or maintenance forces on the atoll of Enewetak between June 21, 1951, and July 1, 1952; between August 7, 1956, and August 7, 1957; or between November 1, 1958, and April 30, 1959; or

(v) Performed duties as a member of a mobile radiological safety team monitoring the pattern of fallout from an atmospheric detonation of a nuclear device.

(h) *Period of atmospheric nuclear testing* means any of the periods associated with each test operation specified in § 79.31(d), plus an additional six-month period thereafter.

(i) *Physically present* (or *physical presence*) means present (or presence) for a substantial period of each day.

**§ 79.12 Criteria for eligibility for claims relating to leukemia.**

To establish eligibility for compensation under this subpart, a claimant or eligible surviving beneficiary must establish each of the following:

(a)(1) That the claimant was physically present at any place within the affected area for a period of at least one year (12 consecutive or cumulative months) during the period beginning on January 21, 1951, and ending on October 31, 1958;

(2) That the claimant was physically present at any place within the affected area for the entire, continuous period beginning on June 30, 1962, and ending on July 31, 1962; or

(3) That the claimant was present onsite at any time during a period of atmospheric nuclear testing and was a participant during that period in the atmospheric detonation of a nuclear device;

(b) That after such period of physical presence or onsite participation the claimant contracted leukemia;

(c) That the claimant's initial exposure occurred prior to age 21; and

(d) That the onset of the leukemia occurred more than two years after the date of the claimant's first exposure to fallout.

**§ 79.13 Proof of physical presence for the requisite period and proof of participation onsite during a period of atmospheric nuclear testing.**

(a) Proof of physical presence may be made by the submission of any trustworthy contemporaneous record that, on its face or in conjunction with other such records, establishes that the claimant was present in the affected area for the requisite period during the designated time period. Examples of such records include:

(1) Records of the federal government (including verified information submitted for a security clearance), any tribal government, or any state, county, city or local governmental office, agency, department, board or other entity, or other public office or agency;

(2) Records of any accredited public or private educational institution;

(3) Records of any private utility licensed or otherwise approved by any governmental entity, including any such utility providing telephone services;

(4) Records of any public or private library;

(5) Records of any state or local historical society;

(6) Records of any religious organization;

(7) Records of any regularly conducted business activity or entity;

(8) Records of any recognized civic or fraternal association or organization; and

(9) Medical records created during the designated time period.

(b) Proof of physical presence by contemporaneous records may also be made by submission of original postcards and envelopes from letters (not copies) addressed to the claimant or an immediate family member during the designated time period that bear a postmark and a cancelled stamp(s).

(c) The Program will presume that an individual who resided or was employed on a full-time basis within the affected area was physically present during the time period of residence or full-time employment.

(d) For purposes of establishing eligibility under § 79.12(a)(1), the Program will presume that proof of a claimant's residence at one or more addresses or proof of full-time employment at one location within the affected area on any two dates less than three years apart during the period beginning on January 21, 1951, and ending on October 31, 1958, establishes the claimant's presence within the

affected area for the period between the two dates reflected in the documentation submitted as proof of presence.

(e) For purposes of establishing eligibility under § 79.12(a)(1), the Program will presume that proof of residence at one or more addresses or proof of full-time employment at one location within the affected area on two dates, one of which is before January 21, 1951, and another of which is within the specified time period, establishes the claimant's presence in the affected area between January 21, 1951, and the date within the specified time period, provided the dates are not more than three years apart.

(f) For purposes of establishing eligibility under § 79.12(a)(1), the Program will presume that proof of residence at one or more addresses or proof of full-time employment at one location within the affected area on two dates, one of which is after October 31, 1958, and another of which is within the specified time period, establishes the claimant's presence in the affected area between the date within the specified time period and October 31, 1958, provided the dates are not more than three years apart.

(g) For purposes of establishing eligibility under § 79.12(a)(2), the Program will presume that proof of residence or proof of full-time employment within the affected area at least one day during the period beginning June 30, 1962, and ending July 31, 1962, and proof of residence or proof of full-time employment at the same address or location within six months before June 30, 1962, and six months after July 31, 1962, establishes the claimant's physical presence for the necessary one-month-and-one-day period.

(h) For purposes of establishing eligibility under § 79.12(a)(2), the Program will presume that proof of residence or full-time employment at the same address or location on two separate dates at least 14 days apart within the time period beginning June 30, 1962, and ending July 31, 1962, establishes the claimant's physical presence for the necessary one-month-and-one-day period.

(i) For purposes of establishing eligibility under § 79.12(a)(3), the claimant must establish, in accordance with § 79.33, that he or she participated onsite in the atmospheric detonation of a nuclear device.

**§ 79.14 Proof of initial exposure prior to age 21.**

(a) Proof of the claimant's date of birth must be established by the submission of any of the following:

(1) Birth certificate;

(2) Baptismal certificate;

(3) Tribal records; or

(4) Hospital records of birth.

(b) Absent any indication to the contrary, the Program will assume that the earliest date within the designated time period indicated on any records accepted by the Program as proof of the claimant's physical presence in the affected area or participation during a period of atmospheric nuclear testing was also the date of initial exposure.

**§ 79.15 Proof of onset of leukemia more than two years after first exposure.**

The Program will presume that the date of onset was the date of diagnosis as indicated in the medical documentation accepted by the Program as proof of the claimant's leukemia. The date of onset must be more than two years after the date of first exposure as determined under § 79.14(b).

**§ 79.16 Proof of medical condition.**

(a) Medical documentation is required in all cases to prove that the claimant suffered from or suffers from leukemia. Proof that the claimant contracted leukemia must be made either by using the procedure outlined in paragraph (b) of this section or by submitting the documentation required in paragraph (c) of this section.

(b) If a claimant was diagnosed as having leukemia in Arizona, Colorado, Nevada, New Mexico, Utah or Wyoming, the claimant or eligible surviving beneficiary need not submit any medical documentation of disease at the time the claim is filed (although medical documentation may subsequently be required). Instead, the claimant or eligible surviving beneficiary must submit with the claim an Authorization To Release Medical and Other Information, valid in the state of diagnosis, that authorizes the Program to contact the appropriate state cancer or tumor registry. The Program will accept as proof of medical condition verification from the state cancer or tumor registry that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of one type of leukemia. If the designated state does not possess medical records or abstracts of medical records that contain a verified diagnosis of leukemia, the Radiation Exposure Compensation Program will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit the medical documentation required in paragraph (c) of this section, in accordance with the provisions of § 79.72(b).

(c)(1) Proof that the claimant contracted leukemia may be made by the submission of one or more of the following contemporaneous medical records provided that the specified document contains an explicit statement of diagnosis or such other information or data from which appropriate authorities at the National Cancer Institute can make a diagnosis of leukemia to a reasonable degree of medical certainty:

(i) Bone marrow biopsy or aspirate report;

(ii) Peripheral white blood cell differential count report;

(iii) Autopsy report;

(iv) Hospital discharge summary;

(v) Physician summary report;

(vi) History and physical report; or

(vii) Death certificate, provided that it is signed by a physician at the time of death.

(2) If the medical record submitted does not contain sufficient information or data to make such a diagnosis, the Program will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit additional medical records identified in this paragraph, in accordance with the provisions of § 79.72(b). Any such additional medical documentation submitted must also contain sufficient information from which appropriate authorities at the National Cancer Institute can determine the type of leukemia contracted by the claimant.

## Subpart C—Eligibility Criteria for Claims Relating to Certain Specified Diseases Contracted After Exposure in an Affected Area (''Downwinders'')

**§ 79.20 Scope of subpart.**

The regulations in this subpart describe the criteria for eligibility for compensation under sections 4(a)(2) (A) and (B) of the Act and the evidence that will be accepted as proof of the various eligibility criteria. Sections 4(a)(2) (A) and (B) of the Act provide for a payment of $50,000 to individuals who were exposed to fallout from the atmospheric detonation of nuclear devices at the Nevada Test Site due to their physical presence in an affected area during a designated time period and who later developed one or more specified compensable diseases.

**§ 79.21 Definitions.**

(a) The definitions listed in § 79.11 (a) through (e) and (i) apply to this subpart.

(b) *Indication of disease* means any medically significant information that suggests the presence of a disease, whether or not the presence of the disease is later confirmed.

(c) *Leukemia, chronic lymphocytic leukemia, multiple myeloma, lymphomas, Hodgkin's disease, primary cancer of the thyroid, primary cancer of the male breast, primary cancer of the female breast, primary cancer of the esophagus, primary cancer of the stomach, primary cancer of the pharynx, primary cancer of the small intestine, primary cancer of the pancreas, primary cancer of the bile ducts, primary cancer of the gallbladder, primary cancer of the salivary gland, primary cancer of the urinary bladder, primary cancer of the brain, primary cancer of the colon, primary cancer of the ovary, primary cancer of the liver, and primary cancer of the lung* mean the physiological conditions that are recognized by the National Cancer Institute under those names or nomenclature, or under any previously accepted or commonly used names or nomenclature.

(d) *Specified compensable diseases* means leukemia (other than chronic lymphocytic leukemia), provided that initial exposure occurred after the age of 20 and that the onset of the disease was at least two years after first exposure, and the following diseases, provided onset was at least five years after first exposure: multiple myeloma; lymphomas (other than Hodgkin's disease); and primary cancer of the thyroid, male or female breast, esophagus, stomach, pharynx, small intestine, pancreas, bile ducts, gallbladder, salivary gland, urinary bladder, brain, colon, ovary, liver (except if cirrhosis or hepatitis B is indicated), or lung.

**§ 79.22 Criteria for eligibility for claims relating to certain specified diseases contracted after exposure in an affected area ("downwinders").**

To establish eligibility for compensation under this subpart, a claimant or eligible surviving beneficiary must establish each of the following:

(a)(1) That the claimant was physically present at any place within the affected area for a period of at least two years (24 consecutive or cumulative months) during the period beginning on January 21, 1951, and ending on October 31, 1958; or

(2) That the claimant was physically present at any place within the affected area for the entire, continuous period beginning on June 30, 1962, and ending on July 31, 1962; and

(b) That after such period of physical presence the claimant contracted one of the following specified compensable diseases:

(1) Leukemia (other than chronic lymphocytic leukemia), provided that:

(i) The claimant's initial exposure occurred after the age of 20; and

(ii) The onset of the disease occurred at least two years after first exposure;

(2) Multiple myeloma, provided onset occurred at least five years after first exposure;

(3) Lymphomas, other than Hodgkin's disease, provided onset occurred at least five years after first exposure;

(4) Primary cancer of the thyroid, provided onset occurred at least five years after first exposure;

(5) Primary cancer of the male or female breast, provided onset occurred at least five years after first exposure;

(6) Primary cancer of the esophagus, provided onset occurred at least five years after first exposure;

(7) Primary cancer of the stomach, provided onset occurred at least five years after first exposure;

(8) Primary cancer of the pharynx, provided onset occurred at least five years after first exposure;

(9) Primary cancer of the small intestine, provided onset occurred at least five years after first exposure;

(10) Primary cancer of the pancreas, provided onset occurred at least five years after first exposure;

(11) Primary cancer of the bile ducts, provided onset occurred at least five years after first exposure;

(12) Primary cancer of the gallbladder, provided onset occurred at least five years after first exposure;

(13) Primary cancer of the salivary gland, provided onset occurred at least five years after first exposure;

(14) Primary cancer of the urinary bladder, provided onset occurred at least five years after first exposure;

(15) Primary cancer of the brain, provided onset occurred at least five years after first exposure;

(16) Primary cancer of the colon, provided onset occurred at least five years after first exposure;

(17) Primary cancer of the ovary, provided onset occurred at least five years after first exposure;

(18) Primary cancer of the liver, provided,

(i) Onset occurred at least five years after first exposure;

(ii) There is no indication of the presence of hepatitis B; and

(iii) There is no indication of the presence of cirrhosis; or

(19) Primary cancer of the lung, provided onset occurred at least five years after first exposure.

**§ 79.23 Proof of physical presence for the requisite period.**

(a) Proof of physical presence for the requisite period may be made in accordance with the provisions of § 79.13(a) and (b). An individual who resided or was employed on a full-time basis within the affected area is presumed to have been physically present during the time period of residence or full-time employment.

(b) For purposes of establishing eligibility under § 79.22(a)(1), the Program will presume that proof of residence at one or more addresses or proof of full-time employment at one location within the affected area on any two dates less than three years apart, during the period beginning on January 21, 1951, and ending on October 31, 1958, establishes the claimant's presence within the affected area for the period between the two dates reflected in the documentation submitted as proof of presence.

(c) For purposes of establishing eligibility under § 79.22(a)(1), the Program will presume that proof of residence at one or more addresses or proof of full-time employment at one location within the affected area on two dates, one of which is before January 21, 1951, and another of which is within the specified time period, establishes the claimant's presence in the affected area between January 21, 1951, and the date within the specified time period, provided the dates are not more than three years apart.

(d) For purposes of establishing eligibility under § 79.22(a)(1), the Program will presume that proof of residence at one or more addresses or proof of full-time employment at one location within the affected area on two dates, one of which is after October 31, 1958, and another of which is within the specified time period, establishes the claimant's presence in the affected area between the date within the specified time period and October 31, 1958, provided the dates are not more than three years apart.

(e) For purposes of establishing eligibility under § 79.22(a)(2), the Program will apply the presumptions contained in § 79.13(g) and (h).

**§ 79.24 Proof of initial or first exposure after age 20 for claims under § 79.22(b)(1).**

(a) Proof of the claimant's date of birth must be established in accordance with the provisions of § 79.14(a).

(b) Absent any indication to the contrary, the Program will presume that the earliest date within the designated time period indicated on any records accepted by the Program as proof of the claimant's physical presence in the

affected area was the date of initial or first exposure.

**§ 79.25 Proof of onset of leukemia at least two years after first exposure, and proof of onset of a specified compensable disease more than five years after first exposure.**

The date of onset will be the date of diagnosis as indicated in the medical documentation accepted by the Radiation Exposure Compensation Program as proof of the claimant's specified compensable disease. The date of onset must be at least five years after the date of first exposure as determined under § 79.24(b). In the case of leukemia, the date of onset must be at least two years after the date of first exposure.

**§ 79.26 Proof of medical condition.**

(a) Medical documentation is required in all cases to prove that the claimant suffered from or suffers from any specified compensable disease. Proof that the claimant contracted a specified compensable disease must be made either by using the procedure outlined in paragraph (b) of this section or by submitting the documentation required in paragraph (c) of this section. (For claims relating to primary cancer of the liver, the claimant or eligible surviving beneficiary must also submit the additional medical documentation prescribed in § 79.27.)

(b) If a claimant was diagnosed as having one of the specified compensable diseases in Arizona, Colorado, Nevada, New Mexico, Utah or Wyoming, the claimant or eligible surviving beneficiary need not submit any medical documentation of disease at the time the claim is filed (although medical documentation subsequently may be required). Instead, the claimant or eligible surviving beneficiary may submit with the claim an Authorization to Release Medical and Other Information, valid in the state of diagnosis, that authorizes the Program to contact the appropriate state cancer or tumor registry. The Program will accept as proof of medical condition verification from the state cancer or tumor registry that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of one of the specified compensable diseases. If the designated state does not possess medical records or abstracts of medical records that contain a verified diagnosis of one of the specified compensable diseases, the Program will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit the written medical documentation required in paragraph (c) of this section, in accordance with the provisions of § 79.72(b).

(c) Proof that the claimant contracted a specified compensable disease may be made by the submission of one or more of the contemporaneous medical records listed in this paragraph, provided that the specified document contains an explicit statement of diagnosis and such other information or data from which the appropriate authorities with the National Cancer Institute can make a diagnosis to a reasonable degree of medical certainty. If the medical record submitted does not contain sufficient information or data to make such a diagnosis, the Program will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit additional medical records identified in this paragraph, in accordance with the provisions of § 79.72(b). The medical documentation submitted under this section to establish that the claimant contracted leukemia or a lymphoma must also contain sufficient information from which the appropriate authorities with the National Cancer Institute can determine the type of leukemia or lymphoma contracted by the claimant. Proof of leukemia shall be made by submitting one or more of the documents listed in § 79.16(c).

(1) *Multiple myeloma.*

(i) Pathology report of tissue biopsy;

(ii) Autopsy report;

(iii) Report of serum electrophoresis;

(iv) One of the following summary medical reports:

(A) Physician summary report;

(B) Hospital discharge summary report;

(C) Hematology summary or consultation report;

(D) Medical oncology summary or consultation report; or

(E) X-ray report; or

(v) Death certificate, provided that it is signed by a physician at the time of death.

(2) *Lymphomas.*

(i) Pathology report of tissue biopsy;

(ii) Autopsy report;

(iii) One of the following summary medical reports:

(A) Physician summary report;

(B) Hospital discharge summary report;

(C) Hematology consultation or summary report; or

(D) Medical oncology consultation or summary report; or

(iv) Death certificate, provided that it is signed by a physician at the time of death.

(3) *Primary cancer of the thyroid.*

(i) Pathology report of tissue biopsy or fine needle aspirate;

(ii) Autopsy report;

(iii) One of the following summary medical reports:

(A) Physician summary report;

(B) Hospital discharge summary report;

(C) Operative summary report;

(D) Medical oncology summary or consultation report; or

(iv) Death certificate, provided that it is signed by a physician at the time of death.

(4) *Primary cancer of the male or female breast.*

(i) Pathology report of tissue biopsy or surgical resection;

(ii) Autopsy report;

(iii) One of the following summary medical reports:

(A) Physician summary report;

(B) Hospital discharge summary report;

(C) Operative report;

(D) Medical oncology summary or consultation report; or

(E) Radiotherapy summary or consultation report;

(iv) Report of mammogram;

(v) Report of bone scan; or

(vi) Death certificate, provided that it is signed by a physician at the time of death.

(5) *Primary cancer of the esophagus.*

(i) Pathology report of tissue biopsy or surgical resection;

(ii) Autopsy report;

(iii) Endoscopy report;

(iv) One of the following summary medical reports:

(A) Physician summary report;

(B) Hospital discharge summary report;

(C) Operative report;

(D) Radiotherapy report; or

(E) Medical oncology consultation or summary report;

(v) One of the following radiological studies:

(A) Esophagram;

(B) Barium swallow;

(C) Upper gastrointestinal (GI) series;

(D) Computerized tomography (CT) scan; or

(E) Magnetic resonance imaging (MRI); or

(vi) Death certificate, provided that it is signed by a physician at the time of death.

(6) *Primary cancer of the stomach.*

(i) Pathology report of tissue biopsy or surgical resection;

(ii) Autopsy report;

(iii) Endoscopy or gastroscopy report;

(iv) One of the following summary medical reports:

(A) Physician summary report;

(B) Hospital discharge summary report;

(C) Operative report;

(D) Radiotherapy report; or
(E) Medical oncology summary report;
(v) One of the following radiological studies:
(A) Barium swallow;
(B) Upper gastrointestinal (GI) series;
(C) Computerized tomography (CT) series; or
(D) Magnetic resonance imaging (MRI); or
(vi) Death certificate, provided that it is signed by a physician at the time of death.
(7) *Primary cancer of the pharynx.*
(i) Pathology report of tissue biopsy or surgical resection;
(ii) Autopsy report;
(iii) Endoscopy report;
(iv) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Report of otolaryngology examination;
(D) Radiotherapy summary report;
(E) Medical oncology summary report; or
(F) Operative report;
(v) Report of one of the following radiological studies:
(A) Laryngograms;
(B) Tomograms of soft tissue and lateral radiographs;
(C) Computerized tomography (CT) scan; or
(D) Magnetic resonance imaging (MRI); or
(vi) Death certificate, provided that it is signed by a physician at the time of death.
(8) *Primary cancer of the small intestine.*
(i) Pathology report of tissue biopsy;
(ii) Autopsy report;
(iii) Endoscopy report, provided that the examination covered the duodenum and parts of the jejunum;
(iv) Colonoscopy report, provided that the examination covered the distal ileum;
(v) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Report of gastroenterology examination;
(D) Operative report;
(E) Radiotherapy summary report; or
(F) Medical oncology summary or consultation report;
(vi) Report of one of the following radiologic studies:
(A) Upper gastrointestinal (GI) series with small bowel follow-through;
(B) Angiography;
(C) Computerized tomography (CT) scan; or
(D) Magnetic resonance imaging (MRI); or
(vii) Death certificate, provided that it is signed by a physician at the time of death.
(9) *Primary cancer of the pancreas.*
(i) Pathology report of tissue biopsy or fine needle aspirate;
(ii) Autopsy report;
(iii) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Radiotherapy summary report; or
(D) Medical oncology summary report;
(iv) Report of one of the following radiographic studies:
(A) Endoscopic retrograde cholangiopancreatography (ERCP);
(B) Upper gastrointestinal (GI) series;
(C) Arteriography of the pancreas;
(D) Ultrasonography;
(E) Computerized tomography (CT) scan; or
(F) Magnetic resonance imaging (MRI); or
(v) Death certificate, provided that it is signed by a physician at the time of death.
(10) *Primary cancer of the bile ducts.*
(i) Pathology report of tissue biopsy or surgical resection;
(ii) Autopsy report;
(iii) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Operative report;
(D) Gastroenterology consultation report; or
(E) Medical oncology summary or consultation report;
(iv) Report of one of the following radiographic studies:
(A) Ultrasonography;
(B) Endoscopic retrograde cholangiography;
(C) Percutaneous cholangiography; or
(D) Computerized tomography (CT) scan; or
(v) Death certificate, provided that it is signed by a physician at the time of death.
(11) *Primary cancer of the gallbladder.*
(i) Pathology report of tissue from surgical resection;
(ii) Autopsy report;
(iii) Report of one of the following radiological studies:
(A) Computerized tomography (CT) scan;
(B) Magnetic resonance imaging (MRI); or
(C) Ultrasonography (ultrasound);
(iv) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Operative report;
(D) Radiotherapy report; or
(E) Medical oncology summary or report; or
(v) Death certificate, provided that it is signed by a physician at the time of death.
(12) *Primary cancer of the liver.*
(i) Pathology report of tissue biopsy or surgical resection;
(ii) Autopsy report;
(iii) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Medical oncology summary report;
(D) Operative report; or
(E) Gastroenterology report;
(iv) Report of one of the following radiological studies:
(A) Computerized tomography (CT) scan;
(B) Magnetic resonance imaging (MRI); or
(v) Death certificate, provided that it is signed by a physician at the time of death.
(13) *Primary cancer of the lung.*
(i) Pathology report of tissue biopsy or resection, including, but not limited to specimens obtained by any of the following methods:
(A) Surgical resection;
(B) Endoscopic endobronchial or transbronchial biopsy;
(C) Bronchial brushings and washings;
(D) Pleural fluid cytology;
(E) Fine needle aspirate;
(F) Pleural biopsy; or
(G) Sputum cytology;
(ii) Autopsy report;
(iii) Report of bronchoscopy, with or without biopsy;
(iv) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Radiotherapy summary report;
(D) Medical oncology summary report; or
(E) Operative report;
(v) Report of one of the following radiology examinations:
(A) Computerized tomography (CT) scan;
(B) Magnetic resonance imaging (MRI);
(C) X-rays of the chest; or
(D) Chest tomograms; or
(vi) Death certificate, provided that it is signed by a physician at the time of death.
(14) *Primary cancer of the salivary gland.*

(i) Pathology report of tissue biopsy or surgical resection;
(ii) Autopsy report;
(iii) Report of otolaryngology or oral maxillofacial examination;
(iv) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Radiotherapy summary report;
(D) Medical oncology summary report; or
(E) Operative report;
(v) Report of one of the following radiology examinations:
(A) Computerized tomography (CT) scan; or
(B) Magnetic resonance imaging (MRI); or
(vi) Death certificate, provided that it is signed by a physician at the time of death.

(15) *Primary cancer of the urinary bladder.*
(i) Pathology report of tissue biopsy or surgical resection;
(ii) Autopsy report;
(iii) Report of cytoscopy, with or without biopsy;
(iv) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Radiotherapy summary report;
(D) Medical oncology summary report; or
(E) Operative report;
(v) Report of one of the following radiology examinations:
(A) Computerized tomography (CT) scan; or
(B) Magnetic resonance imaging (MRI); or
(vi) Death certificate, provided that it is signed by a physician at the time of death.

(16) *Primary cancer of the brain.*
(i) Pathology report of tissue biopsy or surgical resection;
(ii) Autopsy report;
(iii) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Radiotherapy summary report;
(D) Medical oncology summary report; or
(E) Operative report;
(iv) Report of one of the following radiology examinations:
(A) Computerized tomography (CT) scan;
(B) Magnetic resonance imaging (MRI); or
(C) CT or MRI with enhancement; or
(v) Death certificate, provided that it is signed by a physician at the time of death.

(17) *Primary cancer of the colon.*
(i) Pathology report of tissue biopsy;
(ii) Autopsy report;
(iii) Endoscopy report, provided the examination covered the duodenum and parts of the jejunum;
(iv) Colonoscopy report, provided that the examination covered the distal ileum;
(v) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Report of gastroenterology examination;
(D) Operative report;
(E) Radiotherapy summary report; or
(F) Medical oncology summary or consultation report;
(vi) Report of one of the following radiologic studies:
(A) Upper gastrointestinal (GI) series with small bowel follow-through;
(B) Angiography;
(C) Computerized tomography (CT) scan; or
(D) Magnetic resonance imaging (MRI); or
(vii) Death certificate, provided that it is signed by a physician at the time of death.

(18) *Primary cancer of the ovary.*
(i) Pathology report of tissue biopsy or surgical resection;
(ii) Autopsy report;
(iii) One of the following summary medical reports:
(A) Physician summary report;
(B) Hospital discharge summary report;
(C) Radiotherapy summary report;
(D) Medical oncology summary report; or
(E) Operative report; or
(iv) Death certificate, provided that it is signed by a physician at the time of death.

### § 79.27 Indication of the presence of hepatitis B or cirrhosis.

(a)(1) If the claimant or eligible surviving beneficiary is claiming eligibility under this subpart for primary cancer of the liver, the claimant or eligible surviving beneficiary must submit, in addition to proof of the disease, all medical records pertaining to the claimant listed below from any hospital, medical facility, or health care provider that were created within the period six months before and six months after the date of diagnosis of primary cancer of the liver:
(i) All history and physical examination reports;
(ii) All operative and consultation reports;
(iii) All pathology reports; and
(iv) All physician, hospital, and health care facility admission and discharge summaries.

(2) In the event that any of the records in paragraph (a)(1) of this section no longer exist, the claimant or eligible surviving beneficiary must submit a certified statement by the custodian(s) of those records to that effect.

(b) If the medical records listed in paragraph (a) of this section, or information possessed by the state cancer or tumor registries, indicates the presence of hepatitis B or cirrhosis, the Radiation Exposure Compensation Program will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit other written medical documentation or contemporaneous records in accordance with § 79.72(b) to establish that in fact there was no presence of hepatitis B or cirrhosis.

(c) The Program may also require that the claimant or eligible surviving beneficiary provide additional medical records or other contemporaneous records, or an authorization to release such additional medical and contemporaneous records, as may be needed to make a determination regarding the indication of the presence of hepatitis B or cirrhosis.

## Subpart D—Eligibility Criteria for Claims by Onsite Participants

### § 79.30 Scope of subpart.

The regulations in this subpart describe the criteria for eligibility for compensation under section 4(a)(2)(C) of the Act, and the evidence that will be accepted as proof of the various eligibility criteria. Section 4(a)(2)(C) of the Act provides for a payment of $75,000 to individuals who participated onsite in the atmospheric detonation of a nuclear device and later developed a specified compensable disease.

### § 79.31 Definitions.

(a) The definitions listed in § 79.11(b), (e), (f), (g), and (h), and in § 79.21, apply to this subpart.

(b) *Atmospheric detonation of a nuclear device* means only a test conducted by the United States prior to January 1, 1963, as listed in paragraph (d) of this section.

(c) *First exposure* or initial exposure means the date on which the claimant first participated onsite in an atmospheric detonation of a nuclear device.

(d) *Period of atmospheric nuclear testing* means one of the periods listed in this paragraph that are associated with each test operation, plus an additional six-month period thereafter:

| Event name | Date | Location |
|---|---|---|

(1) For Operation Trinity, the period July 16, 1945, through August 6, 1945:

| | | |
|---|---|---|
| Trinity | 07/16/45 | Trinity Test Site. |

(2) For Operation Crossroads, the period June 28, 1946, through August 31, 1946, for all activities other than the decontamination of ships involved in Operation Crossroads; the period of atmospheric nuclear testing for the decontamination of ships involved in Operation Crossroads shall run from June 28, 1946, through November 30, 1946:

| | | |
|---|---|---|
| Able | 07/01/46 | Bikini. |
| Baker | 07/25/46 | Bikini. |

(3) For Operation Sandstone, the period April 13, 1948, through May 20, 1948:

| | | |
|---|---|---|
| X-ray | 04/15/48 | Enewetak. |
| Yoke | 05/01/48 | Enewetak. |
| Zebra | 05/15/48 | Enewetak. |

(4) For Operation Ranger, the period January 27, 1951, through February 7, 1951:

| | | |
|---|---|---|
| Able | 01/27/51 | Nevada Test Site (''NTS''). |
| Baker | 01/28/51 | NTS. |
| Easy | 02/01/51 | NTS. |
| Baker-2 | 02/02/51 | NTS. |
| Fox | 02/06/51 | NTS. |

(5) For Operation Greenhouse, the period April 5, 1951, through June 20, 1951, for all activities other than service as a member of the garrison or maintenance forces on the atoll of Enewetak between June 21, 1951, and July 1, 1952; the period of atmospheric nuclear testing for service as a member of the garrison or maintenance forces on the atoll of Enewetak shall run from April 5, 1951, through July 1, 1952:

| | | |
|---|---|---|
| Dog | 04/08/51 | Enewetak. |
| Easy | 04/21/51 | Enewetak. |
| George | 05/09/51 | Enewetak. |
| Item | 05/25/51 | Enewetak. |

(6) For Operation Buster-Jangle, the period October 22, 1951, through December 20, 1951:

| | | |
|---|---|---|
| Able | 10/22/51 | NTS. |
| Baker | 10/28/51 | NTS. |
| Charlie | 10/30/51 | NTS. |
| Dog | 11/01/51 | NTS. |
| Sugar | 11/19/51 | NTS. |
| Uncle | 11/29/51 | NTS. |

(7) For Operation Tumbler-Snapper, the period April 1, 1952, through June 20, 1952:

| | | |
|---|---|---|
| Able | 04/01/52 | NTS. |
| Baker | 04/15/52 | NTS. |
| Charlie | 04/22/52 | NTS. |
| Dog | 05/01/52 | NTS. |
| Easy | 05/07/52 | NTS. |
| Fox | 05/25/52 | NTS. |
| George | 06/01/52 | NTS. |

(8) For Operation Ivy, the period October 29, 1952, through December 31, 1952:

| | | |
|---|---|---|
| Mike | 11/01/52 | Enewetak. |
| King | 11/16/52 | Enewetak. |

(9) For Operation Upshot-Knothole, the period March 17, 1953, through June 20, 1953:

| | | |
|---|---|---|
| Annie | 03/17/53 | NTS. |
| Nancy | 03/24/53 | NTS. |
| Ruth | 03/31/53 | NTS. |
| Dixie | 04/06/53 | NTS. |
| Ray | 04/11/53 | NTS. |
| Badger | 04/18/53 | NTS. |
| Simon | 04/25/53 | NTS. |
| Encore | 05/08/53 | NTS. |
| Harry | 05/19/53 | NTS. |
| Grable | 05/25/53 | NTS. |
| Climax | 06/04/53 | NTS. |

(10) For Operation Castle, the period February 27, 1954, through May 31, 1954

| | | |
|---|---|---|
| Bravo | 03/01/54 | Bikini. |
| Romeo | 03/27/54 | Bikini. |
| Koon | 04/07/54 | Bikini. |
| Union | 04/26/54 | Bikini. |
| Yankee | 05/05/54 | Bikini. |
| Nectar | 05/14/54 | Enewetak. |

(11) For Operation Teapot, the period February 18, 1955, through June 10, 1955:

| | | |
|---|---|---|
| Wasp | 02/18/55 | NTS. |
| Moth | 02/22/55 | NTS. |
| Tesla | 03/01/55 | NTS. |
| Turk | 03/07/55 | NTS. |
| Hornet | 03/12/55 | NTS. |
| Bee | 03/22/55 | NTS. |
| Ess | 03/23/55 | NTS. |
| Apple-1 | 03/29/55 | NTS. |
| Wasp Prime | 03/29/55 | NTS. |
| Ha | 04/06/55 | NTS. |
| Post | 04/09/55 | NTS. |
| Met | 04/15/55 | NTS. |
| Apple-2 | 05/05/55 | NTS. |
| Zucchini | 05/15/55 | NTS. |

(12) For Operation Wigwam, the period May 14, 1955, through May 15, 1955:

| | | |
|---|---|---|
| Wigwam | 05/14/55 | Pacific. |

(13) For Operation Redwing, the period May 2, 1956, through August 6, 1956, for all activities other than service as a member of the garrison or maintenance forces on the atoll of Enewetak from August 7, 1956, through August 7, 1957; the period of atmospheric nuclear testing for service as a member of the garrison or maintenance forces on the atoll of Enewetak shall run from May 2, 1956, through August 7, 1957:

| | | |
|---|---|---|
| Lacrosse | 05/05/56 | Enewetak. |
| Cherokee | 05/21/56 | Bikini. |
| Zuni | 05/28/56 | Bikini. |
| Yuma | 05/28/56 | Enewetak. |
| Erie | 05/31/56 | Enewetak. |
| Seminole | 06/06/56 | Enewetak. |
| Flathead | 06/12/56 | Bikini. |
| Blackfoot | 06/12/56 | Enewetak. |
| Kickapoo | 06/14/56 | Enewetak. |
| Osage | 06/16/56 | Enewetak. |
| Inca | 06/22/56 | Enewetak. |
| Dakota | 06/26/56 | Bikini. |
| Mohawk | 07/03/56 | Enewetak. |
| Apache | 07/09/56 | Enewetak. |
| Navajo | 07/11/56 | Bikini. |
| Tewa | 07/21/56 | Bikini. |
| Huron | 07/22/56 | Enewetak. |

(14) For Operation Plumbbob, the period May 28, 1957, through October 22, 1957:

| | | |
|---|---|---|
| Boltzmann | 05/28/57 | NTS. |
| Franklin | 06/02/57 | NTS. |
| Lassen | 06/05/57 | NTS. |
| Wilson | 06/18/57 | NTS. |
| Priscilla | 06/24/57 | NTS. |
| Hood | 07/05/57 | NTS. |
| Diablo | 07/15/57 | NTS. |
| John | 07/19/57 | NTS. |
| Kepler | 07/24/57 | NTS. |
| Owens | 07/25/57 | NTS. |
| Stokes | 08/07/57 | NTS. |
| Shasta | 08/18/57 | NTS. |
| Doppler | 08/23/57 | NTS. |
| Franklin Prime | 08/30/57 | NTS. |
| Smoky | 08/31/57 | NTS. |
| Galileo | 09/02/57 | NTS. |
| Wheeler | 09/06/57 | NTS. |
| Laplace | 09/08/57 | NTS. |
| Fizeau | 09/14/57 | NTS. |
| Newton | 09/16/57 | NTS. |
| Whitney | 09/23/57 | NTS. |
| Charleston | 09/28/57 | NTS. |
| Morgan | 10/07/57 | NTS. |

(15) For Operation Hardtack I, the period April 26, 1958, through October 31, 1958, for all activities other than service as a member of the garrison or maintenance forces on the atoll of Enewetak from November 1, 1958, through April 30, 1959; the period of atmospheric nuclear testing for service as a member of the garrison or maintenance forces on the atoll of Enewetak shall run from April 26, 1958, through April 30, 1959:

| | | |
|---|---|---|
| Yucca | 04/28/58 | Pacific. |
| Cactus | 05/06/58 | Enewetak. |
| Fir | 05/12/58 | Bikini. |
| Butternut | 05/12/58 | Enewetak. |
| Koa | 05/13/58 | Enewetak. |
| Wahoo | 05/16/58 | Enewetak. |
| Holly | 05/21/58 | Enewetak. |
| Nutmeg | 05/22/58 | Bikini. |
| Yellowwood | 05/26/58 | Enewetak. |
| Magnolia | 05/27/58 | Enewetak. |
| Tobacco | 05/30/58 | Enewetak. |
| Sycamore | 05/31/58 | Bikini. |
| Rose | 06/03/58 | Enewetak. |
| Umbrella | 06/09/58 | Enewetak. |
| Maple | 06/11/58 | Bikini. |
| Aspen | 06/15/58 | Bikini. |
| Walnut | 06/15/58 | Enewetak. |
| Linden | 06/18/58 | Enewetak. |
| Redwood | 06/28/58 | Bikini. |
| Elder | 06/28/58 | Enewetak. |
| Oak | 06/29/58 | Enewetak. |
| Hickory | 06/29/58 | Bikini. |
| Sequoia | 07/02/58 | Enewetak. |
| Cedar | 07/03/58 | Bikini. |
| Dogwood | 07/06/58 | Enewetak. |
| Poplar | 07/12/58 | Bikini. |
| Scaevola | 07/14/58 | Enewetak. |
| Pisonia | 07/18/58 | Enewetak. |
| Juniper | 07/22/58 | Bikini. |
| Olive | 07/23/58 | Enewetak. |
| Pine | 07/27/58 | Enewetak. |
| Teak | 07/31/58 | Johnston Isl. |
| Qunice | 08/06/58 | Enewetak. |
| Orange | 08/11/58 | Johnston Isl. |
| Fig | 08/18/58 | Enewetak. |

(16) For Operation Argus, the period August 25, 1958, through September 10, 1958:

| | | |
|---|---|---|
| Argus I | 08/27/58 | South Atlantic. |
| Argus II | 08/30/58 | South Atlantic. |
| Argus III | 09/06/58 | South Atlantic. |

(17) For Operation Hardtack II, the period September 19, 1958, through October 31, 1958:

| Event name | Date | Location |
|---|---|---|
| Eddy | 09/19/58 | NTS. |
| Mora | 09/29/58 | NTS. |
| Quay | 10/10/58 | NTS. |
| Lea | 10/13/58 | NTS. |
| Hamilton | 10/15/58 | NTS. |
| Dona Ana | 10/16/58 | NTS. |
| Rio Arriba | 10/18/58 | NTS. |
| Socorro | 10/22/58 | NTS. |
| Wrangell | 10/22/58 | NTS. |
| Rushmore | 10/22/58 | NTS. |
| Sanford | 10/26/58 | NTS. |
| De Baca | 10/26/58 | NTS. |
| Humboldt | 10/29/58 | NTS. |
| Mazama | 10/29/58 | NTS. |
| Santa Fe | 10/30/58 | NTS. |

(18) For Operation Dominic I, the period April 23, 1962, through December 31, 1962:

| Event name | Date | Location |
|---|---|---|
| Adobe | 04/25/62 | Christmas Isl. |
| Aztec | 04/27/62 | Christmas Isl. |
| Arkansas | 05/02/62 | Christmas Isl. |
| Questa | 05/04/62 | Christmas Isl. |
| Frigate Bird | 05/06/62 | Pacific. |
| Yukon | 05/08/62 | Christmas Isl. |
| Mesilla | 05/09/62 | Christmas Isl. |
| Muskegon | 05/11/62 | Christmas Isl. |
| Swordfish | 05/11/62 | Pacific. |
| Encino | 05/12/62 | Christmas Isl. |
| Swanee | 05/14/62 | Christmas Isl. |
| Chetco | 05/19/62 | Christmas Isl. |
| Tanana | 05/25/62 | Christmas Isl. |
| Nambe | 05/27/62 | Christmas Isl. |
| Alma | 06/08/62 | Christmas Isl. |
| Truckee | 06/09/62 | Christmas Isl. |
| Yeso | 06/10/62 | Christmas Isl. |
| Harlem | 06/12/62 | Christmas Isl. |
| Rinconada | 06/15/62 | Christmas Isl. |
| Dulce | 06/17/62 | Christmas Isl. |
| Petit | 06/19/62 | Christmas Isl. |
| Otowi | 06/22/62 | Christmas Isl. |
| Bighorn | 06/27/62 | Christmas Isl. |
| Bluestone | 06/30/62 | Christmas Isl. |
| Starfish | 07/08/62 | Johnston Isl. |
| Sunset | 07/10/62 | Christmas Isl. |
| Pamlico | 07/11/62 | Christmas Isl. |
| Androscoggin | 10/02/62 | Johnston Isl. |
| Bumping | 10/06/62 | Johnston Isl. |
| Chama | 10/18/62 | Johnston Isl. |
| Checkmate | 10/19/62 | Johnston Isl. |
| Bluegill | 10/25/62 | Johnston Isl. |
| Calamity | 10/27/62 | Johnston Isl. |
| Housatonic | 10/30/62 | Johnston Isl. |
| Kingfish | 11/01/62 | Johnston Isl. |
| Tightrope | 11/03/62 | Johnston Isl. |

(19) For Operation Dominic II, the period July 7, 1962, through August 15, 1962:

| Event name | Date | Location |
|---|---|---|
| Little Feller II | 07/07/62 | NTS. |
| Johnie Boy | 07/11/62 | NTS. |
| Small Boy | 07/14/62 | NTS. |
| Little Feller I | 07/17/62 | NTS. |

(20) For Operation Plowshare, the period July 6, 1962, through July 7, 1962, covering Project Sedan.

**§ 79.32 Criteria for eligibility for claims by onsite participants.**

To establish eligibility for compensation under this subpart, a claimant or eligible surviving beneficiary must establish each of the following:

(a) That the claimant was present onsite at any time during a period of atmospheric nuclear testing;

(b) That the claimant was a participant during that period in the atmospheric detonation of a nuclear device; and

(c) That after such participation, the claimant contracted a specified compensable disease as set forth in § 79.22(b).

**§ 79.33 Proof of participation onsite during a period of atmospheric nuclear testing.**

(a) *Claimants associated with Department of Defense (DoD) Components or DoD Contractors.* (1) A claimant or eligible surviving beneficiary who alleges that the claimant was present onsite during a period of atmospheric nuclear testing as a member of the armed forces or an employee or contractor employee of the DoD, or any of its components or agencies, must submit the following information on the claim form:

(i) The claimant's name;

(ii) The claimant's military service number;

(iii) The claimant's Social Security number;

(iv) The site at which the claimant participated in the atmospheric detonation of a nuclear device;

(v) The name or number of the claimant's military organization or unit assignment at the time of his or her onsite participation;

(vi) The dates of the claimant's assignment onsite; and

(vii) As full and complete a description as possible of the claimant's official duties, responsibilities, and activities while participating onsite.

(2) A claimant or eligible surviving beneficiary under this section need not submit any additional documentation of onsite participation during the atmospheric detonation of a nuclear device at the time the claim is filed; however, additional documentation may be required as set forth in paragraph (a)(3) of this section.

(3) Upon receipt under this subpart of a claim that contains the information set forth in paragraph (a)(1) of this section, the Radiation Exposure Compensation Program will forward the information to the DoD and request that the DoD conduct a search of its records for the purpose of gathering facts relating to the claimant's presence onsite and participation in the atmospheric detonation of a nuclear device. If the facts gathered by the DoD are insufficient to establish the eligibility criteria in § 79.32, the claimant or eligible surviving beneficiary will be notified and afforded the opportunity to submit military, government, or business records in accordance with the procedure set forth in § 79.72(c).

(b) *Claimants Associated with the Atomic Energy Commission (AEC) or the Department of Energy (DOE), or Who Were Members of the Federal Civil Defense Administration or the Office of Civil and Defense Mobilization.* (1) A claimant or eligible surviving beneficiary who alleges that the claimant was present onsite during the atmospheric detonation of a nuclear device as an employee of the AEC, the DOE or any of their components, agencies or offices, or as an employee of a contractor of the AEC, or DOE, or as a member of the Federal Civil Defense Administration or the Office of Civil and Defense Mobilization, must submit the following information on the claim form:

(i) The claimant's name;

(ii) The claimant's Social Security number;

(iii) The site at which the claimant participated in the atmospheric detonation of a nuclear device;

(iv) The name or other identifying information associated with the claimant's organization, unit, assignment, or employer at the time of the claimant's participation onsite;

(v) The dates of the claimant's assignment onsite; and

(vi) As full and complete a description as possible of the claimant's official duties, responsibilities, and activities while participating onsite.

(2) A claimant or eligible surviving beneficiary under this section need not at the time the claim is filed submit any additional documentation demonstrating the claimant's presence onsite during the atmospheric detonation of a nuclear device; however, additional documentation may

thereafter be required as set forth in paragraph (b)(3) of this section.

(3) Upon receipt under this subpart of a claim that contains the information set forth in paragraph (b)(1) of this section, the Radiation Exposure Compensation Program will forward the information to the Nevada Field Office of the Department of Energy (DOE/NV) and request that the DOE/NV conduct a search of its records for the purpose of gathering facts relating to the claimant's presence onsite and participation in the atmospheric detonation of a nuclear device. If the facts gathered by the DOE/NV are insufficient to establish the eligibility criteria in § 79.32, the claimant or eligible surviving beneficiary will be notified and afforded the opportunity to submit military, government, or business records in accordance with the procedure set forth in § 79.72(c).

**§ 79.34 Proof of medical condition.**

Proof of medical condition under this subpart will be made in the same manner and according to the same procedures and limitations as are set forth in § 79.16 and § 79.26.

**§ 79.35 Proof of onset of leukemia at least two years after first exposure, and proof of onset of a specified compensable disease more than five years after first exposure.**

Absent any indication to the contrary, the earliest date of onsite participation indicated on any records accepted by the Radiation Exposure Compensation Program as proof of the claimant's onsite participation will be presumed to be the date of first or initial exposure. The date of onset will be the date of diagnosis as indicated on the medical documentation accepted by the Radiation Exposure Compensation Program as proof of the specified compensable disease. Proof of the onset of leukemia shall be established in accordance with § 79.15.

**§ 79.36 Indication of the presence of hepatitis B or cirrhosis.**

Possible indication of hepatitis B or cirrhosis will be determined in accordance with the provisions of § 79.27.

## Subpart E—Eligibility Criteria for Claims by Uranium Miners

**§ 79.40 Scope of subpart.**

The regulations in this subpart define the eligibility criteria for compensation under section 5 of the Act pertaining to miners, *i.e.*, uranium mine workers, and the nature of the evidence that will be accepted as proof of the various eligibility criteria. Section 5 of the Act provides for a payment of $100,000 to miners who contracted primary lung cancer or one of a limited number of nonmalignant respiratory diseases following exposure to a defined minimum level of radiation during employment in aboveground or underground uranium mines or following employment for at least one year in aboveground or underground uranium mines in specified states during the period beginning January 1, 1942, and ending December 31, 1971.

**§ 79.41 Definitions.**

(a) *Cor pulmonale* means heart disease, including hypertrophy of the right ventricle, due to pulmonary hypertension secondary to fibrosis of the lung.

(b) *Designated time period* means the period beginning on January 1, 1942, and ending on December 31, 1971.

(c) *Employment for at least one year* means employment for a total of at least one year (12 consecutive or cumulative months).

(d) *Fibrosis of the lung* or *pulmonary fibrosis* means chronic inflammation and scarring of the pulmonary interstitium and alveoli with collagen deposition and progressive thickening.

(e) *Miner* or *uranium mine worker* means a person who operated or otherwise worked in a uranium mine.

(f) *National Institute for Occupational Safety and Health (NIOSH) certified ''B'' reader* means a physician who is certified as such by NIOSH. A list of certified ''B'' readers is available from the Radiation Exposure Compensation Program upon request.

(g) *Nonmalignant respiratory disease* means fibrosis of the lung, pulmonary fibrosis, cor pulmonale related to fibrosis of the lung, silicosis, or pneumoconiosis.

(h) *Pneumoconiosis* means a chronic lung disease resulting from inhalation and deposition in the lung of particulate matter, and the tissue reaction to the presence of the particulate matter. For purposes of this subpart, the claimant's exposure to the particulate matter that led to the disease must have occurred during employment in a uranium mine.

(i) *Primary lung cancer* means any physiological condition of the lung, trachea, or bronchus that is recognized under that name or nomenclature by the National Cancer Institute. The term includes in situ lung cancers.

(j) *Readily available documentation* means documents in the possession, custody, or control of the claimant or an immediate family member.

(k) *Silicosis* means a pneumoconiosis due to the inhalation of the dust of stone, sand, flint, or other materials containing silicon dioxide, characterized by the formation of pulmonary fibrotic changes.

(l) *Specified state* means Colorado, New Mexico, Arizona, Wyoming, South Dakota, Washington, Utah, Idaho, North Dakota, Oregon, or Texas. Additional states may be included, provided:

(1) A uranium mine was operated in such state at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;

(2) The state submits an application to the Assistant Director (specified in § 79.70(a)) to include such state; and

(3) The Assistant Director makes a determination to include such state.

(m) *Uranium mine* means any underground excavation, including ''dog holes,'' as well as open-pit, strip, rim, surface, or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted.

(n) *Working level* means the concentration of the short half-life daughters of radon that will release ($1.3 \times 10^5$) million electron volts of alpha energy per liter of air.

(o) *Working level month of radiation* means radiation exposure at the level of one working level every work day for a month, or an equivalent cumulative exposure over a greater or lesser amount of time.

(p) *Written diagnosis by a physician* means a written determination of the nature of a disease made from a study of the signs and symptoms of a disease that is based on a physical examination of the patient, medical imaging or a chemical, microscopic, microbiologic, immunologic or pathologic study of physiologic and functional tests, secretions, discharges, blood, or tissue. For purposes of satisfying the requirement of a ''written diagnosis by a physician'' for living claimants specified in § 79.46, a physician submitting a written diagnosis of a nonmalignant respiratory disease must be employed by the Indian Health Service or the Department of Veterans Affairs or be board certified, and must have a documented, ongoing physician-patient relationship with the claimant. An ''ongoing physician-patient relationship'' can include referrals made to specialists from a primary care provider for purposes of diagnosis or treatment. ''Board certification'' requires, in addition to physician licensing, the successful completion of a residency training program and passage of a Board exam in a relevant field or specialty. Relevant specialties include: family practice, internal medicine, pathology, preventive medicine, radiology, surgery, and thoracic surgery (and including

subspecialties such as cardiovascular disease, medical oncology, pulmonary disease) as listed by the American Board of Medical Specialties.

**§ 79.42 Criteria for eligibility for claims by miners.**

To establish eligibility for compensation under this subpart, a claimant or eligible surviving beneficiary must establish each of the following:

(a) The claimant was employed as a miner in a specified state;

(b) The claimant was so employed at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;

(c) The claimant was exposed during the course of his or her mining employment to 40 or more working level months of radiation or worked for at least one year in a uranium mine or mines during the period identified in paragraph (b) of this section; and

(d) The claimant contracted lung cancer or a nonmalignant respiratory disease following such exposure.

**§ 79.43 Proof of employment as a miner.**

(a) The Department will accept, as proof of employment for a designated time period, information contained in any of the following records:

(1) Records created by or gathered by the Public Health Service (PHS) in the course of any health studies of uranium workers during or including the period 1942–1990;

(2) Records of a uranium worker census performed by the PHS at various times during the period 1942–1990;

(3) Records of the Atomic Energy Commission (AEC), or any of its successor agencies; and

(4) Records of federally supported, health-related studies of uranium workers, including:

(i) Studies conducted by Geno Saccamanno, M.D., St. Mary's Hospital, Grand Junction, Colorado; and

(ii) Studies conducted by Jonathan Samet, M.D., University of New Mexico School of Medicine.

(b) The Program will presume that the employment history for the time period indicated in records listed in paragraph (a) of this section is correct. If the claimant or eligible surviving beneficiary wishes to contest the accuracy of such records, then the claimant or eligible surviving beneficiary may provide one or more of the records identified in paragraph (c) of this section, and the Assistant Director will determine whether the employment history indicated in the records listed in paragraph (a) is correct.

(c) If the sources in paragraph (a) of this section do not contain information regarding the claimant's uranium mine employment history, do not contain sufficient information to establish exposure to at least 40 working level months of radiation, do not contain sufficient information to establish uranium mining employment for one year during the period identified in § 79.42(b), or if a claimant or eligible surviving beneficiary wishes to contest the accuracy of such records, then the claimant or eligible surviving beneficiary may submit records from any of the following sources, and the Assistant Director shall consider such records (in addition to any sources listed in paragraph (a) of this section) in order to determine whether the claimant has established the requisite employment history:

(1) Governmental records of any of the specified states, including records of state regulatory agencies, containing information on uranium mine workers and uranium mines;

(2) Records of any business entity that owned or operated a uranium mine, or its successor-in-interest;

(3) Records of the Social Security Administration reflecting the identity of the employer, the years and quarters of employment, and the wages received during each quarter;

(4) Federal or State income tax records that contain relevant statements regarding the claimant's employer and wages;

(5) Records containing factual findings by any governmental judicial body, state worker's compensation board, or any governmental administrative body adjudicating the claimant's rights to any type of benefits (which will be accepted only to prove the fact of and duration of employment in a uranium mine);

(6) Statements in medical records created during the period 1942–1971 indicating or identifying the claimant's employer and occupation;

(7) Records of an academic or scholarly study, not conducted in anticipation of or in connection with any litigation, and completed prior to 1990; and

(8) Any other contemporaneous record that indicates or identifies the claimant's occupation or employer.

(d) To the extent that the documents submitted from the sources identified in this section do not so indicate, the claimant or eligible surviving beneficiary must set forth under oath on the standard claim form the following information, if known:

(1) The names of the mine employers for which the claimant worked during the time period identified in the documents;

(2) The names and locations of any mines in which the claimant worked;

(3) The actual time period the claimant worked in each mine;

(4) The claimant's occupation in each mine; and

(5) Whether the mining employment was conducted aboveground or underground.

(e) If the claimant or eligible surviving beneficiary cannot provide the name or location of any uranium mine at which the claimant was employed as required under paragraph (d)(2) of this section, then the Program shall, if possible, determine such information from records reflecting the types of mines operated or owned by the entity for which the claimant worked.

(f) If the information provided under paragraphs (a) and (c) of this section is inadequate to determine the time period during which the claimant was employed in each uranium mine, then the Program will, where possible, calculate such employment periods in the following manner, for purposes of calculating working level months of exposure:

(1) If records of the Social Security Administration exist that indicate the claimant's work history, the Program will estimate the period of employment by dividing the gross quarterly income by the average pay rate per hour for the claimant's occupation;

(2) If such Social Security Administration records do not exist, but other records exist that indicate that the claimant was employed in a uranium mine on the date recorded in the record, but do not indicate the period of employment, then the Program will apply the following presumptions:

(i) If the records indicate that the claimant worked at the same mine or for the same uranium mining company on two different dates at least three months apart but less than 12 months apart, then the Program will presume that the claimant was employed at the mine or for the mining company for the entire 12-month period beginning on the earlier date.

(ii) If the records indicate that the claimant worked at the same mine or for the same uranium mining company on two different dates at least one month apart but less than three months apart, then the Program will presume that the claimant was employed at the mine or for the mining company for the entire six-month period beginning on the earlier date.

(iii) If the records indicate that the claimant worked at any mine or for a uranium mining company on any date within the designated time period, but the presumptions listed in this

paragraph (f) are not applicable, then the Program will presume that the claimant was employed at the mine or for the mining company for a six-month period, consisting of three months before and three months after the date indicated.

(g) In determining whether a claimant satisfies the employment and exposure criteria of the Act, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. If the Assistant Director concludes that the claimant has not satisfied the employment or exposure requirements of the Act, the claimant or eligible surviving beneficiary will be notified and afforded the opportunity, in accordance with the provisions of § 79.72(c), to submit additional records to establish that the statutory criteria are satisfied.

**§ 79.44 Proof of working level month exposure to radiation.**

(a) If one or more of the sources in § 79.43(a) contain a calculated total of working level months (WLMs) of radiation for the claimant equal to or greater than 40 WLMs, then the Program will presume that total to be correct, absent evidence to the contrary, in which case the claimant or eligible surviving beneficiary need not submit additional records.

(b) If the sources in § 79.43(a) do not contain a calculated total of WLMs of radiation for the claimant, or contain a calculated total that is less than 40 WLMs, a claimant or eligible surviving beneficiary may submit the following records reflecting a calculated number of WLMs of radiation for periods of employment established under § 79.43(c):

(1) Certified copies of records of regulatory agencies of the specified states, provided that the records indicate the mines at which the claimant was employed, the time period of the claimant's employment in each mine, the exposure level in each mine during the claimant's employment, and the calculations on which the claimant's WLMs are based, unless the calculation is apparent;

(2) Certified copies of records of the owner or operator of a uranium mine in the specified states, provided that the records indicate the mines at which the claimant was employed, the time period of the claimant's employment in each mine, the exposure level in each mine during the claimant's employment, and the calculations on which the claimant's WLMs are based, unless the calculation is apparent.

(c) If the number of WLMs established under paragraphs (a) and (b) of this section is equal to or greater than 40 WLMs of radiation, the claimant or eligible surviving beneficiary need not submit additional records. When the sources referred to in paragraphs (a) and (b) of this section do not establish a calculated number of at least 40 WLMs, the Program will, where possible, calculate additional WLMs in the manner set forth in paragraphs (d) through (g) of this section for the periods of employment for which the sources in paragraphs (a) and (b) do not establish calculated totals. When calculating an exposure level for a particular period of a claimant's employment history, the Program will apply aboveground exposure levels with respect to those periods in which the claimant worked principally aboveground and will apply underground exposure levels with respect to those periods in which the claimant worked principally underground.

(d) To the extent the sources referenced in paragraphs (a) and (b) of this section do not contain a calculated number of WLMs, but do contain annual exposure levels measured in Working Levels (WLs) for mines in which the claimant was employed, the Program will calculate the claimant's exposure to radiation measured in WLMs in the manner set forth in paragraph (h) of this section.

(e) For periods of employment in a uranium mine that a claimant establishes under § 79.43(c) as to which paragraph (d) of this section is not applicable, the Program will, where possible, use any or all of the following sources in computing the annual exposure level measured in WLs in each mine for the period of the claimant's employment, in the manner set forth in paragraph (g) of this section:

(1) Records of the AEC, or its successor agencies;

(2) Records of the PHS, including radiation-level measurements taken in the course of health studies conducted of uranium miners during or including the period 1942–1971;

(3) Records of the United States Bureau of Mines;

(4) Records of regulatory agencies of the specified states; or

(5) Records of the business entity that was the owner or operator of the mine.

(f) For periods of employment in unidentified or misidentified uranium mines that a claimant establishes under § 79.43(c) through (f), the Program will determine annual exposure levels measured in WLs in the unidentified or misidentified mines by calculating an average of the annual exposure levels measured in WLs in all the uranium mines owned or operated by the entities for which the claimant worked during the appropriate time periods and in the identified states.

(g) With respect to periods of employment in a uranium mine that a claimant establishes under § 79.43(c) as to which paragraph (d) of this section is not applicable, and periods of employment in unidentified or misidentified uranium mines that a claimant establishes under § 79.43(c) through (f), the Program will use the following methodology to calculate the annual exposure level measured in WLs for each mine:

(1) If one or more radiation measurements are available for a mine in a given year, such values will be averaged to generate the WLs for the mine for that year.

(2) If radiation measurements exist for the mine, but not for the year in which the claimant was employed in the mine, the WLs for the mine for that year will be estimated if possible as follows:

(i) If annual average measurements exist within four years of the year in which the claimant was employed in the mine, the measurements for the two closest years will be averaged, and that value will be assigned to the year the claimant was employed in the mine;

(ii) If one or more annual average measurements exist for a mine, but are not more than five years from the year the claimant was employed, the annual average closest in time will be assigned either forward or backward in time for two years.

(3) If the methods described in paragraph (g)(2) of this section interpolate or project the annual exposure level measured in WLs for a mine in a year in which the claimant was employed in the mine, the Program will use an estimated average for mines of the same or similar type, ventilation, and ore composition in the same geographical area for that year. An estimated area average will be calculated as follows:

(i) If actual measurements from three or more mines of the same or similar type, ventilation, and ore composition are available from mines in the same locality as the mine in which the claimant was employed, the average of the measurements for the mines within that locality will be used.

(ii) If there are insufficient actual measurements from mines in the same locality to use the method in paragraph (g)(3)(i) of this section, an average of exposure levels in mines in the same mining district will be used.

(iii) If there is no average of exposure levels from mines in the same mining district, the average of exposure levels in mines in the same state will be used.

(iv) If there are insufficient actual measurements from mines in the same state, the estimated average for the State of Colorado for the relevant year will be used.

(4) With respect to a year between 1942 and 1949, if the claimant was employed in a mine for which no exposure levels are available for that year, then the Program will estimate the annual exposure levels measured in WLs by averaging the two earliest exposure levels recorded from that mine after the year 1941. If there are not two exposure levels recorded from that mine, the Program will estimate the WLs by averaging the two earliest exposure levels after the year 1941 from the mines identified according to the methods set forth in paragraphs (g)(3)(i) through (iv).

(h) The Program will calculate a claimant's total exposure to radiation expressed in WLMs, for purposes of establishing eligibility under § 79.42(c), by adding together the WLMs for each period of employment that the claimant has established. For those periods of a claimant's employment for which the Program has obtained or calculated WLs pursuant to paragraphs (d) through (g) of this section, the Program shall determine WLMs by multiplying the WL by the pertinent time period, measured in months, yielding a claimant's exposure to radiation expressed in WLMs.

(i) In addition to any other material that may be used to substantiate employment history for purposes of determining WLMs, an individual filing a claim may make such a substantiation by means of an affidavit described in § 79.4(c)(4).

**§ 79.45 Proof of primary lung cancer.**

(a) In determining whether a claimant developed primary lung cancer following pertinent employment as a miner, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed primary lung cancer must be supported by medical documentation. To prove that a claimant developed primary lung cancer, the claimant or beneficiary may submit any form of medical documentation specified in paragraph (e) of this section. In all cases, the Program will review submitted medical documentation, and will, in addition and where appropriate, review any pertinent records discovered within the sources identified in paragraphs (b), (c), and (d) of this section.

(b) Where appropriate, the Radiation Exposure Compensation Program will search the records of the PHS (including NIOSH), created or gathered during the course of any health study of uranium workers conducted or being conducted by these agencies, to determine whether those records contain proof of the claimant's medical condition. (In cases where the claimant is deceased, the Program will accept as proof of medical condition the verification of the PHS or NIOSH that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of primary lung cancer.)

(c) If a claimant was diagnosed as having primary lung cancer in Arizona, Colorado, Nevada, New Mexico, Utah, or Wyoming, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information, valid in the state of diagnosis, that authorizes the Radiation Exposure Compensation Program to contact the appropriate state cancer or tumor registry, the Program will, where appropriate, request the relevant information from that registry and will review records that it obtains from the registry. (In cases where the claimant is deceased, the Program will accept as proof of medical condition verification from the state cancer or tumor registry that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of primary lung cancer.)

(d) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant's medical condition is contained in the records of the study, the Program will, where appropriate, request such records from that custodian and will review records that it obtains from the custodian. (In cases where the claimant is deceased, the Program will accept as proof of the claimant's medical condition such medical records or abstracts of medical records containing a verified diagnosis of primary lung cancer.)

(e)(1) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted primary lung cancer. Such documentation will be most useful where it contains an explicit statement of diagnosis or such other information or data from which the appropriate authorities at the National Cancer Institute can make a diagnosis to a reasonable degree of medical certainty:

(i) Pathology report of tissue biopsy, including, but not limited to, specimens obtained by any of the following methods:

(A) Surgical resection;

(B) Endoscopic endobronchial or transbronchial biopsy;

(C) Bronchial brushings and washings;

(D) Pleural fluid cytology;

(E) Fine needle aspirate;

(F) Pleural biopsy; or

(G) Sputum cytology;

(ii) Autopsy report;

(iii) Bronchoscopy report;

(iv) One of the following summary medical reports:

(A) Physician summary report;

(B) Hospital discharge summary report;

(C) Operative report;

(D) Radiation therapy summary report; or

(E) Oncology summary or consultation report;

(v) Reports of radiographic studies, including:

(A) X-rays of the chest;

(B) Chest tomograms;

(C) Computer-assisted tomography (CT); or

(D) Magnetic resonance imaging (MRI); or

(vi) Death certificate, provided that it is signed by a physician at the time of death.

**§ 79.46 Proof of nonmalignant respiratory disease.**

(a) In determining whether a claimant developed a nonmalignant respiratory disease following pertinent employment as a miner, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed a nonmalignant respiratory disease must be supported by medical documentation. In cases where the claimant is deceased, the claimant's beneficiary may submit any form of medical documentation specified in paragraph (d)(1) of this section, and for proof of cor pulmonale must also submit one or more forms of documentation specified in paragraph (d)(2). A living claimant must at a minimum submit the medical documentation required in paragraph (d)(3) of this section, and for proof of cor pulmonale must also submit one or more forms of documentation specified in paragraph (d)(2). In all cases, the Program will review submitted medical documentation, and will, in addition and where appropriate, review any pertinent records discovered within the sources referred to in paragraphs (b) and

(c) of this section. With respect to a deceased claimant, the Program will treat as equivalent to a diagnosis of pulmonary fibrosis any diagnosis of ''restrictive lung disease'' made by a physician employed by the Indian Health Service.

(b) Where appropriate, the Radiation Exposure Compensation Program will search the records of the PHS (including NIOSH), created or gathered during the course of any health study of uranium workers conducted or being conducted by these agencies, to determine whether those records contain proof of the claimant's medical condition. In cases where the claimant is deceased, the Program will accept as proof of medical condition the verification of the PHS or NIOSH that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of a nonmalignant respiratory disease.

(c) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant's medical condition is contained in the records of the study, the Program will, where appropriate, request such records from that custodian and will review records that it obtains from the custodian. In cases where the claimant is deceased, the Program will accept as proof of the claimant's medical condition such medical records or abstracts of medical records containing a verified diagnosis of a nonmalignant respiratory disease.

(d) (1) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted a nonmalignant respiratory disease, including pulmonary fibrosis, fibrosis of the lung, cor pulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis:

(i) Pathology report of tissue biopsy;

(ii) Autopsy report;

(iii) If an x-ray exists, the x-ray and interpretive reports of the x-ray by a maximum of two NIOSH certified ''B'' readers classifying the existence of disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the ''ILO''), or subsequent revisions;

(iv) If no x-rays exist, an x-ray report;

(v) Physician summary report;

(vi) Hospital discharge summary report;

(vii) Hospital admitting report;

(viii) Death certificate, provided that it is signed by a physician at the time of death; or

(ix) Documentation specified in paragraphs (d)(3)(i) and (d)(3)(ii) of this section.

(2) In order to demonstrate that the claimant developed cor pulmonale related to fibrosis of the lung, the claimant or beneficiary must, at a minimum, submit one or more of the following medical records:

(i) Right heart catheterization;

(ii) Cardiology summary or consultation report;

(iii) Electrocardiogram;

(iv) Echocardiogram;

(v) Physician summary report;

(vi) Hospital discharge summary report;

(vii) Autopsy report;

(viii) Report of physical examination; or

(ix) Death certificate, provided that it is signed by a physician at the time of death.

(3) Notwithstanding any other documentation provided, a living claimant must at a minimum provide the following medical documentation:

(i) Either:

(A) An arterial blood gas study administered at rest in a sitting position, or an exercise arterial blood gas test, reflecting values equal to or less than the values set forth in the tables in appendix B to this part; or

(B) A written diagnosis by a physician in accordance with § 79.41(p); and

(ii) One of the following:

(A) A chest x-ray administered in accordance with standard techniques accompanied by interpretive reports of the x-ray by a maximum of two NIOSH certified ''B'' readers, classifying the existence of disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the ''ILO''), or subsequent revisions;

(B) High-resolution computed tomography scans (commonly known as ''HRCT scans''), including computer-assisted tomography scans (commonly known as ''CAT scans''), magnetic resonance imaging scans (commonly known as ''MRI scans''), and positron emission tomography scans (commonly known as ''PET scans''), and interpretive reports of such scans;

(C) Pathology reports of tissue biopsies; or

(D) Pulmonary function tests indicating restrictive lung function and consisting of three reproducible time/volume tracings recording the results of the forced expiratory volume in one second (FEV1) and the forced vital capacity (FVC) administered and reported in accordance with the Standardization of Spirometry—1994 Update by the American Thoracic Society, and reflecting values for FEV1 or FVC that are less than or equal to the lower limit of normal for an individual of the claimant's age, sex, height, and ethnicity as set forth in the tables in appendix A to this part.

(e) The Assistant Director shall treat any documentation described in paragraph (d)(3)(i)(B) or paragraph (d)(3)(ii)(A) of this section as conclusive evidence of the claimant's nonmalignant respiratory disease; provided, however, that the Program may subject such documentation to a fair and random audit to guarantee its authenticity and reliability for purposes of treating it as conclusive evidence; and provided further that, in order to be treated as conclusive evidence, a written diagnosis described in paragraph (d)(3)(i)(B) must be by a physician who is employed by the Indian Health Service or the Department of Veterans Affairs or who is board certified (as described in § 79.41(p)), and who must have a documented, ongoing physician-patient relationship with the claimant. Notwithstanding the conclusive effect given to certain evidence, nothing in this paragraph shall be construed as relieving a living claimant of the obligation to provide the Program with the forms of documentation required under paragraph (d)(3).

## Subpart F—Eligibility Criteria for Claims by Uranium Millers

### § 79.50 Scope of subpart.

The regulations in this subpart define the eligibility criteria for compensation under section 5 of the Act pertaining to millers, *i.e.*, uranium mill workers, and the nature of evidence that will be accepted as proof that a claimant satisfies such eligibility criteria. Section 5 of the Act provides for a payment of $100,000 to ''millers'' who contracted primary lung cancer, one of a limited number of nonmalignant respiratory diseases, primary renal cancer, or chronic renal disease, following employment for at least one year as a uranium mill worker in specified states during the period beginning January 1, 1942, and ending December 31, 1971.

### § 79.51 Definitions.

(a) *Chronic renal disease* means the chronic, progressive, and irreversible destruction of the nephron. It is exhibited by diminution of renal function.

(b) *Cor pulmonale* means heart disease, including hypertrophy of the right ventricle, due to pulmonary

hypertension secondary to fibrosis of the lung.

(c) *Designated time period* means the period beginning on January 1, 1942, and ending on December 31, 1971.

(d) *Employment for at least one year* means employment for a total of at least one year (12 consecutive or cumulative months).

(e) *Fibrosis of the lung* or *pulmonary fibrosis* means chronic inflammation and scarring of the pulmonary interstitium and alveoli with collagen deposition and progressive thickening.

(f) *Kidney tubal (tubular) tissue injury* means structural or functional damage to the kidney tubules that results in renal disease and dysfunction.

(g) *Miller* or *uranium mill worker* means a person who operated or otherwise worked in a uranium mill.

(h) *National Institute for Occupational Safety and Health (NIOSH) certified ''B'' reader* means a physician who is certified as such by NIOSH. A list of certified ''B'' readers is available from the Radiation Exposure Compensation Program upon request.

(i) *Nephritis* means an inflammatory process of the kidneys resulting in chronic renal dysfunction.

(j) *Nonmalignant respiratory disease* means fibrosis of the lung, pulmonary fibrosis, cor pulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis.

(k) *Pneumoconiosis* means a chronic lung disease resulting from inhalation and deposition in the lung of particulate matter, and the tissue reaction to the presence of the particulate matter. For purposes of this subpart, the claimant's exposure to the particulate matter that led to the disease must have occurred during employment in a uranium mill.

(l) *Primary lung cancer* means any physiological condition of the lung, trachea, or bronchus that is recognized under that name or nomenclature by the National Cancer Institute. The term includes in situ lung cancers.

(m) *Readily available documentation* means documents in the possession, custody, or control of the claimant or an immediate family member.

(n) *Primary renal cancer* means any physiological condition of the kidneys that is recognized under that name or nomenclature by the National Cancer Institute.

(o) *Silicosis* means a pneumoconiosis due to the inhalation of the dust of stone, sand, flint, or other materials containing silicon dioxide, characterized by the formation of pulmonary fibrotic changes.

(p) *Specified state* means Colorado, New Mexico, Arizona, Wyoming, South Dakota, Washington, Utah, Idaho, North Dakota, Oregon, or Texas. Additional states may be included, provided:

(1) A uranium mine was operated in such state at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;

(2) The state submits an application to the Assistant Director (specified in § 79.70(a)) to include such state; and

(3) The Assistant Director makes a determination to include such state.

(q) *Uranium mill* means any milling operation involving the processing of uranium ore or vanadium-uranium ore, including carbonate plants and acid leach plants. The term applies to ore-buying stations where ore was weighed and sampled prior to delivery to a mill for processing; ''upgrader'' or ''concentrator'' facilities located at the mill or at a remote location where uranium or vanadium-uranium ore was processed prior to delivery to a mill; and pilot plants where uranium ore or vanadium-uranium ore was processed.

(r) *Uranium mine* means any underground excavation, including ''dog holes,'' as well as open-pit, strip, rim, surface, or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted.

(s) *Written diagnosis by a physician* means a written determination of the nature of a disease made from a study of the signs and symptoms of a disease that is based on a physical examination of the patient, medical imaging or a chemical, microscopic, microbiologic, immunologic, or pathologic study of physiologic and functional tests, secretions, discharges, blood, or tissue. For purposes of satisfying the requirement of a ''written diagnosis by a physician'' for living claimants specified in § 79.55, a physician submitting a written diagnosis of a nonmalignant respiratory disease must be employed by the Indian Health Service or the Department of Veterans Affairs or be board certified, and must have a documented, ongoing physician-patient relationship with the claimant. An ''ongoing physician-patient relationship'' can include referrals made to specialists from a primary care provider for purposes of diagnosis or treatment. ''Board certification'' requires, in addition to physician licensing, the successful completion of a residency training program and passage of a Board exam in a relevant field or specialty. Relevant specialties include: family practice, internal medicine, pathology, preventive medicine, radiology, surgery, and thoracic surgery (and including subspecialties such as cardiovascular disease, medical oncology, pulmonary disease) as listed by the American Board of Medical Specialties.

### § 79.52 Criteria for eligibility for claims by uranium millers.

To establish eligibility for compensation under this subpart, a claimant or eligible surviving beneficiary of a claimant must establish each of the following:

(a) The claimant was employed as a miller in a specified state;

(b) The claimant was so employed for at least one year (12 consecutive or cumulative months) during the period beginning on January 1, 1942, and ending on December 31, 1971; and

(c) The claimant contracted primary lung cancer, a nonmalignant respiratory disease, primary renal cancer, or chronic renal disease (including nephritis and kidney tubal tissue injury) following at least one year of such employment.

### § 79.53 Proof of employment as a miller.

(a) The Department will accept, as proof of employment for the time period indicated, information contained in any of the following records:

(1) Records created by or gathered by the Public Health Service (PHS) in the course of any health studies of uranium workers during or including the period 1942–1990;

(2) Records of a uranium worker census performed by the PHS at various times during the period 1942–1990;

(3) Records of the Atomic Energy Commission (AEC), or any of its successor agencies; and

(4) Records of federally supported, health-related studies of uranium workers.

(b) The Program will presume that the employment history for the time period indicated in records listed in paragraph (a) of this section is correct. If the claimant or eligible surviving beneficiary wishes to contest the accuracy of such records, then the claimant or eligible surviving beneficiary may provide one or more of the records identified in paragraph (c) of this section, and the Assistant Director will determine whether the employment history indicated in the records listed in paragraph (a) is correct.

(c) If the sources in paragraph (a) of this section do not contain information regarding the claimant's uranium mill employment history, do not contain sufficient information to establish employment for at least one year in a uranium mill during the specified time period to qualify under § 79.52(b), or if a claimant or eligible surviving beneficiary wishes to contest the accuracy of such records, then the

claimant or eligible surviving beneficiary may submit records from any of the following sources, which the Assistant Director shall consider (in addition to any sources listed in paragraph (a) of this section) in order to determine whether the claimant has established the requisite employment history:

(1) Records of any of the specified states, including records of state regulatory agencies, containing information on uranium mill workers and uranium mills;

(2) Records of any business entity that owned or operated a uranium mill, or its successor-in-interest;

(3) Records of the Social Security Administration reflecting the identity of the employer, the years and quarters of employment, and the wages received during each quarter;

(4) Federal or state income tax records that contain relevant statements regarding the claimant's employer and wages;

(5) Records containing factual findings by any governmental judicial body, state worker's compensation board, or any governmental administrative body adjudicating the claimant's rights to any type of benefits (which will be accepted only to prove the fact of and duration of employment in a uranium mill);

(6) Statements in medical records created during the period 1942–1971 indicating or identifying the claimant's employer and occupation;

(7) Records of an academic or scholarly study, not conducted in anticipation of or in connection with any litigation, and completed prior to 1990; or

(8) Any other contemporaneous record that indicates or identifies the claimant's occupation or employer.

(d) To the extent that the documents submitted from the sources identified in this section do not so indicate, the claimant or eligible surviving beneficiary must set forth under oath on the standard claim form the following information, if known:

(1) The names of the mill employers for which the claimant worked during the time period identified in the documents;

(2) The names and locations of any mills in which the claimant worked;

(3) The actual time period the claimant worked in each mill; and

(4) The claimant's occupation in each mill.

(e) The Program may, for the purpose of verifying information submitted pursuant to this section, require the claimant or any eligible surviving beneficiary to provide an authorization to release any record identified in this section, in accordance with the provisions of § 79.72(c).

(f) In determining whether a claimant satisfies the employment criteria of the Act, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. If the Assistant Director concludes that the claimant has not satisfied the employment requirements of the Act, the claimant or eligible surviving beneficiary will be notified and afforded the opportunity, in accordance with the provisions of § 79.72(c), to submit additional records to establish that the statutory employment criteria are satisfied.

**§ 79.54 Proof of primary lung cancer.**

(a) In determining whether a claimant developed primary lung cancer following pertinent employment as a miller, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed primary lung cancer must be supported by medical documentation. To prove that a claimant developed primary lung cancer, the claimant or beneficiary may submit any form of medical documentation specified in paragraph (e) of this section. In all cases, the Program will review submitted medical documentation, and will, in addition and where appropriate, review any pertinent records discovered within the sources identified in paragraphs (b), (c) and (d) of this section.

(b) Where appropriate, the Radiation Exposure Compensation Program will search the records of the PHS (including NIOSH), created or gathered during the course of any health study of uranium workers conducted or being conducted by these agencies, to determine whether those records contain proof of the claimant's medical condition. (In cases where the claimant is deceased, the Program will accept as proof of medical condition the verification of the PHS or NIOSH that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of primary lung cancer.)

(c) If a claimant was diagnosed as having primary lung cancer in Arizona, Colorado, Nevada, New Mexico, Utah, or Wyoming, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information, valid in the state of diagnosis, that authorizes the Radiation Exposure Compensation Program to contact the appropriate state cancer or tumor registry, the Program will, where appropriate, request the relevant information from that registry and will review records that it obtains from the registry. (In cases where the claimant is deceased, the Program will accept as proof of medical condition verification from the state cancer or tumor registry that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of primary lung cancer.)

(d) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant's medical condition is contained in the records of the study, the Program will, where appropriate, request such records from that custodian and will review records that it obtains from the custodian. (In cases where the claimant is deceased, the Program will accept as proof of the claimant's medical condition such medical records or abstracts of medical records containing a verified diagnosis of primary lung cancer.)

(e) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted primary lung cancer. Such documentation will be most useful where it contains an explicit statement of diagnosis or such other information or data from which the appropriate authorities at the National Cancer Institute can make a diagnosis to a reasonable degree of medical certainty:

(1) Pathology report of tissue biopsy, including, but not limited to, specimens obtained by any of the following methods:

(i) Surgical resection;

(ii) Endoscopic endobronchial or transbronchial biopsy;

(iii) Bronchial brushings and washings;

(iv) Pleural fluid cytology;

(v) Fine needle aspirate;

(vi) Pleural biopsy; or

(vii) Sputum cytology;

(2) Autopsy report;

(3) Bronchoscopy report;

(4) One of the following summary medical reports:

(i) Physician summary report;

(ii) Hospital discharge summary report;

(iii) Operative report;

(iv) Radiation therapy summary report; or

(v) Oncology summary or consultation report;

(5) Reports of radiographic studies, including:

(i) X-rays of the chest;

(ii) Chest tomograms;

(iii) Computer-assisted tomography (CT); or

(iv) Magnetic resonance imaging (MRI); or

(6) Death certificate, provided that it is signed by a physician at the time of death.

**§ 79.55 Proof of nonmalignant respiratory disease.**

(a) In determining whether a claimant developed a nonmalignant respiratory disease following pertinent employment as a miller, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed a nonmalignant respiratory disease must be supported by medical documentation. In cases where the claimant is deceased, the claimant's beneficiary may submit any form of medical documentation specified in paragraph (d)(1) of this section, and for proof of cor pulmonale must also submit one or more forms of documentation specified in paragraph (d)(2). A living claimant must at a minimum submit the medical documentation required in paragraph (d)(3) of this section, and for proof of cor pulmonale must also submit one or more forms of documentation specified in paragraph (d)(2). In all cases, the Program will review submitted medical documentation, and will, in addition and where appropriate, review any pertinent records discovered within the sources referred to in paragraphs (b) and (c) of this section. With respect to a deceased claimant, the Program will treat as equivalent to a diagnosis of pulmonary fibrosis any diagnosis of ''restrictive lung disease'' made by a physician employed by the Indian Health Service.

(b) Where appropriate, the Radiation Exposure Compensation Program will search the records of the PHS (including NIOSH), created or gathered during the course of any health study of uranium workers conducted or being conducted by these agencies, to determine whether those records contain proof of the claimant's medical condition. (In cases where the claimant is deceased, the Program will accept as proof of medical condition the verification of the PHS or NIOSH that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of a nonmalignant respiratory disease.)

(c) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant's medical condition is contained in the records of the study, the Program will, where appropriate, request such records from that custodian and will review records that it obtains from the custodian. (In cases where the claimant is deceased, the Program will accept as proof of the claimant's medical condition such medical records or abstracts of medical records containing a verified diagnosis of a nonmalignant respiratory disease.)

(d) (1) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted a nonmalignant respiratory disease, including pulmonary fibrosis, fibrosis of the lung, cor pulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis:

(i) Pathology report of tissue biopsy;

(ii) Autopsy report;

(iii) If an x-ray exists, the x-ray and interpretive reports of the x-ray by a maximum of two NIOSH certified ''B'' readers classifying the existence of disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the ''ILO''), or subsequent revisions;

(iv) If no x-rays exist, an x-ray report;

(v) Physician summary report;

(vi) Hospital discharge summary report;

(vii) Hospital admitting report;

(viii) Death certificate, provided that it is signed by a physician at the time of death; or

(ix) Documentation specified in paragraphs (d)(3)(i) and (d)(3)(ii) of this section.

(2) In order to demonstrate that the claimant developed cor pulmonale related to fibrosis of the lung, the claimant or beneficiary must, at a minimum, submit one or more of the following medical records:

(i) Right heart catheterization;

(ii) Cardiology summary or consultation report;

(iii) Electrocardiogram;

(iv) Echocardiogram;

(v) Physician summary report;

(vi) Hospital discharge summary report;

(vii) Autopsy report;

(viii) Report of physical examination; or

(ix) Death certificate, provided that it is signed by a physician at the time of death.

(3) Notwithstanding any other documentation provided, a living claimant must at a minimum provide the following medical documentation:

(i) Either:

(A) An arterial blood gas study administered at rest in a sitting position, or an exercise arterial blood gas test, reflecting values equal to or less than the values set forth in the tables to appendix B of this part; or

(B) A written diagnosis by a physician in accordance with § 79.51(s); and

(ii) One of the following:

(A) A chest x-ray administered in accordance with standard techniques accompanied by interpretive reports of the x-ray by a maximum of two NIOSH certified ''B'' readers, classifying the existence of disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the ''ILO'') or subsequent revisions;

(B) High-resolution computed tomography scans (commonly known as ''HRCT scans''), including computer-assisted tomography scans (commonly known as ''CAT scans''), magnetic resonance imaging scans (commonly known as ''MRI scans''), and positron emission tomography scans (commonly known as ''PET scans''), and interpretive reports of such scans;

(C) Pathology reports of tissue biopsies; or

(D) Pulmonary function tests indicating restrictive lung function and consisting of three reproducible time/volume tracings recording the results of the forced expiratory volume in one second (FEV1) and the forced vital capacity (FVC) administered and reported in accordance with the Standardization of Spirometry—1994 Update by the American Thoracic Society, and reflecting values for FEV1 or FVC that are less than or equal to the lower limit of normal for an individual of the claimant's age, sex, height, and ethnicity as set forth in the tables in appendix A to this part.

(e) The Assistant Director shall treat any documentation described in paragraph (d)(3)(i)(B) or paragraph (d)(3)(ii)(A) of this section as conclusive evidence of the claimant's nonmalignant respiratory disease; provided, however, that the Program may subject such documentation to a fair and random audit to guarantee its authenticity and reliability for purposes of treating it as conclusive evidence; and provided further that, in order to be treated as conclusive evidence, a written diagnosis described in paragraph (d)(3)(i)(B) must be by a physician who is employed by the Indian Health Service or the Department of Veterans Affairs or who is board certified (as described in

§ 79.51(s)), and who must have a documented, ongoing physician-patient relationship with the claimant. Notwithstanding the conclusive effect given to certain evidence, nothing in this paragraph shall be construed as relieving a living claimant of the obligation to provide the Program with the forms of documentation required under paragraph (d)(3).

**§ 79.56 Proof of primary renal cancer.**

(a) In determining whether a claimant developed primary renal cancer following pertinent employment as a miller, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed primary renal cancer must be supported by medical documentation. In all cases, the Program will review submitted medical documentation, and will, in addition and where appropriate, review any pertinent records discovered within the sources referred to in paragraphs (b) and (c) of this section.

(b) Where appropriate, the Radiation Exposure Compensation Program will search the records of the PHS (including NIOSH), created or gathered during the course of any health study of uranium workers conducted or being conducted by these agencies, to determine whether those records contain proof of the claimant's medical condition. (In cases where the claimant is deceased, the Program will accept as proof of medical condition the verification of the PHS or NIOSH that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of primary renal cancer.)

(c) If a claimant was diagnosed as having primary renal cancer in the State of Arizona, Colorado, Nevada, New Mexico, Utah, or Wyoming, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information, valid in the state of diagnosis, that authorizes the Radiation Exposure Compensation Program to contact the appropriate state cancer or tumor registry, the Program will, where appropriate, request the relevant information from that registry and will review records that it obtains from the registry. (In cases where the claimant is deceased, the Program will accept as proof of medical condition verification from the state cancer or tumor registry that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of primary renal cancer.)

(d) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant's medical condition is contained in the records of the study, the Program will, where appropriate, request such records from that custodian and will review records that it obtains from the custodian. (In cases where the claimant is deceased, the Program will accept as proof of the claimant's medical condition such medical records or abstracts of medical records containing a verified diagnosis of primary renal cancer.)

(e) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted primary renal cancer. Such documentation will be most useful where it contains an explicit statement of diagnosis or such other information or data from which the appropriate authorities at the National Cancer Institute can make a diagnosis to a reasonable degree of medical certainty:

(1) Pathology report of tissue biopsy or resection;

(2) Autopsy report;

(3) One of the following summary medical reports:

(i) Physician summary report;

(ii) Hospital discharge summary report;

(iii) Operative report;

(iv) Radiotherapy summary report; or

(v) Medical oncology summary or consultation report;

(4) Report of one of the following radiology examinations:

(i) Computerized tomography (CT) scan; or

(ii) Magnetic resonance imaging (MRI); or

(5) Death certificate, provided that it is signed by a physician at the time of death.

**§ 79.57 Proof of chronic renal disease.**

(a) In determining whether a claimant developed chronic renal disease following pertinent employment as a miller, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed chronic renal disease must be supported by medical documentation.

(b) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted chronic renal disease.

(1) Pathology report of tissue biopsy;

(2) If laboratory or radiographic tests exist:

(i) Abnormal plasma creatinine values; and

(ii) Abnormal glomerular filtration rate (by either measured creatinine or iothalamate clearance or calculated by MDRD equation); and

(iii) Renal tubular dysfunction as evidenced by:

(A) Glycosuria in the absence of diabetes mellitus;

(B) Proteinuria less than one gram daily without other known etiology; or

(C) Hyperphosphaturia, aminoaciduria, B–2 microglobinuria or alkaline phosphaturia or other marker of proximal tubular injury; or

(iv) Radiographic evidence of chronic renal disease;

(3) Autopsy report;

(4) Physician summary report;

(5) Hospital discharge summary report;

(6) Hospital admitting report; or

(7) Death certificate, provided that it is signed by a physician at the time of death.

## Subpart G—Eligibility Criteria for Claims by Ore Transporters

**§ 79.60 Scope of subpart.**

The regulations in this subpart define the eligibility criteria for compensation under section 5 of the Act pertaining to uranium or vanadium-uranium ore transporters and the nature of evidence that will be accepted as proof that a claimant satisfies such eligibility criteria. Section 5 of the Act provides for a payment of $100,000 to persons who contracted lung cancer, one of a limited number of nonmalignant respiratory diseases, renal cancer, or chronic renal disease, following employment for at least one year as a transporter of uranium ore or vanadium-uranium ore from a uranium mine or uranium mill located in a specified state during the period beginning January 1, 1942, and ending December 31, 1971.

**§ 79.61 Definitions.**

(a) *Chronic renal disease* means the chronic, progressive, and irreversible destruction of the nephron. It is exhibited by diminution of renal function.

(b) *Cor pulmonale* means heart disease, including hypertrophy of the right ventricle, due to pulmonary hypertension secondary to fibrosis of the lung.

(c) *Designated time period* means the period beginning on January 1, 1942, and ending on December 31, 1971.

(d) *Employment as an ore transporter* means employment involving the

transporting or hauling of uranium ore or vanadium-uranium ore from a uranium mine or uranium mill, including the transportation or hauling of ore from an ore buying station, ''upgrader,'' ''concentrator'' facility, or pilot plant by means of truck, rail or barge.

(e) *Employment for at least one year* means employment for a total of at least one year (12 consecutive or cumulative months).

(f) *Fibrosis of the lung* or *pulmonary fibrosis* means chronic inflammation and scarring of the pulmonary interstitium and alveoli with collagen deposition and progressive thickening.

(g) *Kidney tubal (tubular) tissue injury* means structural or functional damage to the kidney tubules that results in renal disease and dysfunction.

(h) *National Institute for Occupational Safety and Health (NIOSH) certified ''B'' reader* means a physician who is certified as such by NIOSH. A list of certified ''B'' readers is available from the Radiation Exposure Compensation Program upon request.

(i) *Nephritis* means an inflammatory process of the kidneys resulting in chronic renal dysfunction.

(j) *Nonmalignant respiratory disease* means fibrosis of the lung, pulmonary fibrosis, cor pulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis.

(k) *Pneumoconiosis* means a chronic lung disease resulting from inhalation and deposition in the lung of particulate matter, and the tissue reaction to the presence of the particulate matter. For the purposes of this Act, the claimant's exposure to the particulate matter that led to the disease must have occurred during employment as an ore transporter.

(l) *Primary lung cancer* means any physiological condition of the lung, trachea, or bronchus that is recognized under that name or nomenclature by the National Cancer Institute. The term includes in situ lung cancers.

(m) *Readily available documentation* means documents in the possession, custody, or control of the claimant or an immediate family member.

(n) *Primary renal cancer* means any physiological condition of the kidneys that is recognized under that name or nomenclature by the National Cancer Institute.

(o) *Silicosis* means a pneumoconiosis due to the inhalation of the dust of stone, sand, flint or other materials containing silicon dioxide, characterized by the formation of pulmonary fibrotic changes.

(p) *Specified state* means Colorado, New Mexico, Arizona, Wyoming, South Dakota, Washington, Utah, Idaho, North Dakota, Oregon, or Texas. Additional states may be included, provided:

(1) A uranium mine was operated in such state at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;

(2) The state submits an application to the Assistant Director (specified in § 79.70(a)) to include such state; and

(3) The Assistant Director makes a determination to include such state.

(q) *Uranium mill* means any milling operation involving the processing of uranium ore or vanadium-uranium ore, including carbonate plants and acid leach plants. The term applies to ore-buying stations where ore was weighed and sampled prior to delivery to a mill for processing; ''upgrader'' or ''concentrator'' facilities located at the mill or at a remote location where uranium or vanadium-uranium ore was processed prior to delivery to a mill; and pilot plants where uranium ore or vanadium-uranium ore was processed.

(r) *Uranium mine* means any underground excavation, including ''dog holes,'' as well as open-pit, strip, rim, surface, or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted.

(s) *Written diagnosis by a physician* means a written determination of the nature of a disease made from a study of the signs and symptoms of a disease that is based on a physical examination of the patient, medical imaging or a chemical, microscopic, microbiologic, immunologic, or pathologic study of physiologic and functional tests, secretions, discharges, blood, or tissue. For purposes of satisfying the requirement of a ''written diagnosis by a physician'' for living claimants specified in § 79.65, a physician submitting a written diagnosis of a nonmalignant respiratory disease must be employed by the Indian Health Service or the Department of Veterans Affairs or be board certified, and must have a documented, ongoing physician-patient relationship with the claimant. An ''ongoing physician-patient relationship'' can include referrals made to specialists from a primary care provider for purposes of diagnosis or treatment. ''Board certification'' requires, in addition to physician licensing, the successful completion of a residency training program and passage of a Board exam in a relevant field or specialty. Relevant specialties include: family practice, internal medicine, pathology, preventive medicine, radiology, surgery, and thoracic surgery (and including subspecialties such as cardiovascular disease, medical oncology, pulmonary disease) as listed by the American Board of Medical Specialties.

### § 79.62 Criteria for eligibility for claims by ore transporters.

To establish eligibility for compensation under this subpart, a claimant or eligible surviving beneficiary of a claimant must establish each of the following:

(a) The claimant was employed as an ore transporter in a specified state;

(b) The claimant was so employed for at least one year (12 consecutive or cumulative months) during the period beginning on January 1, 1942, and ending on December 31, 1971; and

(c) The claimant contracted primary lung cancer, a nonmalignant respiratory disease, primary renal cancer, or chronic renal disease (including nephritis and kidney tubal tissue injury) following at least one year of such employment.

### § 79.63 Proof of employment as an ore transporter.

(a) The Department will accept, as proof of employment for the time period indicated, information contained in any of the following records:

(1) Records created by or gathered by the Public Health Service (PHS) in the course of any health studies of uranium workers during or including the period 1942–1990;

(2) Records of a uranium worker census performed by the PHS at various times during the period 1942–1990;

(3) Records of the Atomic Energy Commission (AEC), or any of its successor agencies; and

(4) Records of federally supported, health-related studies of uranium workers.

(b) The employment history for the time period indicated in such records will be presumed to be correct. If the claimant or eligible surviving beneficiary wishes to contest the accuracy of such records, then the claimant or eligible surviving beneficiary may provide one or more of the records identified in paragraph (c) of this section, and the Assistant Director will determine whether the employment history indicated in the records listed in paragraph (a) of this section is correct.

(c) If the sources in paragraph (a) of this section do not contain information regarding the claimant's ore transporting employment history, do not contain sufficient information to establish employment for at least one year as an ore transporter during the specified time period to qualify under § 79.62(b), or if a claimant or eligible surviving beneficiary wishes to contest the

accuracy of such records, then the claimant or eligible surviving beneficiary may submit records from any of the following sources, which the Assistant Director shall consider (in addition to any sources listed in paragraph (a) of this section) in order to determine whether the claimant has established the requisite employment history:

(1) Records of any of the specified states, including records of state regulatory agencies, containing information on uranium ore transporters and ore-transporting companies;

(2) Records of any business entity that owned or operated an ore-transporting company, or its successor-in-interest;

(3) Records of the Social Security Administration reflecting the identity of the employer, the years and quarters of employment, and the wages received during each quarter;

(4) Federal or state income tax records that contain relevant statements regarding the claimant's employer and wages;

(5) Records containing factual findings by any governmental judicial body, state worker's compensation board, or any governmental administrative body adjudicating the claimant's rights to any type of benefits (which will be accepted only to prove the fact of and duration of employment as an ore transporter);

(6) Statements in medical records created during the period 1942–1971 indicating or identifying the claimant's employer and occupation;

(7) Records of an academic or scholarly study, not conducted in anticipation of or in connection with any litigation, and completed prior to 1990; or

(8) Any other contemporaneous record that indicates or identifies the claimant's occupation or employer.

(d) To the extent that the documents submitted from the sources identified in this section do not so indicate, the claimant or eligible surviving beneficiary must set forth under oath on the standard claim form the following information, if known:

(1) The name or other identifying symbol of each employer for which the claimant worked during the time period identified in the documents;

(2) The name of each mine or mill from which uranium or uranium-vanadium ore was transported;

(3) The county and state in which each mine or mill was located;

(4) The actual time period the claimant worked as an ore transporter; and

(5) The method of transportation used to transport the ore.

(e) The Program may, for the purpose of verifying information submitted pursuant to this section, require the claimant or any eligible surviving beneficiary to provide an authorization to release any record identified in this section, in accordance with the provisions of § 79.72(c).

(f) In determining whether a claimant satisfies the employment criteria of the Act, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. If the Assistant Director concludes that the claimant has not satisfied the employment requirements of the Act, the claimant or eligible surviving beneficiary will be notified and afforded the opportunity, in accordance with the provisions of § 79.72(c), to submit additional records to establish that the statutory employment criteria are satisfied.

**§ 79.64 Proof of primary lung cancer.**

(a) In determining whether a claimant developed primary lung cancer following pertinent employment as an ore transporter, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed primary lung cancer must be supported by medical documentation. To prove that a claimant developed primary lung cancer, the claimant or beneficiary may submit any form of medical documentation specified in paragraph (e) of this section. In all cases, the Program will review submitted medical documentation, and will, in addition and where appropriate, review any pertinent records discovered within the sources identified in paragraphs (b), (c), and (d) of this section.

(b) Where appropriate, the Radiation Exposure Compensation Program will search the records of the PHS (including NIOSH), created or gathered during the course of any health study of uranium workers conducted or being conducted by these agencies, to determine whether those records contain proof of the claimant's medical condition. (In cases where the claimant is deceased, the Program will accept as proof of medical condition the verification of the PHS or NIOSH that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of primary lung cancer.)

(c) If a claimant was diagnosed as having primary lung cancer in Arizona, Colorado, Nevada, New Mexico, Utah or Wyoming, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information, valid in the state of diagnosis, that authorizes the Radiation Exposure Compensation Program to contact the appropriate state cancer or tumor registry, the Program will, where appropriate, request the relevant information from that registry and will review records that it obtains from the registry. (In cases where the claimant is deceased, the Program will accept as proof of medical condition verification from the state cancer or tumor registry that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of primary lung cancer.)

(d) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant's medical condition is contained in the records of the study, the Program will, where appropriate, request such records from that custodian and will review records that it obtains from the custodian. (In cases where the claimant is deceased, the Program will accept as proof of the claimant's medical condition such medical records or abstracts of medical records containing a verified diagnosis of primary lung cancer.)

(e) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted lung cancer. Such documentation will be most useful where it contains an explicit statement of diagnosis or such other information or data from which the appropriate authorities at the National Cancer Institute can make a diagnosis to a reasonable degree of medical certainty:

(1) Pathology report of tissue biopsy, including, but not limited to, specimens obtained by any of the following methods:

(i) Surgical resection;

(ii) Endoscopic endobronchial or transbronchial biopsy;

(iii) Bronchial brushings and washings;

(iv) Pleural fluid cytology;

(v) Fine needle aspirate;

(vi) Pleural biopsy; or

(vii) Sputum cytology;

(2) Autopsy report;

(3) Bronchoscopy report;

(4) One of the following summary medical reports:

(i) Physician summary report;

(ii) Hospital discharge summary report;

(iii) Operative report;

(iv) Radiation therapy summary report; or

(v) Oncology summary or consultation report;

(5) Reports of radiographic studies, including:

(i) X-rays of the chest;

(ii) Chest tomograms;

(iii) Computer-assisted tomography (CT); or

(iv) Magnetic resonance imaging (MRI); or

(6) Death certificate, provided that it is signed by a physician at the time of death.

**§ 79.65 Proof of nonmalignant respiratory disease.**

(a) In determining whether a claimant developed a nonmalignant respiratory disease following pertinent employment as an ore transporter, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed a nonmalignant respiratory disease must be supported by medical documentation. In cases where the claimant is deceased, the claimant's beneficiary may submit any form of medical documentation specified in paragraph (d)(1) of this section, and for proof of cor pulmonale must also submit one or more forms of documentation specified in paragraph (d)(2). A living claimant must at a minimum submit the medical documentation required in paragraph (d)(3) of this section, and for proof of cor pulmonale must also submit one or more forms of documentation specified in paragraph (d)(2). In all cases, the Program will review submitted medical documentation, and will, in addition and where appropriate, review any pertinent records discovered within the sources referred to in paragraphs (b) and (c) of this section. With respect to a deceased claimant, the Program will treat as equivalent to a diagnosis of pulmonary fibrosis any diagnosis of ''restrictive lung disease'' made by a physician employed by the Indian Health Service.

(b) Where appropriate, the Radiation Exposure Compensation Program will search the records of the PHS (including NIOSH), created or gathered during the course of any health study of uranium workers conducted or being conducted by these agencies, to determine whether those records contain proof of the claimant's medical condition. (In cases where the claimant is deceased, the Program will accept as proof of medical condition the verification of the PHS or NIOSH that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of a nonmalignant respiratory disease.)

(c) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant's medical condition is contained in the records of the study, the Program will, where appropriate, request such records from that custodian and will review records that it obtains from the custodian. (In cases where the claimant is deceased, the Program will accept as proof of the claimant's medical condition such medical records or abstracts of medical records containing a verified diagnosis of a nonmalignant respiratory disease.)

(d)(1) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted a nonmalignant respiratory disease, including pulmonary fibrosis, fibrosis of the lung, cor pulmonale related to fibrosis of the lung, silicosis and pneumoconiosis:

(i) Pathology report of tissue biopsy;

(ii) Autopsy report;

(iii) If an x-ray exists, the x-ray and interpretive reports of the x-ray by a maximum of two NIOSH certified ''B'' readers classifying the existence of disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the ''ILO''), or subsequent revisions;

(iv) If no x-rays exist, an x-ray report;

(v) Physician summary report;

(vi) Hospital discharge summary report;

(vii) Hospital admitting report;

(viii) Death certificate, provided that it is signed by a physician at the time of death; or

(ix) Documentation specified in paragraphs (d)(3)(i) and (d)(3)(ii) of this section.

(2) In order to demonstrate that the claimant developed cor pulmonale related to fibrosis of the lung, the claimant or beneficiary must, at a minimum, submit one or more of the following medical records:

(i) Right heart catheterization;

(ii) Cardiology summary or consultation report;

(iii) Electrocardiogram;

(iv) Echocardiogram;

(v) Physician summary report;

(vi) Hospital discharge summary report;

(vii) Autopsy report;

(viii) Report of physical examination; or

(ix) Death certificate, provided that it is signed by a physician at the time of death.

(3) Notwithstanding any other documentation provided, a living claimant must at a minimum provide the following medical documentation:

(i) Either:

(A) An arterial blood gas study administered at rest in a sitting position, or an exercise arterial blood gas test, reflecting values equal to or less than the values set forth in the tables in appendix B to this part; or

(B) A written diagnosis by a physician in accordance with § 79.61(s); and

(ii) One of the following:

(A) A chest x-ray administered in accordance with standard techniques accompanied by interpretive reports of the x-ray by a maximum of two NIOSH certified ''B'' readers, classifying the existence of disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the ''ILO''), or subsequent revisions;

(B) High-resolution computed tomography scans (commonly known as ''HRCT scans''), including computer-assisted tomography scans (commonly known as ''CAT scans''), magnetic resonance imaging scans (commonly known as ''MRI scans''), and positron emission tomography scans (commonly known as ''PET scans''), and interpretive reports of such scans;

(C) Pathology reports of tissue biopsies; or

(D) Pulmonary function tests indicating restrictive lung function and consisting of three reproducible time/volume tracings recording the results of the forced expiratory volume in one second (FEV1) and the forced vital capacity (FVC) administered and reported in accordance with the Standardization of Spirometry—1994 Update by the American Thoracic Society, and reflecting values for FEV1 or FVC that are less than or equal to the lower limit of normal for an individual of the claimant's age, sex, height, and ethnicity as set forth in the tables in appendix A to this part.

(e) The Assistant Director shall treat any documentation described in paragraph (d)(3)(i)(B) or paragraph (d)(3)(ii)(A) of this section as conclusive evidence of the claimant's nonmalignant respiratory disease; provided, however, that the Program may subject such documentation to a fair and random audit to guarantee its authenticity and reliability for purposes of treating it as conclusive evidence; and provided further that, in order to be treated as

conclusive evidence, a written diagnosis described in paragraph (d)(3)(i)(B) must be by a physician who is employed by the Indian Health Service or the Department of Veterans Affairs or who is board certified (as described in § 79.61(s)), and who must have a documented, ongoing physician-patient relationship with the claimant. Notwithstanding the conclusive effect given to certain evidence, nothing in this paragraph shall be construed as relieving a living claimant of the obligation to provide the Program with the forms of documentation required under paragraph (d)(3).

**§ 79.66 Proof of primary renal cancer.**

(a) In determining whether a claimant developed primary renal cancer following pertinent employment as an ore transporter, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed primary renal cancer must be supported by medical documentation. In all cases, the Program will review submitted medical documentation, and, in addition and where appropriate, will review any pertinent records discovered within the sources referred to in paragraphs (b) and (c) of this section.

(b) Where appropriate, the Radiation Exposure Compensation Program will search the records of the PHS (including NIOSH), created or gathered during the course of any health study of uranium workers conducted or being conducted by these agencies, to determine whether those records contain proof of the claimant's medical condition. (In cases where the claimant is deceased, the Program will accept as proof of medical condition the verification of the PHS or NIOSH that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of primary renal cancer.)

(c) If a claimant was diagnosed as having primary renal cancer in Arizona, Colorado, Nevada, New Mexico, Utah or Wyoming, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information, valid in the state of diagnosis, that authorizes the Radiation Exposure Compensation Program to contact the appropriate state cancer or tumor registry, the Program will, where appropriate, request the relevant information from that registry and will review records that it obtains from the registry. (In cases where the claimant is deceased, the Program will accept as proof of medical condition verification from the state cancer or tumor registry that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of primary renal cancer.)

(d) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant's medical condition is contained in the records of the study, the Program will, where appropriate, request such records from that custodian and will review records that it obtains from the custodian. (In cases where the claimant is deceased, the Program will accept as proof of the claimant's medical condition such medical records or abstracts of medical records containing a verified diagnosis of primary renal cancer.)

(e) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted primary renal cancer. Such documentation will be most useful where it contains an explicit statement of diagnosis or such other information or data from which the appropriate authorities at the National Cancer Institute can make a diagnosis to a reasonable degree of medical certainty:

(1) Pathology report of tissue biopsy or resection;

(2) Autopsy report;

(3) One of the following summary medical reports:

(i) Physician summary report;

(ii) Hospital discharge summary report;

(iii) Operative report;

(iv) Radiotherapy summary report; or

(v) Medical oncology summary or consultation report;

(4) Report of one of the following radiology examinations:

(i) Computerized tomography (CT) scan;

(ii) Magnetic resonance imaging (MRI); or

(5) Death certificate, provided that it is signed by a physician at the time of death.

**§ 79.67 Proof of chronic renal disease.**

(a) In determining whether a claimant developed chronic renal disease following pertinent employment as an ore transporter, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed chronic renal disease must be supported by medical documentation.

(b) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted chronic renal disease.

(1) Pathology report of tissue biopsy;

(2) If laboratory or radiographic tests exist:

(i) Abnormal plasma creatinine values;

(ii) Abnormal glomerular filtration rate (by either measured creatinine or iothalamate clearance or calculated by MDRD equation); and

(iii) Renal tubular dysfunction as evidenced by:

(A) Glycosuria in the absence of diabetes mellitus;

(B) Proteinuria less than one gram daily without other known etiology; or

(C) Hyperphosphaturia, aminoaciduria, B–2 microglobinuria or alkaline phosphaturia or other marker of proximal tubular injury; or

(iv) Radiographic evidence of chronic renal disease;

(3) Autopsy report;

(4) Physician summary report;

(5) Hospital discharge summary report;

(6) Hospital admitting report; or

(7) Death certificate, provided that it is signed by a physician at the time of death.

## Subpart H—Procedures

**§ 79.70 Attorney General's delegation of authority.**

(a) An Assistant Director within the Constitutional and Specialized Torts Staff, Torts Branch, Civil Division, shall be assigned to manage the Radiation Exposure Compensation Program and issue a decision on each claim filed under the Act, and otherwise act on behalf of the Attorney General in all other matters relating to the administration of the Program, except for rulemaking authority. The Assistant Director may delegate any of his or her responsibilities under the regulations in this part to an attorney working under the supervision of the Assistant Director.

(b) The Assistant Attorney General, Civil Division, shall designate an Appeals Officer to act on appeals from the Assistant Director's decisions.

**§ 79.71 Filing of claims.**

(a) All claims for compensation under the Act must be in writing and submitted on a standard claim form designated by the Assistant Director for the filing of compensation claims. Except as specifically provided in this part, the claimant or eligible surviving beneficiary must furnish the medical

documentation required by this part with his or her standard form. Except as specifically provided in this part, the claimant or eligible surviving beneficiary must also provide with the standard form any records establishing the claimant's physical presence in an affected area, onsite participation, employment in a uranium mine or mill, or employment as an ore transporter, in accordance with this part. The standard claim form must be completed, signed under oath either by a person eligible to file a claim under the Act or by that person's legal guardian, and mailed with supporting documentation to the following address: Radiation Exposure Compensation Program, U.S. Department of Justice, P.O. Box 146, Ben Franklin Station, Washington, DC 20044–0146. Copies of the standard form, as well as the regulations, guidelines, and other information, may be obtained by requesting the document or publications from the Assistant Director at that address or by accessing the Program's Web site at *http://www.usdoj.gov/civil/reca.*

(b) The Assistant Director will file a claim after receipt of the standard form with supporting documentation and examination for substantial compliance with this part. The date of filing shall be recorded by a stamp on the face of the standard form. The Assistant Director shall file only claims that substantially comply with paragraph (a) of this section. If a claim substantially fails to comply with paragraph (a), the Assistant Director shall promptly return the claim unfiled to the sender with a statement identifying the reason(s) why the claim does not comply with this part. The sender may return the claim to the Assistant Director after correcting the deficiencies. For those cases that are filed, the Assistant Director shall promptly acknowledge receipt of the claim with a letter identifying the number assigned to the claim, the date the claim was filed, and the period within which the Assistant Director must act on the claim.

(c) The following persons or their legal guardians are eligible to file claims for compensation under the Act in the following order:

(1) The claimant;

(2) If the claimant is deceased, the spouse of the claimant, provided that he or she was married to the claimant for at least one year immediately prior to the claimant's death;

(3) If there is no surviving spouse or if the spouse is ineligible because he or she was not married to the claimant for at least one year immediately prior to the claimant's death, a child of the claimant;

(4) If there is no eligible surviving spouse and no child, a parent of the claimant;

(5) If there is no eligible surviving spouse and no child or parent, a grandchild of the claimant; or

(6) If there is no eligible surviving spouse and no child, parent or grandchild, a grandparent of the claimant.

(7) Only the beneficiaries listed in this paragraph (c) are eligible to file a claim on behalf of the claimant.

(d) The identity of the claimant must be established by submitting a birth certificate or one of the other documents identified in § 79.14(a) when the person has no birth certificate. Additionally, documentation demonstrating any and all name changes must be provided.

(e)(1) The spouse of a claimant must establish his or her eligibility to file a claim by furnishing:

(i) His or her birth certificate and, if applicable, documentation demonstrating any and all name changes;

(ii) The birth and death certificates of the claimant;

(iii) One of the following documents to establish a marriage to the claimant:

(A) The public record of marriage;

(B) A certificate of marriage;

(C) The religious record of marriage; or

(D) A judicial or other governmental determination that a valid marriage existed, such as the final opinion or order of a probate court or a determination of the Social Security Administration that the person filing the claim is the spouse of the decedent;

(iv) A death certificate or divorce decree for each spouse of the claimant (if applicable); and

(v) An affidavit (or declaration under oath on the standard claim form) stating that the spouse was married to the claimant for at least one year immediately prior to the claimant's death.

(2) If the spouse is a member of an Indian Tribe, he or she need not provide any of the documents listed in paragraph (e)(1) of this section at the time the claim is filed (although these records may later be required), but should instead furnish a signed release of private information that the Assistant Director will use to obtain a statement of verification of all of the information listed in paragraph (e)(1) directly from the tribal records custodian. In identifying those individuals eligible to receive compensation by virtue of marriage, relationship, or survivorship, the Assistant Director shall, to the maximum extent practicable, take into consideration and give effect to established law, tradition, and custom of the particular affected Indian Tribe.

(f)(1) A child of a claimant must establish his or her eligibility to file a claim by furnishing:

(i) His or her birth certificate and, if applicable, documentation demonstrating any and all name changes;

(ii) The birth and death certificates of the claimant;

(iii) One of the documents listed in paragraph (e)(1)(iii) of this section to establish each marriage of the claimant (if applicable);

(iv) A death certificate or divorce decree for each spouse of the claimant (if applicable);

(v) A death certificate for each of the other children of the claimant (if applicable);

(vi) An affidavit (or declaration under oath on the standard claim form) stating the following:

(A) That the claimant was never married, or, if the claimant was ever married, the name of each spouse, the date each marriage began and ended, and the date and place of divorce or death of the last spouse of the claimant; and

(B) That the claimant had no other children, or, if the claimant did have other children, the name of each child, the date and place of birth of each child, and the date and place of death or current address of each child; and

(vii) One of the following:

(A) In the case of a natural child, a birth certificate showing that the claimant was the child's parent, or a judicial decree identifying the claimant as the child's parent;

(B) In the case of an adopted child, the judicial decree of adoption; or

(C) In the case of a stepchild, evidence of birth to the spouse of the claimant as outlined in paragraph (f)(1)(vii) of this section, and records reflecting that the stepchild lived with the claimant in a regular parent-child relationship.

(2) If the child is a member of an Indian Tribe, he or she need not provide any of the documents listed in paragraph (f)(1) of this section at the time the claim is filed (although these records may later be required), but should instead furnish a signed release of private information that the Assistant Director will use to obtain a statement of verification of all of the information listed in paragraph (f)(1) directly from the tribal records custodian. In identifying those individuals eligible to receive compensation by virtue of survivorship, the Assistant Director shall, to the maximum extent practicable, take into consideration and give effect to established law, tradition,

and custom of the particular affected Indian Tribe.

(g)(1) A parent of a claimant must establish his or her eligibility to file a claim by furnishing:

(i) His or her birth certificate and, if applicable, documentation demonstrating any and all name changes;

(ii) The birth and death certificates of the claimant;

(iii) One of the documents listed in paragraph (e)(1)(iii) of this section to establish each marriage of the claimant (if applicable);

(iv) A death certificate or divorce decree for each spouse of the claimant (if applicable);

(v) A death certificate for each child of the claimant (if applicable);

(vi) A death certificate for the other parent(s) (if applicable);

(vii) An affidavit (or declaration under oath on the standard claim form) stating the following:

(A) That the claimant was never married, or, if the claimant was ever married, the name of each spouse, the date each marriage began and ended, and the date and place of divorce or death of the last spouse of the claimant;

(B) That the claimant had no children, or, if the claimant did have children, the name of each child, the date and place of birth of each child, and the date and place of death of each child; and

(C) The name and address, or date and place of death, of the other parent(s) of the claimant; and

(viii) One of the following:

(A) In the case of a natural parent, a birth certificate showing that the claimant was the parent's child, or a judicial decree identifying the claimant as the parent's child; or

(B) In the case of an adoptive parent, the judicial decree of adoption.

(2) If the parent is a member of an Indian Tribe, he or she need not provide any of the documents listed in paragraph (g)(1) of this section at the time the claim is filed (although these records may later be required), but should instead furnish a signed release of private information that the Assistant Director will use to obtain a statement of verification of all of the information listed in paragraph (g)(1) directly from the tribal records custodian. In identifying those individuals eligible to receive compensation by virtue of survivorship, the Assistant Director shall, to the maximum extent practicable, take into consideration and give effect to established law, tradition, and custom of the particular affected Indian Tribe.

(h)(1) A grandchild of a claimant must establish his or her eligibility to file a claim by furnishing:

(i) His or her birth certificate and, if applicable, documentation demonstrating any and all name changes;

(ii) The birth and death certificates of the claimant;

(iii) One of the documents listed in paragraph (e)(1)(iii) of this section to establish each marriage of the claimant (if applicable);

(iv) A death certificate or divorce decree for each spouse of the claimant (if applicable);

(v) A death certificate for each child of the claimant;

(vi) A death certificate for each parent of the claimant;

(vii) A death certificate for each of the other grandchildren of the claimant (if applicable);

(viii) An affidavit (or declaration under oath on the standard claim form) stating the following:

(A) That the claimant was never married, or, if the claimant was ever married, the name of each spouse, the date each marriage began and ended, and the date and place of divorce or death of the last spouse of the claimant;

(B) The name of each child, the date and place of birth of each child, and the date and place of death of each child;

(C) The names of each parent of the claimant together with the dates and places of death of each parent; and

(D) That the claimant had no other grandchildren, or, if the claimant did have other grandchildren, the name of each grandchild, the date and place of birth of each grandchild, and the date and place of death or current address of each grandchild; and

(ix) One of the following:

(A) In the case of a natural grandchild, a combination of birth certificates showing that the claimant was the grandchild's grandparent;

(B) In the case of an adopted grandchild, a combination of judicial records and birth certificates showing that the claimant was the grandchild's grandparent; or

(C) In the case of a stepgrandchild, evidence of birth to the spouse of the child of the claimant, as outlined in this paragraph (h)(1), and records reflecting that the stepchild lived with a child of the claimant in a regular parent-child relationship; or evidence of birth to the spouse of the stepchild of the claimant or the stepchild of the claimant, as outlined in this paragraph (h)(1), and records reflecting that the stepchild of the claimant lived with the claimant in a regular parent-child relationship.

(2) If the grandchild is a member of an Indian Tribe, he or she need not provide any of the documents listed in paragraph (h)(1) of this section at the time the claim is filed (although these records may later be required), but should instead furnish a signed release of private information that the Assistant Director will use to obtain a statement of verification of all of the information listed in paragraph (h)(1) directly from the tribal records custodian. In identifying those individuals eligible to receive compensation by virtue of survivorship, the Assistant Director shall, to the maximum extent practicable, take into consideration and give effect to established law, tradition, and custom of the particular affected Indian Tribe.

(i)(1) A grandparent of the claimant must establish his or her eligibility to file a claim by furnishing:

(i) His or her birth certificate and, if applicable, documentation demonstrating any and all name changes;

(ii) The birth and death certificates of the claimant;

(iii) One of the documents listed in paragraph (e)(1)(iii) of this section to establish each marriage of the claimant (if applicable);

(iv) A death certificate or divorce decree for each spouse of the claimant (if applicable);

(v) A death certificate for each child of the claimant (if applicable);

(vi) A death certificate for each parent of the claimant;

(vii) A death certificate for each grandchild of the claimant (if applicable);

(viii) A death certificate for each of the other grandparents of the claimant (if applicable);

(ix) An affidavit stating the following:

(A) That the claimant was never married, or if the claimant was ever married, the name of each spouse, the date each marriage began and ended, and the date and place of divorce or death of the last spouse of the claimant;

(B) That the claimant had no children, or, if the claimant did have children, the name of each child, the date and place of birth of each child, and the date and place of death of each child;

(C) The names of each parent of the claimant together with the dates and places of death of each parent;

(D) That the claimant had no grandchildren, or, if the claimant did have grandchildren, the name of each grandchild, the date and place of birth of each grandchild, and the date and place of death of each grandchild; and

(E) The names of all other grandparents of the claimant together with the dates and places of birth of each grandparent, and the dates and places of death of each other

grandparent or the current address of each other grandparent; and

(x) One of the following:

(A) In the case of a natural grandparent, a combination of birth certificates showing that the claimant was the grandparent's grandchild;

(B) In the case of an adoptive grandparent, a combination of judicial records and birth certificates showing that the claimant was the grandparent's grandchild.

(2) If the grandparent is a member of an Indian Tribe, he or she need not provide any of the documents listed in paragraph (i)(1) of this section at the time the claim is filed (although these records may later be required), but should instead furnish a signed release of private information that the Assistant Director will use to obtain a statement of verification of all of the information listed in paragraph (i)(1) directly from the tribal records custodian. In identifying those individuals eligible to receive compensation by virtue of survivorship, the Assistant Director shall, to the maximum extent practicable, take into consideration and give effect to established law, tradition, and custom of the particular affected Indian Tribe.

(j) A claim that was filed and denied may be filed again in those cases where the claimant or eligible surviving beneficiary obtains documentation that he or she did not possess when the claim was filed previously and that redresses the deficiency for which the claim was denied, including, where applicable, documentation addressing:

(1) An injury specified in the Act;

(2) Residency in the affected area;

(3) Onsite participation in a nuclear test;

(4) Exposure to 40 WLMs of radiation while employed in a uranium mine or mines during the designated time period;

(5) Employment for one year (12 consecutive or cumulative months) as a miner, miller or ore transporter; or

(6) The identity of the claimant and/or the eligible surviving beneficiary.

(k) A claimant or eligible surviving beneficiary may not refile a claim more than three times. Claims filed prior to July 10, 2000, will not be included in determining the number of claims filed.

**§ 79.72 Review and resolution of claims.**

(a) *Initial review.* The Assistant Director shall conduct an initial review of each claim that has been filed to determine whether:

(1) The person submitting the claim represents that he or she is an eligible surviving beneficiary in those cases where the claimant is deceased;

(2) The medical condition identified in the claim is a disease specified in the Act for which the claimant or eligible surviving beneficiary could recover compensation;

(3) For claims submitted under subparts B and C of this part, as relevant, the period and place of physical presence set forth in the claim falls within the designated time period and affected areas identified in § 79.11;

(4) For claims submitted under subparts B and D of this part, as relevant, the place and period of onsite participation set forth in the claim falls within the places and times set forth in § 79.11 and § 79.31; and

(5) For claims submitted under subparts E, F, and G of this part, the period and place of uranium mining, mill working or ore transporting set forth in the claim falls within the designated time period and specified states identified in §§ 79.41, 79.51, and 79.61. If the Assistant Director determines from the initial review that any one of the applicable criteria is not met, or that any other criterion of this part is not met, the Assistant Director shall so advise the claimant or eligible surviving beneficiary in writing, setting forth the reasons for the determination, and allow the claimant or eligible surviving beneficiary 60-days from the date of such notification to correct any deficiency in the claim. If the claimant or eligible surviving beneficiary fails adequately to correct the deficiencies within the 60-day period, the Assistant Director shall, without further review, issue a Decision denying the claim.

(b) *Review of medical documentation.* The Assistant Director will examine the medical documentation submitted in support of the claim and determine whether it satisfies the criteria for eligibility established by the Act and this part. The Assistant Director may, for the purpose of verifying eligibility, require the claimant or eligible surviving beneficiary to provide an authorization to release any medical record identified in this part. If the Assistant Director determines that the documentation does not satisfy the criteria for eligibility established by the Act and this part, the Assistant Director shall so advise the claimant or eligible surviving beneficiary in writing, setting forth the reason(s) for the determination, and shall allow the claimant or eligible beneficiary 60 days from the date of notification, or such greater period as the Assistant Director permits, to furnish additional medical documentation that meets the requirements of the Act and this part. Where appropriate, the Assistant Director may require the claimant or eligible surviving beneficiary to provide an authorization to release additional records. If the claimant or eligible beneficiary fails, within 60 days or the greater period approved by the Assistant Director, to provide sufficient medical documentation or a valid release when requested by the Assistant Director, then the Assistant Director shall, without further review, issue a Decision denying the claim.

(c) *Review of the records.* The Assistant Director will examine the other records submitted in support of the claim to prove those matters set forth in all other sections of the Act and this part, and will determine whether such records satisfy all other criteria for eligibility. For the purposes of verifying such eligibility, the Assistant Director may require the claimant or eligible surviving beneficiary to provide an authorization to release any record identified in this part. If the Assistant Director determines that the records do not satisfy the criteria for eligibility established by the Act and this part, the Assistant Director shall so advise the claimant or eligible surviving beneficiary in writing, setting forth the reasons for the determination, and shall provide the claimant or eligible surviving beneficiary 60 days from the date of notification, or such greater period as the Assistant Director permits, to furnish additional records to satisfy the requirements of the Act and this part. Where appropriate, the Assistant Director may require the claimant or eligible surviving beneficiary to provide an authorization to release additional records as an alternative to, or in addition to, the claimant or eligible beneficiary furnishing such additional records. If the claimant or eligible beneficiary fails within 60 days or the greater period approved by the Assistant Director, to provide sufficient records or a valid release when requested by the Assistant Director, then the Assistant Director shall, without further review, issue a Decision denying the claim.

(d) *Decision.* The Assistant Director shall review each claim and issue a written Decision on each claim within 12 months of the date the claim was filed. The Assistant Director may request from any claimant, or from any individual or entity on behalf of the claimant, any relevant additional information or documentation necessary to complete the determination of eligibility under paragraphs (a), (b), or (c) of this section. The period beginning on the date on which the Assistant Director makes a request for such additional information or documentation and ending on the date on which the claimant or individual or

entity acting on behalf of the claimant submits that information or documentation (or informs the Assistant Director that it is not possible to provide that information or that the claimant or individual or entity will not provide that information) shall not apply to the 12-month period. Any Decision denying a claim shall set forth reason(s) for the denial, shall indicate that the Decision of the Assistant Director may be appealed to the Assistant Attorney General, Civil Division, in writing within 60 days of the date of the Decision, or such greater period as may be permitted by the Assistant Attorney General, Civil Division, and shall identify the address to which the appeal should be sent.

**§ 79.73 Appeals procedures.**

(a) An appeal must be in writing and must be received by the Radiation Exposure Compensation Program within 60 days of the date of the Decision denying the claim, unless a greater period has been permitted. Appeals must be sent to the following address: Radiation Exposure Compensation Program, Appeal of Decision, U.S. Department of Justice, P.O. Box 146, Ben Franklin Station, Washington, DC 20044–0146.

(b) The claimant or eligible surviving beneficiary must set forth in the appeal the reason(s) why he or she believes that the Decision of the Assistant Director is incorrect.

(c) Upon receipt of an appeal, the Radiation Exposure Compensation Program shall forward the appeal, the Decision, the claim, and all supporting documentation to the Appeals Officer for action on the appeal. If the appeal is not received within the 60-day period, or such greater period as may be permitted, the appeal may be denied without further review.

(d) The Appeals Officer shall review any appeal and other information forwarded by the Program. Within 90 days after the receipt of an appeal, the Appeals Officer shall issue a Memorandum either affirming or reversing the Assistant Director's Decision or, when appropriate, remanding the claim to the Assistant Director for further action. The Memorandum shall include a statement of the reason(s) for such reversal, affirmance, or remand. The Memorandum and all papers relating to the claim shall be returned to the Radiation Exposure Compensation Program, which shall promptly inform the claimant or eligible surviving beneficiary of the action of the Appeals Officer. A Memorandum affirming or reversing the Assistant Director's Decision shall be deemed to be the final action of the Department of Justice on the claim.

(e) Before seeking judicial review of a decision denying a claim under the Act, an individual must first seek review by the designated Appeals Officer. Once the appeals procedures are completed, an individual whose claim for compensation under the Act is affirmed on appeal may seek judicial review in a district court of the United States.

**§ 79.74 Representatives and attorney's fees.**

(a) *Representation.* In submitting and presenting a claim to the Program, a claimant or beneficiary may, but need not, be represented by an attorney or by a representative of an Indian Tribe or tribal organization. Non-attorneys (other than representatives of an Indian Tribe or tribal organization) are not permitted to represent claimants or beneficiaries before the Program. To the extent that resources are available, the Assistant Director will provide assistance to all persons who file claims for compensation. Only qualified attorneys, as described in paragraph (c) of this section, may receive from a claimant or beneficiary any fee in connection with a successful claim.

(b) *Fees.* (1) Notwithstanding any contract, the attorney of a claimant or beneficiary, along with any assistants or experts retained by the attorney on behalf of the claimant or beneficiary, may not receive from a claimant or beneficiary any fee for services rendered, including costs incurred, in connection with an unsuccessful claim.

(2) Notwithstanding any contract and except as provided in paragraph (b)(3) of this section, the attorney of a claimant or beneficiary, along with any assistants or experts retained by the attorney on behalf of the claimant or beneficiary, may receive from a claimant or beneficiary no more than 2% of the total award for all services rendered, including costs incurred, in connection with a successful claim.

(3)(i) If an attorney entered into a contract with the claimant or beneficiary for services before July 10, 2000, with respect to a particular claim, then that attorney may receive up to 10% of the total award for services rendered, including costs incurred, in connection with a successful claim.

(ii) If an attorney resubmits a previously denied claim, then that attorney may receive up to 10% of the total award to the claimant or beneficiary for services rendered, including costs incurred, in connection with that subsequently successful claim. Resubmission of a previously denied claim includes only those claims that were previously denied and refiled under the Act.

(4) Any violation of paragraph (b) of this section shall result in a fine of not more than $5,000.

(c) *Attorney qualifications.* An attorney may not represent a claimant or beneficiary unless the attorney is engaged in the private practice of law and an active member in good standing of the bar of the highest court of a state. Attorneys who are members of multiple state bars, and who are suspended, sanctioned, disbarred, or disqualified from the practice of law for professional misconduct in one state may not represent a claimant or beneficiary even though the attorney continues to remain in good standing of the bar of another state. If a claimant or beneficiary is represented by an attorney, then the attorney must submit the following documents to the Program along with the claim:

(1) A statement of the attorney's active membership in good standing of the bar of the highest court of a state; and

(2) A signed representation agreement, retainer agreement, fee agreement, or contract, documenting the attorney's authorization to represent the claimant or beneficiary. The document must acknowledge that the Act's fee limitations are satisfied.

**§ 79.75 Procedures for payment of claims.**

(a) All awards for compensation are made in the form of one time lump sum payments and shall be made to the claimant or to the legal guardian of the claimant, unless the claimant is deceased at the time of the payment. In cases involving a claimant who is deceased, payment shall be made to each eligible surviving beneficiary or to the legal guardian acting on his or her behalf, in accordance with the terms and conditions specified in the Act. Once the Program has received the claimant's or eligible surviving beneficiary's election to accept the payment, the Assistant Director shall ensure that the claim is paid within six weeks. All time frames for processing claims under the Act are suspended during periods when the Radiation Trust Fund is not funded.

(b) In cases involving the approval of a claim, the Assistant Director shall take all necessary and appropriate steps to determine the correct amount of any offset to be made to the amount awarded under the Act and to verify the identity of the claimant or, in the case of a deceased claimant, the existence of eligible surviving beneficiaries who are entitled by the Act to receive the payment the claimant would have

received. The Assistant Director may conduct any investigation, and may require any claimant or eligible surviving beneficiary to provide or execute any affidavit, record, or document or authorize the release of any information the Assistant Director deems necessary to ensure that the compensation payment is made in the correct amount and to the correct person(s). If the claimant or eligible surviving beneficiary fails or refuses to execute an affidavit or release of information, or to provide a record or document requested, or fails to provide access to information, such failure or refusal may be deemed to be a rejection of the payment, unless the claimant or eligible surviving beneficiary does not have and cannot obtain the legal authority to provide, release or authorize access to the required information, records or documents.

(c) Prior to authorizing payment, the Assistant Director shall require the claimant or each eligible surviving beneficiary to execute and provide an affidavit (or declaration under oath on the standard claim form) setting forth the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by the claimant on account of:

(1) Exposure to radiation from an atmospheric detonation of a nuclear device while present in an affected area (as defined in § 79.11(a)) at any time during the periods described in § 79.11(c) or § 79.11(h);

(2) Exposure to radiation while participating onsite in an atmospheric detonation of a nuclear device (as defined in § 79.11(b)) at any time during the periods described in § 79.11(h) (This paragraph (c) only applies to claims filed under section 4(a)(1)(A)(i)(III) of the Act); or

(3) Exposure to radiation during employment in a uranium mine at any time during the period described in section 5 of the Act. For purposes of this paragraph, a ''claim'' includes, but is not limited to, any request or demand for money made or sought in a civil action or made or sought in anticipation of the filing of a civil action, but shall not include requests or demands made pursuant to a life insurance or health insurance contract. If any such award or settlement payment was made, the Assistant Director shall subtract the sum of such award or settlement payments from the payment to be made under the Act.

(d) In the case of a claim filed under section 4(a)(2)(C) of the Act, the Assistant Director shall require the claimant or each eligible surviving beneficiary to execute and provide an affidavit (or declaration under oath on the standard claim form) setting forth the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation) against any person or any payment made by the Department of Veterans Affairs, that is based on injuries incurred by the claimant on account of exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device. For purposes of this paragraph, a ''claim'' includes, but is not limited to, any request or demand for money made or sought in a civil action or made or sought in anticipation of a civil action, but shall not include requests or demands made pursuant to a life-or health-insurance contract.

(1) Payments by the Department of Veterans Affairs shall include:

(i) Any disability payments or compensation benefits paid to the claimant and his or her dependents while the claimant is alive; and

(ii) Any Dependency and Indemnity Compensation payments made to survivors due to death related to the illness for which the claim under the Act is submitted.

(2) Payments by the Department of Veterans Affairs shall not include:

(i) Active duty pay, retired pay, retainer pay, or payments under the Survivor Benefits Plan;

(ii) Death gratuities;

(iii) SGLI, VGLI, or mortgage, life, or health insurance payments;

(iv) Burial benefits or reimbursement for burial expenses;

(v) Loans or loan guarantees;

(vi) Education benefits and payments;

(vii) Vocational rehabilitation benefits and payments;

(viii) Medical, hospital, and dental benefits; or

(ix) Commissary and PX privileges.

(e) If any such award, settlement, or payment was made as described in paragraphs (c) or (d) of this section, the Assistant Director shall calculate the actuarial present value of such payment(s), and subtract the actuarial present value from the payment to be made under the Act. The actuarial present value shall be calculated using the worksheet in appendix C to this part in the following manner:

(1) Step 1. The sums of the past payments received in each year are entered in the appropriate rows in column (2). Additional rows will be added as needed to calculate the present value of payments received in the years prior to 1960 and after 1990.

(2) Step 2. The present CPI–U (to be obtained monthly from the Bureau of Labor Statistics, Department of Labor) is entered in column (3).

(3) Step 3. The CPI (Major Expenditure Classes—All Items) for each year in which payments were received is entered in the appropriate row in column (4). (This measure is provided for 1960 through 1990. The measure for subsequent years will be obtained from the Bureau of Labor Statistics.)

(4) Step 4. For each row, the amount in column (2) is multiplied by the corresponding inflator (column (3) divided by column (4)) and the product is entered in column (5).

(5) Step 5. The products in column (5) are added together and the sum is entered on the line labeled ''Total of column (5) equals actuarial present value of past payments.''

(6) Step 6. The sum in Step 5 is subtracted from the statutory payment of $75,000 and the remainder is entered on the line labeled ''Net Claim Owed To Claimant.''

(f) When the Assistant Director has verified the identity of the claimant or each eligible surviving beneficiary who is entitled to the compensation payment or to a share of the compensation payment, and has determined the correct amount of the payment or the share of the payment, he or she shall notify the claimant or each eligible surviving beneficiary, or his or her legal guardian, and require such person(s) to sign an Acceptance of Payment Form. Such form shall be signed and returned within 60 days of the date of the form or such greater period as may be allowed by the Assistant Director. Failure to return the signed form within the required time may be deemed to be a rejection of the payment. Signing and returning the form within the required time shall constitute acceptance of the payment, unless the individual who has signed the form dies prior to receiving the actual payment, in which case the person who possesses the payment shall return it to the Assistant Director for redetermination of the correct disbursement of the payment.

(g) Rejected compensation payments or shares of compensation payments shall not be distributed to other eligible surviving beneficiaries, but shall be returned to the Trust Fund for use in paying other claims.

(h) Upon receipt of the Acceptance of Payment Form, the Assistant Director or the Constitutional and Specialized Torts Staff Director or Deputy Director, or their designee, shall authorize the appropriate authorities to issue a check to the claimant or to each eligible

surviving beneficiary who has accepted payment out of the funds appropriated for this purpose.

(i) *Multiple payments.* (1) No claimant may receive payment under more than one subpart of this part for illnesses that he or she contracted. In addition to one payment for his or her illnesses, he or she may also receive one payment for each claimant for whom he or she qualifies as an eligible surviving beneficiary.

(2) An eligible surviving beneficiary who is not also a claimant may receive one payment for each claimant for whom he or she qualifies as an eligible surviving beneficiary.

## Appendix A to Part 79—FVC and FEV–1 Lower Limits of Normal Values

TABLE 1.—CAUCASIAN MALES FVC LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: $-0.1933 + (0.00064)(\text{age}) + (-0.000269)(\text{age}^2) + (0.00015695)(\text{height}^2)$]

| Height in inches | Height in centimeters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 2.96 | 2.91 | 2.85 | 2.79 | 2.74 | 2.67 | 2.61 | 2.55 | 2.48 | 2.41 | 2.34 | 2.26 | 2.19 | 2.11 | 2.03 | 1.94 | 1.86 |
| 61.5 | 156.2 | 3.02 | 2.97 | 2.91 | 2.86 | 2.80 | 2.74 | 2.67 | 2.61 | 2.54 | 2.47 | 2.40 | 2.33 | 2.25 | 2.17 | 2.09 | 2.01 | 1.92 |
| 62.0 | 157.5 | 3.09 | 3.03 | 2.98 | 2.92 | 2.86 | 2.80 | 2.74 | 2.67 | 2.61 | 2.54 | 2.46 | 2.39 | 2.31 | 2.23 | 2.15 | 2.07 | 1.99 |
| 62.5 | 158.8 | 3.15 | 3.10 | 3.04 | 2.99 | 2.93 | 2.87 | 2.80 | 2.74 | 2.67 | 2.60 | 2.53 | 2.45 | 2.38 | 2.30 | 2.22 | 2.14 | 2.05 |
| 63.0 | 160.0 | 3.21 | 3.16 | 3.10 | 3.05 | 2.99 | 2.93 | 2.86 | 2.80 | 2.73 | 2.66 | 2.59 | 2.51 | 2.44 | 2.36 | 2.28 | 2.20 | 2.11 |
| 63.5 | 161.3 | 3.28 | 3.22 | 3.17 | 3.11 | 3.05 | 2.99 | 2.93 | 2.86 | 2.80 | 2.73 | 2.65 | 2.58 | 2.50 | 2.43 | 2.34 | 2.26 | 2.18 |
| 64.0 | 162.6 | 3.34 | 3.29 | 3.23 | 3.18 | 3.12 | 3.06 | 2.99 | 2.93 | 2.86 | 2.79 | 2.72 | 2.65 | 2.57 | 2.49 | 2.41 | 2.33 | 2.24 |
| 64.5 | 163.8 | 3.40 | 3.35 | 3.30 | 3.24 | 3.18 | 3.12 | 3.06 | 2.99 | 2.92 | 2.85 | 2.78 | 2.71 | 2.63 | 2.55 | 2.47 | 2.39 | 2.30 |
| 65.0 | 165.1 | 3.47 | 3.42 | 3.36 | 3.31 | 3.25 | 3.19 | 3.12 | 3.06 | 2.99 | 2.92 | 2.85 | 2.77 | 2.70 | 2.62 | 2.54 | 2.46 | 2.37 |
| 65.5 | 166.4 | 3.54 | 3.48 | 3.43 | 3.37 | 3.31 | 3.25 | 3.19 | 3.12 | 3.06 | 2.99 | 2.91 | 2.84 | 2.76 | 2.69 | 2.61 | 2.52 | 2.44 |
| 66.0 | 167.6 | 3.60 | 3.55 | 3.50 | 3.44 | 3.38 | 3.32 | 3.26 | 3.19 | 3.12 | 3.05 | 2.98 | 2.91 | 2.83 | 2.75 | 2.67 | 2.59 | 2.50 |
| 66.5 | 168.9 | 3.67 | 3.62 | 3.56 | 3.51 | 3.45 | 3.39 | 3.32 | 3.26 | 3.19 | 3.12 | 3.05 | 2.97 | 2.90 | 2.82 | 2.74 | 2.66 | 2.57 |
| 67.0 | 170.2 | 3.74 | 3.69 | 3.63 | 3.57 | 3.52 | 3.45 | 3.39 | 3.33 | 3.26 | 3.19 | 3.12 | 3.04 | 2.97 | 2.89 | 2.81 | 2.72 | 2.64 |
| 67.5 | 171.5 | 3.81 | 3.76 | 3.70 | 3.64 | 3.59 | 3.52 | 3.46 | 3.40 | 3.33 | 3.26 | 3.19 | 3.11 | 3.04 | 2.96 | 2.88 | 2.79 | 2.71 |
| 68.0 | 172.7 | 3.87 | 3.82 | 3.77 | 3.71 | 3.65 | 3.59 | 3.53 | 3.46 | 3.39 | 3.32 | 3.25 | 3.18 | 3.10 | 3.02 | 2.94 | 2.86 | 2.77 |
| 68.5 | 174.0 | 3.94 | 3.89 | 3.84 | 3.78 | 3.72 | 3.66 | 3.60 | 3.53 | 3.46 | 3.39 | 3.32 | 3.25 | 3.17 | 3.09 | 3.01 | 2.93 | 2.85 |
| 69.0 | 175.3 | 4.02 | 3.96 | 3.91 | 3.85 | 3.79 | 3.73 | 3.67 | 3.60 | 3.53 | 3.47 | 3.39 | 3.32 | 3.24 | 3.16 | 3.08 | 3.00 | 2.92 |
| 69.5 | 176.5 | 4.08 | 4.03 | 3.97 | 3.92 | 3.86 | 3.80 | 3.73 | 3.67 | 3.60 | 3.53 | 3.46 | 3.39 | 3.31 | 3.23 | 3.15 | 3.07 | 2.98 |
| 70.0 | 177.8 | 4.15 | 4.10 | 4.05 | 3.99 | 3.93 | 3.87 | 3.81 | 3.74 | 3.67 | 3.60 | 3.53 | 3.46 | 3.38 | 3.30 | 3.22 | 3.14 | 3.06 |
| 70.5 | 179.1 | 4.23 | 4.17 | 4.12 | 4.06 | 4.00 | 3.94 | 3.88 | 3.81 | 3.75 | 3.68 | 3.60 | 3.53 | 3.45 | 3.38 | 3.30 | 3.21 | 3.13 |
| 71.0 | 180.3 | 4.29 | 4.24 | 4.19 | 4.13 | 4.07 | 4.01 | 3.95 | 3.88 | 3.81 | 3.74 | 3.67 | 3.60 | 3.52 | 3.44 | 3.36 | 3.28 | 3.20 |
| 71.5 | 181.6 | 4.37 | 4.32 | 4.26 | 4.20 | 4.15 | 4.08 | 4.02 | 3.96 | 3.89 | 3.82 | 3.75 | 3.67 | 3.60 | 3.52 | 3.44 | 3.35 | 3.27 |
| 72.0 | 182.9 | 4.44 | 4.39 | 4.34 | 4.28 | 4.22 | 4.16 | 4.10 | 4.03 | 3.96 | 3.89 | 3.82 | 3.75 | 3.67 | 3.59 | 3.51 | 3.43 | 3.34 |
| 72.5 | 184.2 | 4.52 | 4.46 | 4.41 | 4.35 | 4.29 | 4.23 | 4.17 | 4.10 | 4.04 | 3.97 | 3.90 | 3.82 | 3.75 | 3.67 | 3.59 | 3.50 | 3.42 |
| 73.0 | 185.4 | 4.59 | 4.53 | 4.48 | 4.42 | 4.36 | 4.30 | 4.24 | 4.17 | 4.11 | 4.04 | 3.97 | 3.89 | 3.81 | 3.74 | 3.66 | 3.57 | 3.49 |
| 73.5 | 186.7 | 4.66 | 4.61 | 4.56 | 4.50 | 4.44 | 4.38 | 4.32 | 4.25 | 4.18 | 4.11 | 4.04 | 3.97 | 3.89 | 3.81 | 3.73 | 3.65 | 3.56 |
| 74.0 | 188.0 | 4.74 | 4.69 | 4.63 | 4.58 | 4.52 | 4.46 | 4.39 | 4.33 | 4.26 | 4.19 | 4.12 | 4.04 | 3.97 | 3.89 | 3.81 | 3.73 | 3.64 |
| 74.5 | 189.2 | 4.81 | 4.76 | 4.70 | 4.65 | 4.59 | 4.53 | 4.46 | 4.40 | 4.33 | 4.26 | 4.19 | 4.11 | 4.04 | 3.96 | 3.88 | 3.80 | 3.71 |
| 75.0 | 190.5 | 4.89 | 4.84 | 4.78 | 4.72 | 4.66 | 4.60 | 4.54 | 4.48 | 4.41 | 4.34 | 4.27 | 4.19 | 4.12 | 4.04 | 3.96 | 3.87 | 3.79 |
| 75.5 | 191.8 | 4.97 | 4.91 | 4.86 | 4.80 | 4.74 | 4.68 | 4.62 | 4.55 | 4.49 | 4.42 | 4.34 | 4.27 | 4.19 | 4.12 | 4.03 | 3.95 | 3.87 |
| 76.0 | 193.0 | 5.04 | 4.99 | 4.93 | 4.87 | 4.82 | 4.75 | 4.69 | 4.63 | 4.56 | 4.49 | 4.42 | 4.34 | 4.27 | 4.19 | 4.11 | 4.02 | 3.94 |
| 76.5 | 194.3 | 5.12 | 5.06 | 5.01 | 4.95 | 4.89 | 4.83 | 4.77 | 4.70 | 4.64 | 4.57 | 4.50 | 4.42 | 4.35 | 4.27 | 4.19 | 4.10 | 4.02 |
| 77.0 | 195.6 | 5.20 | 5.14 | 5.09 | 5.03 | 4.97 | 4.91 | 4.85 | 4.78 | 4.72 | 4.65 | 4.57 | 4.50 | 4.42 | 4.35 | 4.27 | 4.18 | 4.10 |
| 77.5 | 196.9 | 5.28 | 5.22 | 5.17 | 5.11 | 5.05 | 4.99 | 4.93 | 4.86 | 4.80 | 4.73 | 4.66 | 4.58 | 4.50 | 4.43 | 4.35 | 4.26 | 4.18 |
| 78.0 | 198.1 | 5.35 | 5.30 | 5.24 | 5.19 | 5.13 | 5.07 | 5.00 | 4.94 | 4.87 | 4.80 | 4.73 | 4.66 | 4.58 | 4.50 | 4.42 | 4.34 | 4.25 |
| 78.5 | 199.4 | 5.43 | 5.38 | 5.33 | 5.27 | 5.21 | 5.15 | 5.09 | 5.02 | 4.95 | 4.88 | 4.81 | 4.74 | 4.66 | 4.58 | 4.50 | 4.42 | 4.33 |
| 79.0 | 200.7 | 5.51 | 5.46 | 5.41 | 5.35 | 5.29 | 5.23 | 5.17 | 5.10 | 5.03 | 4.96 | 4.89 | 4.82 | 4.74 | 4.66 | 4.58 | 4.50 | 4.42 |
| 79.5 | 201.9 | 5.59 | 5.54 | 5.48 | 5.43 | 5.37 | 5.31 | 5.24 | 5.18 | 5.11 | 5.04 | 4.97 | 4.89 | 4.82 | 4.74 | 4.66 | 4.58 | 4.49 |
| 80.0 | 203.2 | 5.67 | 5.62 | 5.57 | 5.51 | 5.45 | 5.39 | 5.33 | 5.26 | 5.19 | 5.12 | 5.05 | 4.98 | 4.90 | 4.82 | 4.74 | 4.66 | 4.57 |
| 80.5 | 204.5 | 5.76 | 5.70 | 5.65 | 5.59 | 5.53 | 5.47 | 5.41 | 5.34 | 5.28 | 5.21 | 5.13 | 5.06 | 4.98 | 4.91 | 4.82 | 4.74 | 4.66 |
| 81.0 | 205.7 | 5.83 | 5.78 | 5.73 | 5.67 | 5.61 | 5.55 | 5.49 | 5.42 | 5.35 | 5.28 | 5.21 | 5.14 | 5.06 | 4.98 | 4.90 | 4.82 | 4.73 |
| 81.5 | 207.0 | 5.92 | 5.86 | 5.81 | 5.75 | 5.69 | 5.63 | 5.57 | 5.50 | 5.44 | 5.37 | 5.30 | 5.22 | 5.15 | 5.07 | 4.99 | 4.90 | 4.82 |
| 82.0 | 208.3 | 6.00 | 5.95 | 5.89 | 5.84 | 5.78 | 5.72 | 5.65 | 5.59 | 5.52 | 5.45 | 5.38 | 5.31 | 5.23 | 5.15 | 5.07 | 4.99 | 4.90 |
| 82.5 | 209.6 | 6.09 | 6.03 | 5.98 | 5.92 | 5.86 | 5.80 | 5.74 | 5.67 | 5.61 | 5.54 | 5.47 | 5.39 | 5.32 | 5.24 | 5.16 | 5.07 | 4.99 |

TABLE 1A.—CAUCASIAN MALES FEV–1 LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: $0.5536 + (-0.01303)(\text{age}) + (-0.000172)(\text{age}^2) + (0.00011607)(\text{height}^2)$]

| Height in inches | Height in centimeters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 2.29 | 2.23 | 2.16 | 2.10 | 2.04 | 1.97 | 1.90 | 1.84 | 1.76 | 1.69 | 1.62 | 1.55 | 1.47 | 1.39 | 1.32 | 1.24 | 1.15 |
| 61.5 | 156.2 | 2.33 | 2.27 | 2.21 | 2.15 | 2.08 | 2.02 | 1.95 | 1.88 | 1.81 | 1.74 | 1.67 | 1.59 | 1.52 | 1.44 | 1.36 | 1.28 | 1.20 |
| 62.0 | 157.5 | 2.38 | 2.32 | 2.26 | 2.20 | 2.13 | 2.07 | 2.00 | 1.93 | 1.86 | 1.79 | 1.71 | 1.64 | 1.57 | 1.49 | 1.41 | 1.33 | 1.25 |
| 62.5 | 158.8 | 2.43 | 2.37 | 2.31 | 2.24 | 2.18 | 2.11 | 2.05 | 1.98 | 1.91 | 1.84 | 1.76 | 1.69 | 1.61 | 1.54 | 1.46 | 1.38 | 1.30 |
| 63.0 | 160.0 | 2.47 | 2.41 | 2.35 | 2.29 | 2.22 | 2.16 | 2.09 | 2.02 | 1.95 | 1.88 | 1.81 | 1.73 | 1.66 | 1.58 | 1.50 | 1.42 | 1.34 |
| 63.5 | 161.3 | 2.52 | 2.46 | 2.40 | 2.34 | 2.27 | 2.21 | 2.14 | 2.07 | 2.00 | 1.93 | 1.86 | 1.78 | 1.71 | 1.63 | 1.55 | 1.47 | 1.39 |
| 64.0 | 162.6 | 2.57 | 2.51 | 2.45 | 2.39 | 2.32 | 2.25 | 2.19 | 2.12 | 2.05 | 1.98 | 1.90 | 1.83 | 1.75 | 1.68 | 1.60 | 1.52 | 1.44 |
| 64.5 | 163.8 | 2.62 | 2.56 | 2.49 | 2.43 | 2.37 | 2.30 | 2.23 | 2.16 | 2.09 | 2.02 | 1.95 | 1.88 | 1.80 | 1.72 | 1.64 | 1.56 | 1.48 |
| 65.0 | 165.1 | 2.67 | 2.61 | 2.54 | 2.48 | 2.42 | 2.35 | 2.28 | 2.21 | 2.14 | 2.07 | 2.00 | 1.93 | 1.85 | 1.77 | 1.69 | 1.61 | 1.53 |
| 65.5 | 166.4 | 2.71 | 2.65 | 2.59 | 2.53 | 2.46 | 2.40 | 2.33 | 2.26 | 2.19 | 2.12 | 2.05 | 1.97 | 1.90 | 1.82 | 1.74 | 1.66 | 1.58 |
| 66.0 | 167.6 | 2.76 | 2.70 | 2.64 | 2.58 | 2.51 | 2.45 | 2.38 | 2.31 | 2.24 | 2.17 | 2.10 | 2.02 | 1.95 | 1.87 | 1.79 | 1.71 | 1.63 |

TABLE 1A.—CAUCASIAN MALES FEV–1 LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)—Continued

[Reference value equation: 0.5536 + (−0.01303)(age) + (−0.000172)(age$^2$) + (0.00011607)(height$^2$)]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 66.5 | 168.9 | 2.81 | 2.75 | 2.69 | 2.63 | 2.56 | 2.50 | 2.43 | 2.36 | 2.29 | 2.22 | 2.15 | 2.07 | 2.00 | 1.92 | 1.84 | 1.76 | 1.68 |
| 67.0 | 170.2 | 2.86 | 2.80 | 2.74 | 2.68 | 2.61 | 2.55 | 2.48 | 2.41 | 2.34 | 2.27 | 2.20 | 2.12 | 2.05 | 1.97 | 1.89 | 1.81 | 1.73 |
| 67.5 | 171.5 | 2.92 | 2.86 | 2.79 | 2.73 | 2.67 | 2.60 | 2.53 | 2.46 | 2.39 | 2.32 | 2.25 | 2.18 | 2.10 | 2.02 | 1.94 | 1.86 | 1.78 |
| 68.0 | 172.7 | 2.96 | 2.90 | 2.84 | 2.78 | 2.71 | 2.65 | 2.58 | 2.51 | 2.44 | 2.37 | 2.30 | 2.22 | 2.15 | 2.07 | 1.99 | 1.91 | 1.83 |
| 68.5 | 174.0 | 3.02 | 2.96 | 2.89 | 2.83 | 2.77 | 2.70 | 2.63 | 2.56 | 2.49 | 2.42 | 2.35 | 2.28 | 2.20 | 2.12 | 2.04 | 1.96 | 1.88 |
| 69.0 | 175.3 | 3.07 | 3.01 | 2.95 | 2.88 | 2.82 | 2.75 | 2.69 | 2.62 | 2.55 | 2.48 | 2.40 | 2.33 | 2.25 | 2.18 | 2.10 | 2.02 | 1.94 |
| 69.5 | 176.5 | 3.12 | 3.06 | 3.00 | 2.93 | 2.87 | 2.80 | 2.73 | 2.67 | 2.60 | 2.52 | 2.45 | 2.38 | 2.30 | 2.22 | 2.15 | 2.07 | 1.99 |
| 70.0 | 177.8 | 3.17 | 3.11 | 3.05 | 2.99 | 2.92 | 2.86 | 2.79 | 2.72 | 2.65 | 2.58 | 2.50 | 2.43 | 2.36 | 2.28 | 2.20 | 2.12 | 2.04 |
| 70.5 | 179.1 | 3.23 | 3.16 | 3.10 | 3.04 | 2.98 | 2.91 | 2.84 | 2.77 | 2.70 | 2.63 | 2.56 | 2.48 | 2.41 | 2.33 | 2.25 | 2.17 | 2.09 |
| 71.0 | 180.3 | 3.28 | 3.21 | 3.15 | 3.09 | 3.03 | 2.96 | 2.89 | 2.82 | 2.75 | 2.68 | 2.61 | 2.53 | 2.46 | 2.38 | 2.30 | 2.22 | 2.14 |
| 71.5 | 181.6 | 3.33 | 3.27 | 3.21 | 3.14 | 3.08 | 3.01 | 2.95 | 2.88 | 2.81 | 2.74 | 2.66 | 2.59 | 2.51 | 2.44 | 2.36 | 2.28 | 2.20 |
| 72.0 | 182.9 | 3.38 | 3.32 | 3.26 | 3.20 | 3.13 | 3.07 | 3.00 | 2.93 | 2.86 | 2.79 | 2.72 | 2.64 | 2.57 | 2.49 | 2.41 | 2.33 | 2.25 |
| 72.5 | 184.2 | 3.44 | 3.38 | 3.32 | 3.25 | 3.19 | 3.12 | 3.06 | 2.99 | 2.92 | 2.85 | 2.77 | 2.70 | 2.62 | 2.55 | 2.47 | 2.39 | 2.31 |
| 73.0 | 185.4 | 3.49 | 3.43 | 3.37 | 3.31 | 3.24 | 3.18 | 3.11 | 3.04 | 2.97 | 2.90 | 2.83 | 2.75 | 2.68 | 2.60 | 2.52 | 2.44 | 2.36 |
| 73.5 | 186.7 | 3.55 | 3.49 | 3.43 | 3.36 | 3.30 | 3.23 | 3.16 | 3.10 | 3.03 | 2.95 | 2.88 | 2.81 | 2.73 | 2.65 | 2.58 | 2.50 | 2.42 |
| 74.0 | 188.0 | 3.60 | 3.54 | 3.48 | 3.42 | 3.35 | 3.29 | 3.22 | 3.15 | 3.08 | 3.01 | 2.94 | 2.86 | 2.79 | 2.71 | 2.63 | 2.55 | 2.47 |
| 74.5 | 189.2 | 3.66 | 3.60 | 3.53 | 3.47 | 3.41 | 3.34 | 3.27 | 3.20 | 3.13 | 3.06 | 2.99 | 2.92 | 2.84 | 2.76 | 2.69 | 2.61 | 2.52 |
| 75.0 | 190.5 | 3.71 | 3.65 | 3.59 | 3.53 | 3.46 | 3.40 | 3.33 | 3.26 | 3.19 | 3.12 | 3.05 | 2.97 | 2.90 | 2.82 | 2.74 | 2.66 | 2.58 |
| 75.5 | 191.8 | 3.77 | 3.71 | 3.65 | 3.59 | 3.52 | 3.46 | 3.39 | 3.32 | 3.25 | 3.18 | 3.11 | 3.03 | 2.96 | 2.88 | 2.80 | 2.72 | 2.64 |
| 76.0 | 193.0 | 3.83 | 3.77 | 3.70 | 3.64 | 3.58 | 3.51 | 3.44 | 3.37 | 3.30 | 3.23 | 3.16 | 3.08 | 3.01 | 2.93 | 2.85 | 2.77 | 2.69 |
| 76.5 | 194.3 | 3.88 | 3.82 | 3.76 | 3.70 | 3.63 | 3.57 | 3.50 | 3.43 | 3.36 | 3.29 | 3.22 | 3.14 | 3.07 | 2.99 | 2.91 | 2.83 | 2.75 |
| 77.0 | 195.6 | 3.94 | 3.88 | 3.82 | 3.76 | 3.69 | 3.63 | 3.56 | 3.49 | 3.42 | 3.35 | 3.28 | 3.20 | 3.13 | 3.05 | 2.97 | 2.89 | 2.81 |
| 77.5 | 196.9 | 4.00 | 3.94 | 3.88 | 3.82 | 3.75 | 3.69 | 3.62 | 3.55 | 3.48 | 3.41 | 3.34 | 3.26 | 3.19 | 3.11 | 3.03 | 2.95 | 2.87 |
| 78.0 | 198.1 | 4.06 | 4.00 | 3.93 | 3.87 | 3.81 | 3.74 | 3.67 | 3.61 | 3.53 | 3.46 | 3.39 | 3.32 | 3.24 | 3.16 | 3.09 | 3.01 | 2.92 |
| 78.5 | 199.4 | 4.12 | 4.06 | 3.99 | 3.93 | 3.87 | 3.80 | 3.73 | 3.67 | 3.59 | 3.52 | 3.45 | 3.38 | 3.30 | 3.22 | 3.15 | 3.07 | 2.98 |
| 79.0 | 200.7 | 4.18 | 4.12 | 4.06 | 3.99 | 3.93 | 3.86 | 3.79 | 3.73 | 3.66 | 3.58 | 3.51 | 3.44 | 3.36 | 3.28 | 3.21 | 3.13 | 3.05 |
| 79.5 | 201.9 | 4.23 | 4.17 | 4.11 | 4.05 | 3.98 | 3.92 | 3.85 | 3.78 | 3.71 | 3.64 | 3.57 | 3.49 | 3.42 | 3.34 | 3.26 | 3.18 | 3.10 |
| 80.0 | 203.2 | 4.29 | 4.23 | 4.17 | 4.11 | 4.04 | 3.98 | 3.91 | 3.84 | 3.77 | 3.70 | 3.63 | 3.55 | 3.48 | 3.40 | 3.32 | 3.24 | 3.16 |
| 80.5 | 204.5 | 4.36 | 4.30 | 4.23 | 4.17 | 4.11 | 4.04 | 3.97 | 3.90 | 3.83 | 3.76 | 3.69 | 3.62 | 3.54 | 3.46 | 3.38 | 3.30 | 3.22 |
| 81.0 | 205.7 | 4.41 | 4.35 | 4.29 | 4.23 | 4.16 | 4.10 | 4.03 | 3.96 | 3.89 | 3.82 | 3.75 | 3.67 | 3.60 | 3.52 | 3.44 | 3.36 | 3.28 |
| 81.5 | 207.0 | 4.48 | 4.42 | 4.35 | 4.29 | 4.23 | 4.16 | 4.09 | 4.02 | 3.95 | 3.88 | 3.81 | 3.73 | 3.66 | 3.58 | 3.50 | 3.42 | 3.34 |
| 82.0 | 208.3 | 4.54 | 4.48 | 4.42 | 4.35 | 4.29 | 4.22 | 4.15 | 4.09 | 4.02 | 3.94 | 3.87 | 3.80 | 3.72 | 3.64 | 3.57 | 3.49 | 3.41 |
| 82.5 | 209.6 | 4.60 | 4.54 | 4.48 | 4.42 | 4.35 | 4.29 | 4.22 | 4.15 | 4.08 | 4.01 | 3.93 | 3.86 | 3.79 | 3.71 | 3.63 | 3.55 | 3.47 |

TABLE 2.—CAUCASIAN FEMALES FVC LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: −0.356 + (0.0187)(age) + (−0.000382)(age$^2$) + (0.00012198)(height$^2$)]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 2.57 | 2.53 | 2.49 | 2.44 | 2.40 | 2.34 | 2.29 | 2.23 | 2.17 | 2.11 | 2.04 | 1.97 | 1.90 | 1.82 | 1.75 | 1.66 | 1.58 |
| 61.5 | 156.2 | 2.62 | 2.58 | 2.54 | 2.49 | 2.44 | 2.39 | 2.34 | 2.28 | 2.22 | 2.16 | 2.09 | 2.02 | 1.95 | 1.87 | 1.80 | 1.71 | 1.63 |
| 62.0 | 157.5 | 2.67 | 2.63 | 2.59 | 2.54 | 2.49 | 2.44 | 2.39 | 2.33 | 2.27 | 2.21 | 2.14 | 2.07 | 2.00 | 1.92 | 1.84 | 1.76 | 1.68 |
| 62.5 | 158.8 | 2.72 | 2.68 | 2.64 | 2.59 | 2.54 | 2.49 | 2.44 | 2.38 | 2.32 | 2.26 | 2.19 | 2.12 | 2.05 | 1.97 | 1.90 | 1.81 | 1.73 |
| 63.0 | 160.0 | 2.77 | 2.73 | 2.68 | 2.64 | 2.59 | 2.54 | 2.49 | 2.43 | 2.37 | 2.30 | 2.24 | 2.17 | 2.10 | 2.02 | 1.94 | 1.86 | 1.78 |
| 63.5 | 161.3 | 2.82 | 2.78 | 2.74 | 2.69 | 2.64 | 2.59 | 2.54 | 2.48 | 2.42 | 2.36 | 2.29 | 2.22 | 2.15 | 2.07 | 1.99 | 1.91 | 1.83 |
| 64.0 | 162.6 | 2.87 | 2.83 | 2.79 | 2.74 | 2.69 | 2.64 | 2.59 | 2.53 | 2.47 | 2.41 | 2.34 | 2.27 | 2.20 | 2.12 | 2.04 | 1.96 | 1.88 |
| 64.5 | 163.8 | 2.92 | 2.88 | 2.83 | 2.79 | 2.74 | 2.69 | 2.64 | 2.58 | 2.52 | 2.45 | 2.39 | 2.32 | 2.25 | 2.17 | 2.09 | 2.01 | 1.93 |
| 65.0 | 165.1 | 2.97 | 2.93 | 2.89 | 2.84 | 2.79 | 2.74 | 2.69 | 2.63 | 2.57 | 2.51 | 2.44 | 2.37 | 2.30 | 2.22 | 2.14 | 2.06 | 1.98 |
| 65.5 | 166.4 | 3.02 | 2.98 | 2.94 | 2.89 | 2.85 | 2.79 | 2.74 | 2.68 | 2.62 | 2.56 | 2.49 | 2.42 | 2.35 | 2.27 | 2.20 | 2.11 | 2.03 |
| 66.0 | 167.6 | 3.07 | 3.03 | 2.99 | 2.94 | 2.90 | 2.85 | 2.79 | 2.73 | 2.67 | 2.61 | 2.54 | 2.47 | 2.40 | 2.33 | 2.25 | 2.17 | 2.08 |
| 66.5 | 168.9 | 3.12 | 3.08 | 3.04 | 3.00 | 2.95 | 2.90 | 2.84 | 2.79 | 2.73 | 2.66 | 2.60 | 2.53 | 2.45 | 2.38 | 2.30 | 2.22 | 2.13 |
| 67.0 | 170.2 | 3.18 | 3.14 | 3.10 | 3.05 | 3.00 | 2.95 | 2.90 | 2.84 | 2.78 | 2.72 | 2.65 | 2.58 | 2.51 | 2.43 | 2.35 | 2.27 | 2.19 |
| 67.5 | 171.5 | 3.23 | 3.19 | 3.15 | 3.10 | 3.06 | 3.01 | 2.95 | 2.89 | 2.83 | 2.77 | 2.70 | 2.63 | 2.56 | 2.49 | 2.41 | 2.32 | 2.24 |
| 68.0 | 172.7 | 3.28 | 3.24 | 3.20 | 3.16 | 3.11 | 3.06 | 3.00 | 2.94 | 2.88 | 2.82 | 2.75 | 2.68 | 2.61 | 2.54 | 2.46 | 2.38 | 2.29 |
| 68.5 | 174.0 | 3.34 | 3.30 | 3.26 | 3.21 | 3.16 | 3.11 | 3.06 | 3.00 | 2.94 | 2.88 | 2.81 | 2.74 | 2.67 | 2.59 | 2.51 | 2.43 | 2.35 |
| 69.0 | 175.3 | 3.39 | 3.35 | 3.31 | 3.27 | 3.22 | 3.17 | 3.11 | 3.05 | 2.99 | 2.93 | 2.86 | 2.79 | 2.72 | 2.65 | 2.57 | 2.49 | 2.40 |
| 69.5 | 176.5 | 3.44 | 3.40 | 3.36 | 3.32 | 3.27 | 3.22 | 3.16 | 3.11 | 3.05 | 2.98 | 2.92 | 2.85 | 2.77 | 2.70 | 2.62 | 2.54 | 2.45 |
| 70.0 | 177.8 | 3.50 | 3.46 | 3.42 | 3.37 | 3.32 | 3.27 | 3.22 | 3.16 | 3.10 | 3.04 | 2.97 | 2.90 | 2.83 | 2.75 | 2.68 | 2.59 | 2.51 |
| 70.5 | 179.1 | 3.56 | 3.52 | 3.47 | 3.43 | 3.38 | 3.33 | 3.28 | 3.22 | 3.16 | 3.09 | 3.03 | 2.96 | 2.89 | 2.81 | 2.73 | 2.65 | 2.57 |
| 71.0 | 180.3 | 3.61 | 3.57 | 3.53 | 3.48 | 3.43 | 3.38 | 3.33 | 3.27 | 3.21 | 3.15 | 3.08 | 3.01 | 2.94 | 2.86 | 2.78 | 2.70 | 2.62 |
| 71.5 | 181.6 | 3.67 | 3.63 | 3.58 | 3.54 | 3.49 | 3.44 | 3.39 | 3.33 | 3.27 | 3.20 | 3.14 | 3.07 | 3.00 | 2.92 | 2.84 | 2.76 | 2.68 |
| 72.0 | 182.9 | 3.72 | 3.68 | 3.64 | 3.60 | 3.55 | 3.50 | 3.44 | 3.39 | 3.33 | 3.26 | 3.20 | 3.13 | 3.05 | 2.98 | 2.90 | 2.82 | 2.73 |
| 72.5 | 184.2 | 3.78 | 3.74 | 3.70 | 3.66 | 3.61 | 3.56 | 3.50 | 3.44 | 3.38 | 3.32 | 3.25 | 3.18 | 3.11 | 3.04 | 2.96 | 2.88 | 2.79 |
| 73.0 | 185.4 | 3.84 | 3.80 | 3.75 | 3.71 | 3.66 | 3.61 | 3.56 | 3.50 | 3.44 | 3.37 | 3.31 | 3.24 | 3.17 | 3.09 | 3.01 | 2.93 | 2.85 |
| 73.5 | 186.7 | 3.89 | 3.86 | 3.81 | 3.77 | 3.72 | 3.67 | 3.62 | 3.56 | 3.50 | 3.43 | 3.37 | 3.30 | 3.23 | 3.15 | 3.07 | 2.99 | 2.90 |
| 74.0 | 188.0 | 3.95 | 3.92 | 3.87 | 3.83 | 3.78 | 3.73 | 3.67 | 3.62 | 3.56 | 3.49 | 3.43 | 3.36 | 3.28 | 3.21 | 3.13 | 3.05 | 2.96 |
| 74.5 | 189.2 | 4.01 | 3.97 | 3.93 | 3.88 | 3.84 | 3.78 | 3.73 | 3.67 | 3.61 | 3.55 | 3.48 | 3.41 | 3.34 | 3.26 | 3.19 | 3.10 | 3.02 |
| 75.0 | 190.5 | 4.07 | 4.03 | 3.99 | 3.94 | 3.90 | 3.84 | 3.79 | 3.73 | 3.67 | 3.61 | 3.54 | 3.47 | 3.40 | 3.32 | 3.25 | 3.16 | 3.08 |
| 75.5 | 191.8 | 4.13 | 4.09 | 4.05 | 4.00 | 3.96 | 3.90 | 3.85 | 3.79 | 3.73 | 3.67 | 3.60 | 3.53 | 3.46 | 3.39 | 3.31 | 3.22 | 3.14 |
| 76.0 | 193.0 | 4.19 | 4.15 | 4.11 | 4.06 | 4.01 | 3.96 | 3.91 | 3.85 | 3.79 | 3.73 | 3.66 | 3.59 | 3.52 | 3.44 | 3.36 | 3.28 | 3.20 |
| 76.5 | 194.3 | 4.25 | 4.21 | 4.17 | 4.12 | 4.07 | 4.02 | 3.97 | 3.91 | 3.85 | 3.79 | 3.72 | 3.65 | 3.58 | 3.50 | 3.42 | 3.34 | 3.26 |
| 77.0 | 195.6 | 4.31 | 4.27 | 4.23 | 4.18 | 4.14 | 4.08 | 4.03 | 3.97 | 3.91 | 3.85 | 3.78 | 3.71 | 3.64 | 3.56 | 3.49 | 3.40 | 3.32 |
| 77.5 | 196.9 | 4.37 | 4.33 | 4.29 | 4.25 | 4.20 | 4.15 | 4.09 | 4.04 | 3.97 | 3.91 | 3.84 | 3.78 | 3.70 | 3.63 | 3.55 | 3.47 | 3.38 |

TABLE 2.—CAUCASIAN FEMALES FVC LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)—Continued

[Reference value equation: $-0.356 + (0.0187)(\text{age}) + (-0.000382)(\text{age}^2) + (0.00012198)(\text{height}^2)$]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 78.0 | 198.1 | 4.43 | 4.39 | 4.35 | 4.30 | 4.26 | 4.20 | 4.15 | 4.09 | 4.03 | 3.97 | 3.90 | 3.83 | 3.76 | 3.68 | 3.61 | 3.52 | 3.44 |
| 78.5 | 199.4 | 4.49 | 4.45 | 4.41 | 4.37 | 4.32 | 4.27 | 4.21 | 4.16 | 4.10 | 4.03 | 3.97 | 3.90 | 3.82 | 3.75 | 3.67 | 3.59 | 3.50 |
| 79.0 | 200.7 | 4.56 | 4.52 | 4.48 | 4.43 | 4.38 | 4.33 | 4.28 | 4.22 | 4.16 | 4.10 | 4.03 | 3.96 | 3.89 | 3.81 | 3.73 | 3.65 | 3.57 |
| 79.5 | 201.9 | 4.62 | 4.58 | 4.53 | 4.49 | 4.44 | 4.39 | 4.34 | 4.28 | 4.22 | 4.15 | 4.09 | 4.02 | 3.95 | 3.87 | 3.79 | 3.71 | 3.62 |
| 80.0 | 203.2 | 4.68 | 4.64 | 4.60 | 4.55 | 4.51 | 4.45 | 4.40 | 4.34 | 4.28 | 4.22 | 4.15 | 4.08 | 4.01 | 3.93 | 3.86 | 3.77 | 3.69 |
| 80.5 | 204.5 | 4.74 | 4.71 | 4.66 | 4.62 | 4.57 | 4.52 | 4.46 | 4.41 | 4.35 | 4.28 | 4.22 | 4.15 | 4.07 | 4.00 | 3.92 | 3.84 | 3.75 |
| 81.0 | 205.7 | 4.80 | 4.77 | 4.72 | 4.68 | 4.63 | 4.58 | 4.52 | 4.47 | 4.41 | 4.34 | 4.28 | 4.21 | 4.13 | 4.06 | 3.98 | 3.90 | 3.81 |
| 81.5 | 207.0 | 4.87 | 4.83 | 4.79 | 4.74 | 4.70 | 4.64 | 4.59 | 4.53 | 4.47 | 4.41 | 4.34 | 4.27 | 4.20 | 4.12 | 4.05 | 3.96 | 3.88 |
| 82.0 | 208.3 | 4.94 | 4.90 | 4.85 | 4.81 | 4.76 | 4.71 | 4.66 | 4.60 | 4.54 | 4.47 | 4.41 | 4.34 | 4.27 | 4.19 | 4.11 | 4.03 | 3.94 |
| 82.5 | 209.6 | 5.00 | 4.96 | 4.92 | 4.88 | 4.83 | 4.78 | 4.72 | 4.66 | 4.60 | 4.54 | 4.47 | 4.40 | 4.33 | 4.26 | 4.18 | 4.10 | 4.01 |

TABLE 2A.—CAUCASIAN FEMALES FEV–1 LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: $0.4333 + (-0.00361)(\text{age}) + (-0.000194)(\text{age}^2) + (0.00009283)(\text{height}^2)$]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 2.02 | 1.97 | 1.92 | 1.88 | 1.82 | 1.77 | 1.72 | 1.66 | 1.61 | 1.55 | 1.49 | 1.43 | 1.36 | 1.30 | 1.23 | 1.16 | 1.10 |
| 61.5 | 156.2 | 2.06 | 2.01 | 1.96 | 1.91 | 1.86 | 1.81 | 1.76 | 1.70 | 1.64 | 1.59 | 1.53 | 1.46 | 1.40 | 1.34 | 1.27 | 1.20 | 1.13 |
| 62.0 | 157.5 | 2.09 | 2.05 | 2.00 | 1.95 | 1.90 | 1.85 | 1.79 | 1.74 | 1.68 | 1.62 | 1.56 | 1.50 | 1.44 | 1.37 | 1.31 | 1.24 | 1.17 |
| 62.5 | 158.8 | 2.13 | 2.09 | 2.04 | 1.99 | 1.94 | 1.89 | 1.83 | 1.78 | 1.72 | 1.66 | 1.60 | 1.54 | 1.48 | 1.41 | 1.35 | 1.28 | 1.21 |
| 63.0 | 160.0 | 2.17 | 2.12 | 2.07 | 2.02 | 1.97 | 1.92 | 1.87 | 1.81 | 1.76 | 1.70 | 1.64 | 1.58 | 1.51 | 1.45 | 1.38 | 1.31 | 1.24 |
| 63.5 | 161.3 | 2.21 | 2.16 | 2.11 | 2.06 | 2.01 | 1.96 | 1.91 | 1.85 | 1.79 | 1.74 | 1.68 | 1.61 | 1.55 | 1.49 | 1.42 | 1.35 | 1.28 |
| 64.0 | 162.6 | 2.24 | 2.20 | 2.15 | 2.10 | 2.05 | 2.00 | 1.95 | 1.89 | 1.83 | 1.77 | 1.71 | 1.65 | 1.59 | 1.53 | 1.46 | 1.39 | 1.32 |
| 64.5 | 163.8 | 2.28 | 2.24 | 2.19 | 2.14 | 2.09 | 2.04 | 1.98 | 1.93 | 1.87 | 1.81 | 1.75 | 1.69 | 1.63 | 1.56 | 1.50 | 1.43 | 1.36 |
| 65.0 | 165.1 | 2.32 | 2.27 | 2.23 | 2.18 | 2.13 | 2.08 | 2.02 | 1.97 | 1.91 | 1.85 | 1.79 | 1.73 | 1.67 | 1.60 | 1.54 | 1.47 | 1.40 |
| 65.5 | 166.4 | 2.36 | 2.31 | 2.27 | 2.22 | 2.17 | 2.11 | 2.06 | 2.01 | 1.95 | 1.89 | 1.83 | 1.77 | 1.71 | 1.64 | 1.57 | 1.51 | 1.44 |
| 66.0 | 167.6 | 2.40 | 2.35 | 2.31 | 2.26 | 2.21 | 2.15 | 2.10 | 2.04 | 1.99 | 1.93 | 1.87 | 1.81 | 1.74 | 1.68 | 1.61 | 1.55 | 1.48 |
| 66.5 | 168.9 | 2.44 | 2.39 | 2.35 | 2.30 | 2.25 | 2.19 | 2.14 | 2.08 | 2.03 | 1.97 | 1.91 | 1.85 | 1.78 | 1.72 | 1.65 | 1.59 | 1.52 |
| 67.0 | 170.2 | 2.48 | 2.43 | 2.39 | 2.34 | 2.29 | 2.23 | 2.18 | 2.12 | 2.07 | 2.01 | 1.95 | 1.89 | 1.83 | 1.76 | 1.69 | 1.63 | 1.56 |
| 67.5 | 171.5 | 2.52 | 2.47 | 2.43 | 2.38 | 2.33 | 2.28 | 2.22 | 2.17 | 2.11 | 2.05 | 1.99 | 1.93 | 1.87 | 1.80 | 1.74 | 1.67 | 1.60 |
| 68.0 | 172.7 | 2.56 | 2.51 | 2.47 | 2.42 | 2.37 | 2.31 | 2.26 | 2.20 | 2.15 | 2.09 | 2.03 | 1.97 | 1.90 | 1.84 | 1.77 | 1.71 | 1.64 |
| 68.5 | 174.0 | 2.60 | 2.56 | 2.51 | 2.46 | 2.41 | 2.36 | 2.30 | 2.25 | 2.19 | 2.13 | 2.07 | 2.01 | 1.95 | 1.88 | 1.82 | 1.75 | 1.68 |
| 69.0 | 175.3 | 2.64 | 2.60 | 2.55 | 2.50 | 2.45 | 2.40 | 2.34 | 2.29 | 2.23 | 2.17 | 2.11 | 2.05 | 1.99 | 1.92 | 1.86 | 1.79 | 1.72 |
| 69.5 | 176.5 | 2.68 | 2.64 | 2.59 | 2.54 | 2.49 | 2.44 | 2.38 | 2.33 | 2.27 | 2.21 | 2.15 | 2.09 | 2.03 | 1.96 | 1.90 | 1.83 | 1.76 |
| 70.0 | 177.8 | 2.73 | 2.68 | 2.63 | 2.58 | 2.53 | 2.48 | 2.43 | 2.37 | 2.31 | 2.26 | 2.20 | 2.13 | 2.07 | 2.01 | 1.94 | 1.87 | 1.80 |
| 70.5 | 179.1 | 2.77 | 2.72 | 2.67 | 2.63 | 2.57 | 2.52 | 2.47 | 2.41 | 2.36 | 2.30 | 2.24 | 2.18 | 2.11 | 2.05 | 1.98 | 1.92 | 1.85 |
| 71.0 | 180.3 | 2.81 | 2.76 | 2.71 | 2.67 | 2.61 | 2.56 | 2.51 | 2.45 | 2.40 | 2.34 | 2.28 | 2.22 | 2.15 | 2.09 | 2.02 | 1.96 | 1.89 |
| 71.5 | 181.6 | 2.85 | 2.81 | 2.76 | 2.71 | 2.66 | 2.61 | 2.55 | 2.50 | 2.44 | 2.38 | 2.32 | 2.26 | 2.20 | 2.13 | 2.07 | 2.00 | 1.93 |
| 72.0 | 182.9 | 2.90 | 2.85 | 2.80 | 2.75 | 2.70 | 2.65 | 2.60 | 2.54 | 2.48 | 2.43 | 2.37 | 2.30 | 2.24 | 2.18 | 2.11 | 2.04 | 1.97 |
| 72.5 | 184.2 | 2.94 | 2.89 | 2.85 | 2.80 | 2.75 | 2.69 | 2.64 | 2.59 | 2.53 | 2.47 | 2.41 | 2.35 | 2.29 | 2.22 | 2.15 | 2.09 | 2.02 |
| 73.0 | 185.4 | 2.98 | 2.94 | 2.89 | 2.84 | 2.79 | 2.74 | 2.68 | 2.63 | 2.57 | 2.51 | 2.45 | 2.39 | 2.33 | 2.26 | 2.20 | 2.13 | 2.06 |
| 73.5 | 186.7 | 3.03 | 2.98 | 2.93 | 2.88 | 2.83 | 2.78 | 2.73 | 2.67 | 2.61 | 2.56 | 2.50 | 2.43 | 2.37 | 2.31 | 2.24 | 2.17 | 2.10 |
| 74.0 | 188.0 | 3.07 | 3.03 | 2.98 | 2.93 | 2.88 | 2.83 | 2.77 | 2.72 | 2.66 | 2.60 | 2.54 | 2.48 | 2.42 | 2.35 | 2.29 | 2.22 | 2.15 |
| 74.5 | 189.2 | 3.11 | 3.07 | 3.02 | 2.97 | 2.92 | 2.87 | 2.81 | 2.76 | 2.70 | 2.64 | 2.58 | 2.52 | 2.46 | 2.39 | 2.33 | 2.26 | 2.19 |
| 75.0 | 190.5 | 3.16 | 3.11 | 3.07 | 3.02 | 2.97 | 2.91 | 2.86 | 2.80 | 2.75 | 2.69 | 2.63 | 2.57 | 2.50 | 2.44 | 2.37 | 2.31 | 2.24 |
| 75.5 | 191.8 | 3.21 | 3.16 | 3.11 | 3.06 | 3.01 | 2.96 | 2.91 | 2.85 | 2.79 | 2.74 | 2.68 | 2.61 | 2.55 | 2.49 | 2.42 | 2.35 | 2.28 |
| 76.0 | 193.0 | 3.25 | 3.20 | 3.15 | 3.11 | 3.06 | 3.00 | 2.95 | 2.89 | 2.84 | 2.78 | 2.72 | 2.66 | 2.59 | 2.53 | 2.46 | 2.40 | 2.33 |
| 76.5 | 194.3 | 3.30 | 3.25 | 3.20 | 3.15 | 3.10 | 3.05 | 3.00 | 2.94 | 2.88 | 2.83 | 2.77 | 2.70 | 2.64 | 2.58 | 2.51 | 2.44 | 2.37 |
| 77.0 | 195.6 | 3.34 | 3.30 | 3.25 | 3.20 | 3.15 | 3.10 | 3.04 | 2.99 | 2.93 | 2.87 | 2.81 | 2.75 | 2.69 | 2.62 | 2.56 | 2.49 | 2.42 |
| 77.5 | 196.9 | 3.39 | 3.34 | 3.30 | 3.25 | 3.20 | 3.14 | 3.09 | 3.03 | 2.98 | 2.92 | 2.86 | 2.80 | 2.73 | 2.67 | 2.60 | 2.54 | 2.47 |
| 78.0 | 198.1 | 3.43 | 3.39 | 3.34 | 3.29 | 3.24 | 3.19 | 3.13 | 3.08 | 3.02 | 2.96 | 2.90 | 2.84 | 2.78 | 2.71 | 2.65 | 2.58 | 2.51 |
| 78.5 | 199.4 | 3.48 | 3.44 | 3.39 | 3.34 | 3.29 | 3.24 | 3.18 | 3.13 | 3.07 | 3.01 | 2.95 | 2.89 | 2.83 | 2.76 | 2.70 | 2.63 | 2.56 |
| 79.0 | 200.7 | 3.53 | 3.48 | 3.44 | 3.39 | 3.34 | 3.28 | 3.23 | 3.18 | 3.12 | 3.06 | 3.00 | 2.94 | 2.88 | 2.81 | 2.74 | 2.68 | 2.61 |
| 79.5 | 201.9 | 3.57 | 3.53 | 3.48 | 3.43 | 3.38 | 3.33 | 3.28 | 3.22 | 3.16 | 3.10 | 3.04 | 2.98 | 2.92 | 2.86 | 2.79 | 2.72 | 2.65 |
| 80.0 | 203.2 | 3.62 | 3.58 | 3.53 | 3.48 | 3.43 | 3.38 | 3.32 | 3.27 | 3.21 | 3.15 | 3.09 | 3.03 | 2.97 | 2.90 | 2.84 | 2.77 | 2.70 |
| 80.5 | 204.5 | 3.67 | 3.63 | 3.58 | 3.53 | 3.48 | 3.43 | 3.37 | 3.32 | 3.26 | 3.20 | 3.14 | 3.08 | 3.02 | 2.95 | 2.89 | 2.82 | 2.75 |
| 81.0 | 205.7 | 3.72 | 3.67 | 3.62 | 3.58 | 3.53 | 3.47 | 3.42 | 3.36 | 3.31 | 3.25 | 3.19 | 3.13 | 3.06 | 3.00 | 2.93 | 2.87 | 2.80 |
| 81.5 | 207.0 | 3.77 | 3.72 | 3.67 | 3.63 | 3.57 | 3.52 | 3.47 | 3.41 | 3.36 | 3.30 | 3.24 | 3.18 | 3.11 | 3.05 | 2.98 | 2.92 | 2.85 |
| 82.0 | 208.3 | 3.82 | 3.77 | 3.72 | 3.68 | 3.63 | 3.57 | 3.52 | 3.46 | 3.41 | 3.35 | 3.29 | 3.23 | 3.16 | 3.10 | 3.03 | 2.97 | 2.90 |
| 82.5 | 209.6 | 3.87 | 3.82 | 3.78 | 3.73 | 3.68 | 3.62 | 3.57 | 3.51 | 3.46 | 3.40 | 3.34 | 3.28 | 3.21 | 3.15 | 3.08 | 3.02 | 2.95 |

TABLE 3.—AFRICAN AMERICAN MALES FVC LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: $-0.1517 + (-0.01821)(\text{age}) + (0.0001367)(\text{height}^2)$]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 2.24 | 2.20 | 2.16 | 2.13 | 2.09 | 2.05 | 2.02 | 1.98 | 1.94 | 1.91 | 1.87 | 1.84 | 1.80 | 1.76 | 1.73 | 1.69 | 1.65 |
| 61.5 | 156.2 | 2.29 | 2.25 | 2.22 | 2.18 | 2.15 | 2.11 | 2.07 | 2.04 | 2.00 | 1.96 | 1.93 | 1.89 | 1.85 | 1.82 | 1.78 | 1.74 | 1.71 |
| 62.0 | 157.5 | 2.35 | 2.31 | 2.27 | 2.24 | 2.20 | 2.16 | 2.13 | 2.09 | 2.06 | 2.02 | 1.98 | 1.95 | 1.91 | 1.87 | 1.84 | 1.80 | 1.76 |

TABLE 3.—AFRICAN AMERICAN MALES FVC LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)—Continued

[Reference value equation: $-0.1517 + (-0.01821)(\text{age}) + (0.0001367)(\text{height}^2)$]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 62.5 | 158.8 | 2.40 | 2.37 | 2.33 | 2.29 | 2.26 | 2.22 | 2.18 | 2.15 | 2.11 | 2.08 | 2.04 | 2.00 | 1.97 | 1.93 | 1.89 | 1.86 | 1.82 |
| 63.0 | 160.0 | 2.46 | 2.42 | 2.38 | 2.35 | 2.31 | 2.27 | 2.24 | 2.20 | 2.16 | 2.13 | 2.09 | 2.05 | 2.02 | 1.98 | 1.95 | 1.91 | 1.87 |
| 63.5 | 161.3 | 2.51 | 2.48 | 2.44 | 2.40 | 2.37 | 2.33 | 2.29 | 2.26 | 2.22 | 2.18 | 2.15 | 2.11 | 2.08 | 2.04 | 2.00 | 1.97 | 1.93 |
| 64.0 | 162.6 | 2.57 | 2.53 | 2.50 | 2.46 | 2.42 | 2.39 | 2.35 | 2.32 | 2.28 | 2.24 | 2.21 | 2.17 | 2.13 | 2.10 | 2.06 | 2.02 | 1.99 |
| 64.5 | 163.8 | 2.62 | 2.59 | 2.55 | 2.51 | 2.48 | 2.44 | 2.41 | 2.37 | 2.33 | 2.30 | 2.26 | 2.22 | 2.19 | 2.15 | 2.11 | 2.08 | 2.04 |
| 65.0 | 165.1 | 2.68 | 2.65 | 2.61 | 2.57 | 2.54 | 2.50 | 2.46 | 2.43 | 2.39 | 2.35 | 2.32 | 2.28 | 2.25 | 2.21 | 2.17 | 2.14 | 2.10 |
| 65.5 | 166.4 | 2.74 | 2.70 | 2.67 | 2.63 | 2.59 | 2.56 | 2.52 | 2.48 | 2.45 | 2.41 | 2.38 | 2.34 | 2.30 | 2.27 | 2.23 | 2.19 | 2.16 |
| 66.0 | 167.6 | 2.80 | 2.76 | 2.72 | 2.69 | 2.65 | 2.62 | 2.58 | 2.54 | 2.51 | 2.47 | 2.43 | 2.40 | 2.36 | 2.32 | 2.29 | 2.25 | 2.21 |
| 66.5 | 168.9 | 2.86 | 2.82 | 2.78 | 2.75 | 2.71 | 2.67 | 2.64 | 2.60 | 2.56 | 2.53 | 2.49 | 2.46 | 2.42 | 2.38 | 2.35 | 2.31 | 2.27 |
| 67.0 | 170.2 | 2.92 | 2.88 | 2.84 | 2.81 | 2.77 | 2.73 | 2.70 | 2.66 | 2.62 | 2.59 | 2.55 | 2.52 | 2.48 | 2.44 | 2.41 | 2.37 | 2.33 |
| 67.5 | 171.5 | 2.98 | 2.94 | 2.90 | 2.87 | 2.83 | 2.79 | 2.76 | 2.72 | 2.69 | 2.65 | 2.61 | 2.58 | 2.54 | 2.50 | 2.47 | 2.43 | 2.39 |
| 68.0 | 172.7 | 3.03 | 3.00 | 2.96 | 2.92 | 2.89 | 2.85 | 2.81 | 2.78 | 2.74 | 2.71 | 2.67 | 2.63 | 2.60 | 2.56 | 2.52 | 2.49 | 2.45 |
| 68.5 | 174.0 | 3.09 | 3.06 | 3.02 | 2.99 | 2.95 | 2.91 | 2.88 | 2.84 | 2.80 | 2.77 | 2.73 | 2.69 | 2.66 | 2.62 | 2.58 | 2.55 | 2.51 |
| 69.0 | 175.3 | 3.16 | 3.12 | 3.08 | 3.05 | 3.01 | 2.97 | 2.94 | 2.90 | 2.87 | 2.83 | 2.79 | 2.76 | 2.72 | 2.68 | 2.65 | 2.61 | 2.57 |
| 69.5 | 176.5 | 3.21 | 3.18 | 3.14 | 3.11 | 3.07 | 3.03 | 3.00 | 2.96 | 2.92 | 2.89 | 2.85 | 2.81 | 2.78 | 2.74 | 2.70 | 2.67 | 2.63 |
| 70.0 | 177.8 | 3.28 | 3.24 | 3.20 | 3.17 | 3.13 | 3.10 | 3.06 | 3.02 | 2.99 | 2.95 | 2.91 | 2.88 | 2.84 | 2.80 | 2.77 | 2.73 | 2.69 |
| 70.5 | 179.1 | 3.34 | 3.30 | 3.27 | 3.23 | 3.20 | 3.16 | 3.12 | 3.09 | 3.05 | 3.01 | 2.98 | 2.94 | 2.90 | 2.87 | 2.83 | 2.79 | 2.76 |
| 71.0 | 180.3 | 3.40 | 3.36 | 3.33 | 3.29 | 3.25 | 3.22 | 3.18 | 3.14 | 3.11 | 3.07 | 3.04 | 3.00 | 2.96 | 2.93 | 2.89 | 2.85 | 2.82 |
| 71.5 | 181.6 | 3.46 | 3.43 | 3.39 | 3.35 | 3.32 | 3.28 | 3.25 | 3.21 | 3.17 | 3.14 | 3.10 | 3.06 | 3.03 | 2.99 | 2.95 | 2.92 | 2.88 |
| 72.0 | 182.9 | 3.53 | 3.49 | 3.46 | 3.42 | 3.38 | 3.35 | 3.31 | 3.27 | 3.24 | 3.20 | 3.16 | 3.13 | 3.09 | 3.06 | 3.02 | 2.98 | 2.95 |
| 72.5 | 184.2 | 3.59 | 3.56 | 3.52 | 3.48 | 3.45 | 3.41 | 3.38 | 3.34 | 3.30 | 3.27 | 3.23 | 3.19 | 3.16 | 3.12 | 3.08 | 3.05 | 3.01 |
| 73.0 | 185.4 | 3.65 | 3.62 | 3.58 | 3.55 | 3.51 | 3.47 | 3.44 | 3.40 | 3.36 | 3.33 | 3.29 | 3.25 | 3.22 | 3.18 | 3.14 | 3.11 | 3.07 |
| 73.5 | 186.7 | 3.72 | 3.68 | 3.65 | 3.61 | 3.58 | 3.54 | 3.50 | 3.47 | 3.43 | 3.39 | 3.36 | 3.32 | 3.28 | 3.25 | 3.21 | 3.17 | 3.14 |
| 74.0 | 188.0 | 3.79 | 3.75 | 3.71 | 3.68 | 3.64 | 3.61 | 3.57 | 3.53 | 3.50 | 3.46 | 3.42 | 3.39 | 3.35 | 3.31 | 3.28 | 3.24 | 3.20 |
| 74.5 | 189.2 | 3.85 | 3.81 | 3.78 | 3.74 | 3.70 | 3.67 | 3.63 | 3.59 | 3.56 | 3.52 | 3.49 | 3.45 | 3.41 | 3.38 | 3.34 | 3.30 | 3.27 |
| 75.0 | 190.5 | 3.92 | 3.88 | 3.84 | 3.81 | 3.77 | 3.73 | 3.70 | 3.66 | 3.63 | 3.59 | 3.55 | 3.52 | 3.48 | 3.44 | 3.41 | 3.37 | 3.33 |
| 75.5 | 191.8 | 3.98 | 3.95 | 3.91 | 3.88 | 3.84 | 3.80 | 3.77 | 3.73 | 3.69 | 3.66 | 3.62 | 3.58 | 3.55 | 3.51 | 3.47 | 3.44 | 3.40 |
| 76.0 | 193.0 | 4.05 | 4.01 | 3.98 | 3.94 | 3.90 | 3.87 | 3.83 | 3.79 | 3.76 | 3.72 | 3.68 | 3.65 | 3.61 | 3.57 | 3.54 | 3.50 | 3.47 |
| 76.5 | 194.3 | 4.12 | 4.08 | 4.04 | 4.01 | 3.97 | 3.93 | 3.90 | 3.86 | 3.83 | 3.79 | 3.75 | 3.72 | 3.68 | 3.64 | 3.61 | 3.57 | 3.53 |
| 77.0 | 195.6 | 4.19 | 4.15 | 4.11 | 4.08 | 4.04 | 4.00 | 3.97 | 3.93 | 3.89 | 3.86 | 3.82 | 3.79 | 3.75 | 3.71 | 3.68 | 3.64 | 3.60 |
| 77.5 | 196.9 | 4.26 | 4.22 | 4.18 | 4.15 | 4.11 | 4.07 | 4.04 | 4.00 | 3.96 | 3.93 | 3.89 | 3.86 | 3.82 | 3.78 | 3.75 | 3.71 | 3.67 |
| 78.0 | 198.1 | 4.32 | 4.28 | 4.25 | 4.21 | 4.17 | 4.14 | 4.10 | 4.07 | 4.03 | 3.99 | 3.96 | 3.92 | 3.88 | 3.85 | 3.81 | 3.77 | 3.74 |
| 78.5 | 199.4 | 4.39 | 4.35 | 4.32 | 4.28 | 4.25 | 4.21 | 4.17 | 4.14 | 4.10 | 4.06 | 4.03 | 3.99 | 3.95 | 3.92 | 3.88 | 3.84 | 3.81 |
| 79.0 | 200.7 | 4.46 | 4.43 | 4.39 | 4.35 | 4.32 | 4.28 | 4.24 | 4.21 | 4.17 | 4.13 | 4.10 | 4.06 | 4.03 | 3.99 | 3.95 | 3.92 | 3.88 |
| 79.5 | 201.9 | 4.53 | 4.49 | 4.46 | 4.42 | 4.38 | 4.35 | 4.31 | 4.27 | 4.24 | 4.20 | 4.16 | 4.13 | 4.09 | 4.05 | 4.02 | 3.98 | 3.95 |
| 80.0 | 203.2 | 4.60 | 4.56 | 4.53 | 4.49 | 4.45 | 4.42 | 4.38 | 4.35 | 4.31 | 4.27 | 4.24 | 4.20 | 4.16 | 4.13 | 4.09 | 4.05 | 4.02 |
| 80.5 | 204.5 | 4.67 | 4.64 | 4.60 | 4.56 | 4.53 | 4.49 | 4.45 | 4.42 | 4.38 | 4.35 | 4.31 | 4.27 | 4.24 | 4.20 | 4.16 | 4.13 | 4.09 |
| 81.0 | 205.7 | 4.74 | 4.70 | 4.67 | 4.63 | 4.59 | 4.56 | 4.52 | 4.49 | 4.45 | 4.41 | 4.38 | 4.34 | 4.30 | 4.27 | 4.23 | 4.19 | 4.16 |
| 81.5 | 207.0 | 4.81 | 4.78 | 4.74 | 4.70 | 4.67 | 4.63 | 4.59 | 4.56 | 4.52 | 4.49 | 4.45 | 4.41 | 4.38 | 4.34 | 4.30 | 4.27 | 4.23 |
| 82.0 | 208.3 | 4.89 | 4.85 | 4.81 | 4.78 | 4.74 | 4.71 | 4.67 | 4.63 | 4.60 | 4.56 | 4.52 | 4.49 | 4.45 | 4.41 | 4.38 | 4.34 | 4.30 |
| 82.5 | 209.6 | 4.96 | 4.93 | 4.89 | 4.85 | 4.82 | 4.78 | 4.74 | 4.71 | 4.67 | 4.63 | 4.60 | 4.56 | 4.52 | 4.49 | 4.45 | 4.42 | 4.38 |

TABLE 3A.—AFRICAN AMERICAN MALES FEV–1 LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: $0.3411 + (-0.02309)(\text{age}) + (0.00010561)(\text{height}^2)$]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 1.74 | 1.70 | 1.65 | 1.61 | 1.56 | 1.51 | 1.47 | 1.42 | 1.37 | 1.33 | 1.28 | 1.24 | 1.19 | 1.14 | 1.10 | 1.05 | 1.00 |
| 61.5 | 156.2 | 1.79 | 1.74 | 1.69 | 1.65 | 1.60 | 1.56 | 1.51 | 1.46 | 1.42 | 1.37 | 1.32 | 1.28 | 1.23 | 1.19 | 1.14 | 1.09 | 1.05 |
| 62.0 | 157.5 | 1.83 | 1.78 | 1.74 | 1.69 | 1.64 | 1.60 | 1.55 | 1.51 | 1.46 | 1.41 | 1.37 | 1.32 | 1.28 | 1.23 | 1.18 | 1.14 | 1.09 |
| 62.5 | 158.8 | 1.87 | 1.83 | 1.78 | 1.73 | 1.69 | 1.64 | 1.60 | 1.55 | 1.50 | 1.46 | 1.41 | 1.36 | 1.32 | 1.27 | 1.23 | 1.18 | 1.13 |
| 63.0 | 160.0 | 1.91 | 1.87 | 1.82 | 1.77 | 1.73 | 1.68 | 1.64 | 1.59 | 1.54 | 1.50 | 1.45 | 1.41 | 1.36 | 1.31 | 1.27 | 1.22 | 1.17 |
| 63.5 | 161.3 | 1.96 | 1.91 | 1.87 | 1.82 | 1.77 | 1.73 | 1.68 | 1.63 | 1.59 | 1.54 | 1.50 | 1.45 | 1.40 | 1.36 | 1.31 | 1.26 | 1.22 |
| 64.0 | 162.6 | 2.00 | 1.96 | 1.91 | 1.86 | 1.82 | 1.77 | 1.72 | 1.68 | 1.63 | 1.59 | 1.54 | 1.49 | 1.45 | 1.40 | 1.36 | 1.31 | 1.26 |
| 64.5 | 163.8 | 2.04 | 2.00 | 1.95 | 1.90 | 1.86 | 1.81 | 1.77 | 1.72 | 1.67 | 1.63 | 1.58 | 1.54 | 1.49 | 1.44 | 1.40 | 1.35 | 1.30 |
| 65.0 | 165.1 | 2.09 | 2.04 | 2.00 | 1.95 | 1.90 | 1.86 | 1.81 | 1.77 | 1.72 | 1.67 | 1.63 | 1.58 | 1.53 | 1.49 | 1.44 | 1.40 | 1.35 |
| 65.5 | 166.4 | 2.13 | 2.09 | 2.04 | 1.99 | 1.95 | 1.90 | 1.86 | 1.81 | 1.76 | 1.72 | 1.67 | 1.62 | 1.58 | 1.53 | 1.49 | 1.44 | 1.39 |
| 66.0 | 167.6 | 2.18 | 2.13 | 2.09 | 2.04 | 1.99 | 1.95 | 1.90 | 1.85 | 1.81 | 1.76 | 1.72 | 1.67 | 1.62 | 1.58 | 1.53 | 1.48 | 1.44 |
| 66.5 | 168.9 | 2.22 | 2.18 | 2.13 | 2.08 | 2.04 | 1.99 | 1.95 | 1.90 | 1.85 | 1.81 | 1.76 | 1.71 | 1.67 | 1.62 | 1.58 | 1.53 | 1.48 |
| 67.0 | 170.2 | 2.27 | 2.22 | 2.18 | 2.13 | 2.08 | 2.04 | 1.99 | 1.95 | 1.90 | 1.85 | 1.81 | 1.76 | 1.71 | 1.67 | 1.62 | 1.58 | 1.53 |
| 67.5 | 171.5 | 2.32 | 2.27 | 2.22 | 2.18 | 2.13 | 2.09 | 2.04 | 1.99 | 1.95 | 1.90 | 1.85 | 1.81 | 1.76 | 1.72 | 1.67 | 1.62 | 1.58 |
| 68.0 | 172.7 | 2.36 | 2.31 | 2.27 | 2.22 | 2.17 | 2.13 | 2.08 | 2.04 | 1.99 | 1.94 | 1.90 | 1.85 | 1.81 | 1.76 | 1.71 | 1.67 | 1.62 |
| 68.5 | 174.0 | 2.41 | 2.36 | 2.31 | 2.27 | 2.22 | 2.18 | 2.13 | 2.08 | 2.04 | 1.99 | 1.95 | 1.90 | 1.85 | 1.81 | 1.76 | 1.71 | 1.67 |
| 69.0 | 175.3 | 2.46 | 2.41 | 2.36 | 2.32 | 2.27 | 2.22 | 2.18 | 2.13 | 2.09 | 2.04 | 1.99 | 1.95 | 1.90 | 1.85 | 1.81 | 1.76 | 1.72 |
| 69.5 | 176.5 | 2.50 | 2.45 | 2.41 | 2.36 | 2.31 | 2.27 | 2.22 | 2.18 | 2.13 | 2.08 | 2.04 | 1.99 | 1.95 | 1.90 | 1.85 | 1.81 | 1.76 |
| 70.0 | 177.8 | 2.55 | 2.50 | 2.46 | 2.41 | 2.36 | 2.32 | 2.27 | 2.23 | 2.18 | 2.13 | 2.09 | 2.04 | 1.99 | 1.95 | 1.90 | 1.86 | 1.81 |
| 70.5 | 179.1 | 2.60 | 2.55 | 2.50 | 2.46 | 2.41 | 2.37 | 2.32 | 2.27 | 2.23 | 2.18 | 2.14 | 2.09 | 2.04 | 2.00 | 1.95 | 1.90 | 1.86 |
| 71.0 | 180.3 | 2.64 | 2.60 | 2.55 | 2.50 | 2.46 | 2.41 | 2.37 | 2.32 | 2.27 | 2.23 | 2.18 | 2.13 | 2.09 | 2.04 | 2.00 | 1.95 | 1.90 |
| 71.5 | 181.6 | 2.69 | 2.65 | 2.60 | 2.55 | 2.51 | 2.46 | 2.42 | 2.37 | 2.32 | 2.28 | 2.23 | 2.18 | 2.14 | 2.09 | 2.05 | 2.00 | 1.95 |
| 72.0 | 182.9 | 2.74 | 2.70 | 2.65 | 2.60 | 2.56 | 2.51 | 2.47 | 2.42 | 2.37 | 2.33 | 2.28 | 2.23 | 2.19 | 2.14 | 2.10 | 2.05 | 2.00 |
| 72.5 | 184.2 | 2.79 | 2.75 | 2.70 | 2.65 | 2.61 | 2.56 | 2.52 | 2.47 | 2.42 | 2.38 | 2.33 | 2.29 | 2.24 | 2.19 | 2.15 | 2.10 | 2.05 |
| 73.0 | 185.4 | 2.84 | 2.79 | 2.75 | 2.70 | 2.66 | 2.61 | 2.56 | 2.52 | 2.47 | 2.42 | 2.38 | 2.33 | 2.29 | 2.24 | 2.19 | 2.15 | 2.10 |
| 73.5 | 186.7 | 2.89 | 2.84 | 2.80 | 2.75 | 2.71 | 2.66 | 2.61 | 2.57 | 2.52 | 2.48 | 2.43 | 2.38 | 2.34 | 2.29 | 2.24 | 2.20 | 2.15 |

TABLE 3A.—AFRICAN AMERICAN MALES FEV–1 LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)—Continued

[Reference value equation: 0.3411 + (−0.02309)(age) + (0.00010561)(height²)]

| Height in inches | Height in centimeters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 74.0 | 188.0 | 2.94 | 2.90 | 2.85 | 2.80 | 2.76 | 2.71 | 2.67 | 2.62 | 2.57 | 2.53 | 2.48 | 2.43 | 2.39 | 2.34 | 2.30 | 2.25 | 2.20 |
| 74.5 | 189.2 | 2.99 | 2.94 | 2.90 | 2.85 | 2.81 | 2.76 | 2.71 | 2.67 | 2.62 | 2.57 | 2.53 | 2.48 | 2.44 | 2.39 | 2.34 | 2.30 | 2.25 |
| 75.0 | 190.5 | 3.04 | 3.00 | 2.95 | 2.90 | 2.86 | 2.81 | 2.77 | 2.72 | 2.67 | 2.63 | 2.58 | 2.53 | 2.49 | 2.44 | 2.40 | 2.35 | 2.30 |
| 75.5 | 191.8 | 3.09 | 3.05 | 3.00 | 2.96 | 2.91 | 2.86 | 2.82 | 2.77 | 2.73 | 2.68 | 2.63 | 2.59 | 2.54 | 2.49 | 2.45 | 2.40 | 2.36 |
| 76.0 | 193.0 | 3.14 | 3.10 | 3.05 | 3.01 | 2.96 | 2.91 | 2.87 | 2.82 | 2.77 | 2.73 | 2.68 | 2.64 | 2.59 | 2.54 | 2.50 | 2.45 | 2.40 |
| 76.5 | 194.3 | 3.20 | 3.15 | 3.10 | 3.06 | 3.01 | 2.97 | 2.92 | 2.87 | 2.83 | 2.78 | 2.73 | 2.69 | 2.64 | 2.60 | 2.55 | 2.50 | 2.46 |
| 77.0 | 195.6 | 3.25 | 3.20 | 3.16 | 3.11 | 3.07 | 3.02 | 2.97 | 2.93 | 2.88 | 2.83 | 2.79 | 2.74 | 2.70 | 2.65 | 2.60 | 2.56 | 2.51 |
| 77.5 | 196.9 | 3.30 | 3.26 | 3.21 | 3.17 | 3.12 | 3.07 | 3.03 | 2.98 | 2.93 | 2.89 | 2.84 | 2.80 | 2.75 | 2.70 | 2.66 | 2.61 | 2.57 |
| 78.0 | 198.1 | 3.35 | 3.31 | 3.26 | 3.22 | 3.17 | 3.12 | 3.08 | 3.03 | 2.98 | 2.94 | 2.89 | 2.85 | 2.80 | 2.75 | 2.71 | 2.66 | 2.62 |
| 78.5 | 199.4 | 3.41 | 3.36 | 3.32 | 3.27 | 3.22 | 3.18 | 3.13 | 3.09 | 3.04 | 2.99 | 2.95 | 2.90 | 2.85 | 2.81 | 2.76 | 2.72 | 2.67 |
| 79.0 | 200.7 | 3.46 | 3.42 | 3.37 | 3.33 | 3.28 | 3.23 | 3.19 | 3.14 | 3.09 | 3.05 | 3.00 | 2.96 | 2.91 | 2.86 | 2.82 | 2.77 | 2.72 |
| 79.5 | 201.9 | 3.51 | 3.47 | 3.42 | 3.38 | 3.33 | 3.28 | 3.24 | 3.19 | 3.15 | 3.10 | 3.05 | 3.01 | 2.96 | 2.91 | 2.87 | 2.82 | 2.78 |
| 80.0 | 203.2 | 3.57 | 3.52 | 3.48 | 3.43 | 3.39 | 3.34 | 3.29 | 3.25 | 3.20 | 3.15 | 3.11 | 3.06 | 3.02 | 2.97 | 2.92 | 2.88 | 2.83 |
| 80.5 | 204.5 | 3.63 | 3.58 | 3.53 | 3.49 | 3.44 | 3.40 | 3.35 | 3.30 | 3.26 | 3.21 | 3.16 | 3.12 | 3.07 | 3.03 | 2.98 | 2.93 | 2.89 |
| 81.0 | 205.7 | 3.68 | 3.63 | 3.59 | 3.54 | 3.49 | 3.45 | 3.40 | 3.36 | 3.31 | 3.26 | 3.22 | 3.17 | 3.12 | 3.08 | 3.03 | 2.99 | 2.94 |
| 81.5 | 207.0 | 3.73 | 3.69 | 3.64 | 3.60 | 3.55 | 3.50 | 3.46 | 3.41 | 3.37 | 3.32 | 3.27 | 3.23 | 3.18 | 3.13 | 3.09 | 3.04 | 3.00 |
| 82.0 | 208.3 | 3.79 | 3.75 | 3.70 | 3.65 | 3.61 | 3.56 | 3.51 | 3.47 | 3.42 | 3.38 | 3.33 | 3.28 | 3.24 | 3.19 | 3.15 | 3.10 | 3.05 |
| 82.5 | 209.6 | 3.85 | 3.80 | 3.76 | 3.71 | 3.66 | 3.62 | 3.57 | 3.53 | 3.48 | 3.43 | 3.39 | 3.34 | 3.30 | 3.25 | 3.20 | 3.16 | 3.11 |

TABLE 4.—AFRICAN AMERICAN FEMALES FVC LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: −0.3039 + (0.00536)(age) + (−0.000265)(age²) + (0.00010916)(height²)]

| Height in inches | Height in centimeters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 1.94 | 1.90 | 1.85 | 1.81 | 1.76 | 1.71 | 1.66 | 1.60 | 1.54 | 1.48 | 1.42 | 1.36 | 1.29 | 1.23 | 1.16 | 1.08 | 1.01 |
| 61.5 | 156.2 | 1.99 | 1.94 | 1.90 | 1.85 | 1.80 | 1.75 | 1.70 | 1.65 | 1.59 | 1.53 | 1.47 | 1.40 | 1.34 | 1.27 | 1.20 | 1.13 | 1.05 |
| 62.0 | 157.5 | 2.03 | 1.99 | 1.94 | 1.90 | 1.85 | 1.80 | 1.74 | 1.69 | 1.63 | 1.57 | 1.51 | 1.45 | 1.38 | 1.32 | 1.25 | 1.17 | 1.10 |
| 62.5 | 158.8 | 2.08 | 2.03 | 1.99 | 1.94 | 1.89 | 1.84 | 1.79 | 1.73 | 1.68 | 1.62 | 1.56 | 1.49 | 1.43 | 1.36 | 1.29 | 1.22 | 1.14 |
| 63.0 | 160.0 | 2.12 | 2.07 | 2.03 | 1.98 | 1.94 | 1.88 | 1.83 | 1.78 | 1.72 | 1.66 | 1.60 | 1.54 | 1.47 | 1.40 | 1.33 | 1.26 | 1.19 |
| 63.5 | 161.3 | 2.16 | 2.12 | 2.08 | 2.03 | 1.98 | 1.93 | 1.88 | 1.82 | 1.76 | 1.71 | 1.64 | 1.58 | 1.52 | 1.45 | 1.38 | 1.31 | 1.23 |
| 64.0 | 162.6 | 2.21 | 2.17 | 2.12 | 2.08 | 2.03 | 1.98 | 1.92 | 1.87 | 1.81 | 1.75 | 1.69 | 1.63 | 1.56 | 1.49 | 1.42 | 1.35 | 1.28 |
| 64.5 | 163.8 | 2.25 | 2.21 | 2.16 | 2.12 | 2.07 | 2.02 | 1.97 | 1.91 | 1.85 | 1.79 | 1.73 | 1.67 | 1.60 | 1.54 | 1.47 | 1.39 | 1.32 |
| 65.0 | 165.1 | 2.30 | 2.26 | 2.21 | 2.16 | 2.12 | 2.07 | 2.01 | 1.96 | 1.90 | 1.84 | 1.78 | 1.72 | 1.65 | 1.58 | 1.51 | 1.44 | 1.37 |
| 65.5 | 166.4 | 2.34 | 2.30 | 2.26 | 2.21 | 2.16 | 2.11 | 2.06 | 2.00 | 1.95 | 1.89 | 1.83 | 1.76 | 1.70 | 1.63 | 1.56 | 1.49 | 1.41 |
| 66.0 | 167.6 | 2.39 | 2.35 | 2.30 | 2.26 | 2.21 | 2.16 | 2.10 | 2.05 | 1.99 | 1.93 | 1.87 | 1.81 | 1.74 | 1.68 | 1.61 | 1.53 | 1.46 |
| 66.5 | 168.9 | 2.44 | 2.39 | 2.35 | 2.30 | 2.26 | 2.20 | 2.15 | 2.10 | 2.04 | 1.98 | 1.92 | 1.86 | 1.79 | 1.72 | 1.65 | 1.58 | 1.51 |
| 67.0 | 170.2 | 2.48 | 2.44 | 2.40 | 2.35 | 2.30 | 2.25 | 2.20 | 2.14 | 2.09 | 2.03 | 1.97 | 1.90 | 1.84 | 1.77 | 1.70 | 1.63 | 1.55 |
| 67.5 | 171.5 | 2.53 | 2.49 | 2.45 | 2.40 | 2.35 | 2.30 | 2.25 | 2.19 | 2.14 | 2.08 | 2.01 | 1.95 | 1.89 | 1.82 | 1.75 | 1.68 | 1.60 |
| 68.0 | 172.7 | 2.58 | 2.54 | 2.49 | 2.45 | 2.40 | 2.35 | 2.29 | 2.24 | 2.18 | 2.12 | 2.06 | 2.00 | 1.93 | 1.86 | 1.79 | 1.72 | 1.65 |
| 68.5 | 174.0 | 2.63 | 2.59 | 2.54 | 2.49 | 2.45 | 2.39 | 2.34 | 2.29 | 2.23 | 2.17 | 2.11 | 2.05 | 1.98 | 1.91 | 1.84 | 1.77 | 1.70 |
| 69.0 | 175.3 | 2.68 | 2.63 | 2.59 | 2.54 | 2.50 | 2.44 | 2.39 | 2.34 | 2.28 | 2.22 | 2.16 | 2.10 | 2.03 | 1.96 | 1.89 | 1.82 | 1.75 |
| 69.5 | 176.5 | 2.72 | 2.68 | 2.64 | 2.59 | 2.54 | 2.49 | 2.44 | 2.38 | 2.33 | 2.27 | 2.20 | 2.14 | 2.08 | 2.01 | 1.94 | 1.87 | 1.79 |
| 70.0 | 177.8 | 2.77 | 2.73 | 2.69 | 2.64 | 2.59 | 2.54 | 2.49 | 2.43 | 2.38 | 2.32 | 2.26 | 2.19 | 2.13 | 2.06 | 1.99 | 1.92 | 1.84 |
| 70.5 | 179.1 | 2.82 | 2.78 | 2.74 | 2.69 | 2.64 | 2.59 | 2.54 | 2.48 | 2.43 | 2.37 | 2.31 | 2.24 | 2.18 | 2.11 | 2.04 | 1.97 | 1.89 |
| 71.0 | 180.3 | 2.87 | 2.83 | 2.78 | 2.74 | 2.69 | 2.64 | 2.59 | 2.53 | 2.47 | 2.41 | 2.35 | 2.29 | 2.22 | 2.16 | 2.09 | 2.01 | 1.94 |
| 71.5 | 181.6 | 2.92 | 2.88 | 2.84 | 2.79 | 2.74 | 2.69 | 2.64 | 2.58 | 2.52 | 2.47 | 2.40 | 2.34 | 2.28 | 2.21 | 2.14 | 2.07 | 1.99 |
| 72.0 | 182.9 | 2.97 | 2.93 | 2.89 | 2.84 | 2.79 | 2.74 | 2.69 | 2.63 | 2.58 | 2.52 | 2.46 | 2.39 | 2.33 | 2.26 | 2.19 | 2.12 | 2.04 |
| 72.5 | 184.2 | 3.03 | 2.98 | 2.94 | 2.89 | 2.84 | 2.79 | 2.74 | 2.69 | 2.63 | 2.57 | 2.51 | 2.44 | 2.38 | 2.31 | 2.24 | 2.17 | 2.10 |
| 73.0 | 185.4 | 3.07 | 3.03 | 2.99 | 2.94 | 2.89 | 2.84 | 2.79 | 2.73 | 2.68 | 2.62 | 2.56 | 2.49 | 2.43 | 2.36 | 2.29 | 2.22 | 2.14 |
| 73.5 | 186.7 | 3.13 | 3.09 | 3.04 | 2.99 | 2.95 | 2.89 | 2.84 | 2.79 | 2.73 | 2.67 | 2.61 | 2.55 | 2.48 | 2.41 | 2.34 | 2.27 | 2.20 |
| 74.0 | 188.0 | 3.18 | 3.14 | 3.09 | 3.05 | 3.00 | 2.95 | 2.90 | 2.84 | 2.78 | 2.72 | 2.66 | 2.60 | 2.53 | 2.47 | 2.40 | 2.32 | 2.25 |
| 74.5 | 189.2 | 3.23 | 3.19 | 3.14 | 3.10 | 3.05 | 3.00 | 2.94 | 2.89 | 2.83 | 2.77 | 2.71 | 2.65 | 2.58 | 2.52 | 2.45 | 2.37 | 2.30 |
| 75.0 | 190.5 | 3.28 | 3.24 | 3.20 | 3.15 | 3.10 | 3.05 | 3.00 | 2.94 | 2.89 | 2.83 | 2.77 | 2.70 | 2.64 | 2.57 | 2.50 | 2.43 | 2.35 |
| 75.5 | 191.8 | 3.34 | 3.30 | 3.25 | 3.20 | 3.16 | 3.11 | 3.05 | 3.00 | 2.94 | 2.88 | 2.82 | 2.76 | 2.69 | 2.62 | 2.55 | 2.48 | 2.41 |
| 76.0 | 193.0 | 3.39 | 3.35 | 3.30 | 3.26 | 3.21 | 3.16 | 3.10 | 3.05 | 2.99 | 2.93 | 2.87 | 2.81 | 2.74 | 2.67 | 2.60 | 2.53 | 2.46 |
| 76.5 | 194.3 | 3.44 | 3.40 | 3.36 | 3.31 | 3.26 | 3.21 | 3.16 | 3.10 | 3.05 | 2.99 | 2.93 | 2.86 | 2.80 | 2.73 | 2.66 | 2.59 | 2.51 |
| 77.0 | 195.6 | 3.50 | 3.46 | 3.41 | 3.37 | 3.32 | 3.27 | 3.21 | 3.16 | 3.10 | 3.04 | 2.98 | 2.92 | 2.85 | 2.78 | 2.71 | 2.64 | 2.57 |
| 77.5 | 196.9 | 3.55 | 3.51 | 3.47 | 3.42 | 3.37 | 3.32 | 3.27 | 3.21 | 3.16 | 3.10 | 3.04 | 2.97 | 2.91 | 2.84 | 2.77 | 2.70 | 2.62 |
| 78.0 | 198.1 | 3.61 | 3.56 | 3.52 | 3.47 | 3.42 | 3.37 | 3.32 | 3.27 | 3.21 | 3.15 | 3.09 | 3.02 | 2.96 | 2.89 | 2.82 | 2.75 | 2.68 |
| 78.5 | 199.4 | 3.66 | 3.62 | 3.58 | 3.53 | 3.48 | 3.43 | 3.38 | 3.32 | 3.27 | 3.21 | 3.14 | 3.08 | 3.02 | 2.95 | 2.88 | 2.81 | 2.73 |
| 79.0 | 200.7 | 3.72 | 3.68 | 3.63 | 3.59 | 3.54 | 3.49 | 3.43 | 3.38 | 3.32 | 3.26 | 3.20 | 3.14 | 3.07 | 3.00 | 2.93 | 2.86 | 2.79 |
| 79.5 | 201.9 | 3.77 | 3.73 | 3.69 | 3.64 | 3.59 | 3.54 | 3.49 | 3.43 | 3.37 | 3.32 | 3.25 | 3.19 | 3.12 | 3.06 | 2.99 | 2.92 | 2.84 |
| 80.0 | 203.2 | 3.83 | 3.79 | 3.74 | 3.70 | 3.65 | 3.60 | 3.54 | 3.49 | 3.43 | 3.37 | 3.31 | 3.25 | 3.18 | 3.11 | 3.04 | 2.97 | 2.90 |
| 80.5 | 204.5 | 3.89 | 3.85 | 3.80 | 3.75 | 3.71 | 3.65 | 3.60 | 3.55 | 3.49 | 3.43 | 3.37 | 3.31 | 3.24 | 3.17 | 3.10 | 3.03 | 2.96 |
| 81.0 | 205.7 | 3.94 | 3.90 | 3.85 | 3.81 | 3.76 | 3.71 | 3.66 | 3.60 | 3.54 | 3.48 | 3.42 | 3.36 | 3.29 | 3.23 | 3.16 | 3.08 | 3.01 |
| 81.5 | 207.0 | 4.00 | 3.96 | 3.91 | 3.87 | 3.82 | 3.77 | 3.71 | 3.66 | 3.60 | 3.54 | 3.48 | 3.42 | 3.35 | 3.28 | 3.22 | 3.14 | 3.07 |
| 82.0 | 208.3 | 4.06 | 4.02 | 3.97 | 3.93 | 3.88 | 3.83 | 3.77 | 3.72 | 3.66 | 3.60 | 3.54 | 3.48 | 3.41 | 3.34 | 3.27 | 3.20 | 3.13 |
| 82.5 | 209.6 | 4.12 | 4.08 | 4.03 | 3.98 | 3.94 | 3.89 | 3.83 | 3.78 | 3.72 | 3.66 | 3.60 | 3.54 | 3.47 | 3.40 | 3.33 | 3.26 | 3.19 |

TABLE 4A.—AFRICAN AMERICAN FEMALES FEV–1 LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: 0.3433 + (−0.01283)(age) + (−0.000097)(age$^2$) + (0.00008546)(height$^2$)]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 1.53 | 1.49 | 1.44 | 1.39 | 1.35 | 1.30 | 1.25 | 1.20 | 1.15 | 1.10 | 1.05 | 0.99 | 0.94 | 0.89 | 0.83 | 0.77 | 0.72 |
| 61.5 | 156.2 | 1.57 | 1.52 | 1.48 | 1.43 | 1.38 | 1.33 | 1.28 | 1.24 | 1.18 | 1.13 | 1.08 | 1.03 | 0.97 | 0.92 | 0.87 | 0.81 | 0.75 |
| 62.0 | 157.5 | 1.60 | 1.56 | 1.51 | 1.46 | 1.42 | 1.37 | 1.32 | 1.27 | 1.22 | 1.17 | 1.12 | 1.06 | 1.01 | 0.96 | 0.90 | 0.84 | 0.79 |
| 62.5 | 158.8 | 1.64 | 1.59 | 1.55 | 1.50 | 1.45 | 1.40 | 1.35 | 1.31 | 1.25 | 1.20 | 1.15 | 1.10 | 1.04 | 0.99 | 0.94 | 0.88 | 0.82 |
| 63.0 | 160.0 | 1.67 | 1.62 | 1.58 | 1.53 | 1.48 | 1.44 | 1.39 | 1.34 | 1.29 | 1.24 | 1.18 | 1.13 | 1.08 | 1.02 | 0.97 | 0.91 | 0.86 |
| 63.5 | 161.3 | 1.71 | 1.66 | 1.61 | 1.57 | 1.52 | 1.47 | 1.42 | 1.37 | 1.32 | 1.27 | 1.22 | 1.17 | 1.11 | 1.06 | 1.00 | 0.95 | 0.89 |
| 64.0 | 162.6 | 1.74 | 1.70 | 1.65 | 1.60 | 1.56 | 1.51 | 1.46 | 1.41 | 1.36 | 1.31 | 1.26 | 1.20 | 1.15 | 1.09 | 1.04 | 0.98 | 0.93 |
| 64.5 | 163.8 | 1.77 | 1.73 | 1.68 | 1.64 | 1.59 | 1.54 | 1.49 | 1.44 | 1.39 | 1.34 | 1.29 | 1.24 | 1.18 | 1.13 | 1.07 | 1.02 | 0.96 |
| 65.0 | 165.1 | 1.81 | 1.77 | 1.72 | 1.67 | 1.63 | 1.58 | 1.53 | 1.48 | 1.43 | 1.38 | 1.33 | 1.27 | 1.22 | 1.16 | 1.11 | 1.05 | 1.00 |
| 65.5 | 166.4 | 1.85 | 1.80 | 1.76 | 1.71 | 1.66 | 1.61 | 1.57 | 1.52 | 1.46 | 1.41 | 1.36 | 1.31 | 1.26 | 1.20 | 1.15 | 1.09 | 1.03 |
| 66.0 | 167.6 | 1.88 | 1.84 | 1.79 | 1.75 | 1.70 | 1.65 | 1.60 | 1.55 | 1.50 | 1.45 | 1.40 | 1.35 | 1.29 | 1.24 | 1.18 | 1.13 | 1.07 |
| 66.5 | 168.9 | 1.92 | 1.87 | 1.83 | 1.78 | 1.74 | 1.69 | 1.64 | 1.59 | 1.54 | 1.49 | 1.43 | 1.38 | 1.33 | 1.27 | 1.22 | 1.16 | 1.11 |
| 67.0 | 170.2 | 1.96 | 1.91 | 1.87 | 1.82 | 1.77 | 1.72 | 1.68 | 1.63 | 1.58 | 1.52 | 1.47 | 1.42 | 1.37 | 1.31 | 1.26 | 1.20 | 1.14 |
| 67.5 | 171.5 | 2.00 | 1.95 | 1.90 | 1.86 | 1.81 | 1.76 | 1.71 | 1.66 | 1.61 | 1.56 | 1.51 | 1.46 | 1.40 | 1.35 | 1.29 | 1.24 | 1.18 |
| 68.0 | 172.7 | 2.03 | 1.99 | 1.94 | 1.89 | 1.85 | 1.80 | 1.75 | 1.70 | 1.65 | 1.60 | 1.55 | 1.49 | 1.44 | 1.38 | 1.33 | 1.27 | 1.22 |
| 68.5 | 174.0 | 2.07 | 2.02 | 1.98 | 1.93 | 1.88 | 1.84 | 1.79 | 1.74 | 1.69 | 1.64 | 1.58 | 1.53 | 1.48 | 1.42 | 1.37 | 1.31 | 1.26 |
| 69.0 | 175.3 | 2.11 | 2.06 | 2.02 | 1.97 | 1.92 | 1.87 | 1.83 | 1.78 | 1.73 | 1.67 | 1.62 | 1.57 | 1.52 | 1.46 | 1.41 | 1.35 | 1.29 |
| 69.5 | 176.5 | 2.14 | 2.10 | 2.05 | 2.01 | 1.96 | 1.91 | 1.86 | 1.81 | 1.76 | 1.71 | 1.66 | 1.61 | 1.55 | 1.50 | 1.44 | 1.39 | 1.33 |
| 70.0 | 177.8 | 2.18 | 2.14 | 2.09 | 2.05 | 2.00 | 1.95 | 1.90 | 1.85 | 1.80 | 1.75 | 1.70 | 1.65 | 1.59 | 1.54 | 1.48 | 1.43 | 1.37 |
| 70.5 | 179.1 | 2.22 | 2.18 | 2.13 | 2.09 | 2.04 | 1.99 | 1.94 | 1.89 | 1.84 | 1.79 | 1.74 | 1.68 | 1.63 | 1.58 | 1.52 | 1.47 | 1.41 |
| 71.0 | 180.3 | 2.26 | 2.21 | 2.17 | 2.12 | 2.07 | 2.03 | 1.98 | 1.93 | 1.88 | 1.83 | 1.77 | 1.72 | 1.67 | 1.61 | 1.56 | 1.50 | 1.45 |
| 71.5 | 181.6 | 2.30 | 2.26 | 2.21 | 2.16 | 2.12 | 2.07 | 2.02 | 1.97 | 1.92 | 1.87 | 1.81 | 1.76 | 1.71 | 1.65 | 1.60 | 1.54 | 1.49 |
| 72.0 | 182.9 | 2.34 | 2.30 | 2.25 | 2.20 | 2.16 | 2.11 | 2.06 | 2.01 | 1.96 | 1.91 | 1.86 | 1.80 | 1.75 | 1.69 | 1.64 | 1.58 | 1.53 |
| 72.5 | 184.2 | 2.38 | 2.34 | 2.29 | 2.24 | 2.20 | 2.15 | 2.10 | 2.05 | 2.00 | 1.95 | 1.90 | 1.84 | 1.79 | 1.74 | 1.68 | 1.62 | 1.57 |
| 73.0 | 185.4 | 2.42 | 2.37 | 2.33 | 2.28 | 2.23 | 2.19 | 2.14 | 2.09 | 2.04 | 1.99 | 1.93 | 1.88 | 1.83 | 1.77 | 1.72 | 1.66 | 1.61 |
| 73.5 | 186.7 | 2.46 | 2.42 | 2.37 | 2.32 | 2.28 | 2.23 | 2.18 | 2.13 | 2.08 | 2.03 | 1.98 | 1.92 | 1.87 | 1.81 | 1.76 | 1.70 | 1.65 |
| 74.0 | 188.0 | 2.50 | 2.46 | 2.41 | 2.36 | 2.32 | 2.27 | 2.22 | 2.17 | 2.12 | 2.07 | 2.02 | 1.96 | 1.91 | 1.86 | 1.80 | 1.74 | 1.69 |
| 74.5 | 189.2 | 2.54 | 2.50 | 2.45 | 2.40 | 2.36 | 2.31 | 2.26 | 2.21 | 2.16 | 2.11 | 2.06 | 2.00 | 1.95 | 1.89 | 1.84 | 1.78 | 1.73 |
| 75.0 | 190.5 | 2.58 | 2.54 | 2.49 | 2.45 | 2.40 | 2.35 | 2.30 | 2.25 | 2.20 | 2.15 | 2.10 | 2.04 | 1.99 | 1.94 | 1.88 | 1.83 | 1.77 |
| 75.5 | 191.8 | 2.63 | 2.58 | 2.53 | 2.49 | 2.44 | 2.39 | 2.34 | 2.29 | 2.24 | 2.19 | 2.14 | 2.09 | 2.03 | 1.98 | 1.92 | 1.87 | 1.81 |
| 76.0 | 193.0 | 2.67 | 2.62 | 2.57 | 2.53 | 2.48 | 2.43 | 2.38 | 2.33 | 2.28 | 2.23 | 2.18 | 2.13 | 2.07 | 2.02 | 1.96 | 1.91 | 1.85 |
| 76.5 | 194.3 | 2.71 | 2.66 | 2.62 | 2.57 | 2.52 | 2.48 | 2.43 | 2.38 | 2.33 | 2.27 | 2.22 | 2.17 | 2.12 | 2.06 | 2.01 | 1.95 | 1.89 |
| 77.0 | 195.6 | 2.75 | 2.71 | 2.66 | 2.61 | 2.57 | 2.52 | 2.47 | 2.42 | 2.37 | 2.32 | 2.27 | 2.21 | 2.16 | 2.11 | 2.05 | 1.99 | 1.94 |
| 77.5 | 196.9 | 2.79 | 2.75 | 2.70 | 2.66 | 2.61 | 2.56 | 2.51 | 2.46 | 2.41 | 2.36 | 2.31 | 2.26 | 2.20 | 2.15 | 2.09 | 2.04 | 1.98 |
| 78.0 | 198.1 | 2.84 | 2.79 | 2.74 | 2.70 | 2.65 | 2.60 | 2.55 | 2.50 | 2.45 | 2.40 | 2.35 | 2.30 | 2.24 | 2.19 | 2.13 | 2.08 | 2.02 |
| 78.5 | 199.4 | 2.88 | 2.83 | 2.79 | 2.74 | 2.69 | 2.65 | 2.60 | 2.55 | 2.50 | 2.45 | 2.39 | 2.34 | 2.29 | 2.23 | 2.18 | 2.12 | 2.07 |
| 79.0 | 200.7 | 2.92 | 2.88 | 2.83 | 2.79 | 2.74 | 2.69 | 2.64 | 2.59 | 2.54 | 2.49 | 2.44 | 2.39 | 2.33 | 2.28 | 2.22 | 2.17 | 2.11 |
| 79.5 | 201.9 | 2.97 | 2.92 | 2.87 | 2.83 | 2.78 | 2.73 | 2.68 | 2.63 | 2.58 | 2.53 | 2.48 | 2.43 | 2.37 | 2.32 | 2.26 | 2.21 | 2.15 |
| 80.0 | 203.2 | 3.01 | 2.97 | 2.92 | 2.87 | 2.83 | 2.78 | 2.73 | 2.68 | 2.63 | 2.58 | 2.52 | 2.47 | 2.42 | 2.36 | 2.31 | 2.25 | 2.20 |
| 80.5 | 204.5 | 3.06 | 3.01 | 2.96 | 2.92 | 2.87 | 2.82 | 2.77 | 2.72 | 2.67 | 2.62 | 2.57 | 2.52 | 2.46 | 2.41 | 2.35 | 2.30 | 2.24 |
| 81.0 | 205.7 | 3.10 | 3.05 | 3.01 | 2.96 | 2.91 | 2.86 | 2.82 | 2.77 | 2.72 | 2.66 | 2.61 | 2.56 | 2.51 | 2.45 | 2.40 | 2.34 | 2.28 |
| 81.5 | 207.0 | 3.14 | 3.10 | 3.05 | 3.01 | 2.96 | 2.91 | 2.86 | 2.81 | 2.76 | 2.71 | 2.66 | 2.61 | 2.55 | 2.50 | 2.44 | 2.39 | 2.33 |
| 82.0 | 208.3 | 3.19 | 3.14 | 3.10 | 3.05 | 3.00 | 2.96 | 2.91 | 2.86 | 2.81 | 2.76 | 2.70 | 2.65 | 2.60 | 2.54 | 2.49 | 2.43 | 2.38 |
| 82.5 | 209.6 | 3.24 | 3.19 | 3.15 | 3.10 | 3.05 | 3.00 | 2.95 | 2.90 | 2.85 | 2.80 | 2.75 | 2.70 | 2.64 | 2.59 | 2.53 | 2.48 | 2.42 |

TABLE 5.—MEXICAN AMERICAN MALES FVC LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: 0.2376 + (−0.00891)(age) + (−0.00182)(age$^2$) + (0.0014947)(height$^2$)]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 2.95 | 2.90 | 2.84 | 2.78 | 2.72 | 2.66 | 2.60 | 2.54 | 2.48 | 2.41 | 2.34 | 2.27 | 2.20 | 2.13 | 2.06 | 1.98 | 1.91 |
| 61.5 | 156.2 | 3.01 | 2.96 | 2.90 | 2.84 | 2.79 | 2.73 | 2.66 | 2.60 | 2.54 | 2.47 | 2.40 | 2.33 | 2.26 | 2.19 | 2.12 | 2.04 | 1.97 |
| 62.0 | 157.5 | 3.07 | 3.02 | 2.96 | 2.90 | 2.85 | 2.79 | 2.72 | 2.66 | 2.60 | 2.53 | 2.46 | 2.40 | 2.33 | 2.25 | 2.18 | 2.11 | 2.03 |
| 62.5 | 158.8 | 3.13 | 3.08 | 3.02 | 2.97 | 2.91 | 2.85 | 2.79 | 2.72 | 2.66 | 2.59 | 2.53 | 2.46 | 2.39 | 2.31 | 2.24 | 2.17 | 2.09 |
| 63.0 | 160.0 | 3.19 | 3.14 | 3.08 | 3.02 | 2.96 | 2.90 | 2.84 | 2.78 | 2.72 | 2.65 | 2.58 | 2.51 | 2.44 | 2.37 | 2.30 | 2.22 | 2.15 |
| 63.5 | 161.3 | 3.25 | 3.20 | 3.14 | 3.09 | 3.03 | 2.97 | 2.91 | 2.84 | 2.78 | 2.71 | 2.65 | 2.58 | 2.51 | 2.43 | 2.36 | 2.29 | 2.21 |
| 64.0 | 162.6 | 3.32 | 3.26 | 3.21 | 3.15 | 3.09 | 3.03 | 2.97 | 2.91 | 2.84 | 2.78 | 2.71 | 2.64 | 2.57 | 2.50 | 2.42 | 2.35 | 2.27 |
| 64.5 | 163.8 | 3.37 | 3.32 | 3.26 | 3.21 | 3.15 | 3.09 | 3.03 | 2.96 | 2.90 | 2.83 | 2.77 | 2.70 | 2.63 | 2.56 | 2.48 | 2.41 | 2.33 |
| 65.0 | 165.1 | 3.44 | 3.38 | 3.33 | 3.27 | 3.21 | 3.15 | 3.09 | 3.03 | 2.96 | 2.90 | 2.83 | 2.76 | 2.69 | 2.62 | 2.55 | 2.47 | 2.40 |
| 65.5 | 166.4 | 3.50 | 3.45 | 3.39 | 3.33 | 3.28 | 3.22 | 3.15 | 3.09 | 3.03 | 2.96 | 2.89 | 2.82 | 2.75 | 2.68 | 2.61 | 2.54 | 2.46 |
| 66.0 | 167.6 | 3.56 | 3.51 | 3.45 | 3.40 | 3.34 | 3.28 | 3.22 | 3.15 | 3.09 | 3.02 | 2.96 | 2.89 | 2.82 | 2.75 | 2.67 | 2.60 | 2.52 |
| 66.5 | 168.9 | 3.63 | 3.57 | 3.52 | 3.46 | 3.40 | 3.34 | 3.28 | 3.22 | 3.15 | 3.09 | 3.02 | 2.95 | 2.88 | 2.81 | 2.74 | 2.66 | 2.59 |
| 67.0 | 170.2 | 3.69 | 3.64 | 3.58 | 3.53 | 3.47 | 3.41 | 3.35 | 3.28 | 3.22 | 3.15 | 3.09 | 3.02 | 2.95 | 2.88 | 2.80 | 2.73 | 2.65 |
| 67.5 | 171.5 | 3.76 | 3.71 | 3.65 | 3.59 | 3.53 | 3.47 | 3.41 | 3.35 | 3.29 | 3.22 | 3.15 | 3.08 | 3.01 | 2.94 | 2.87 | 2.79 | 2.72 |
| 68.0 | 172.7 | 3.82 | 3.77 | 3.71 | 3.65 | 3.60 | 3.54 | 3.47 | 3.41 | 3.35 | 3.28 | 3.21 | 3.15 | 3.08 | 3.00 | 2.93 | 2.86 | 2.78 |
| 68.5 | 174.0 | 3.89 | 3.84 | 3.78 | 3.72 | 3.66 | 3.60 | 3.54 | 3.48 | 3.41 | 3.35 | 3.28 | 3.21 | 3.14 | 3.07 | 3.00 | 2.92 | 2.85 |
| 69.0 | 175.3 | 3.96 | 3.90 | 3.85 | 3.79 | 3.73 | 3.67 | 3.61 | 3.55 | 3.48 | 3.42 | 3.35 | 3.28 | 3.21 | 3.14 | 3.07 | 2.99 | 2.92 |
| 69.5 | 176.5 | 4.02 | 3.97 | 3.91 | 3.85 | 3.79 | 3.73 | 3.67 | 3.61 | 3.55 | 3.48 | 3.41 | 3.34 | 3.27 | 3.20 | 3.13 | 3.05 | 2.98 |
| 70.0 | 177.8 | 4.09 | 4.03 | 3.98 | 3.92 | 3.86 | 3.80 | 3.74 | 3.68 | 3.61 | 3.55 | 3.48 | 3.41 | 3.34 | 3.27 | 3.20 | 3.12 | 3.05 |
| 70.5 | 179.1 | 4.16 | 4.10 | 4.05 | 3.99 | 3.93 | 3.87 | 3.81 | 3.75 | 3.68 | 3.62 | 3.55 | 3.48 | 3.41 | 3.34 | 3.27 | 3.19 | 3.12 |
| 71.0 | 180.3 | 4.22 | 4.17 | 4.11 | 4.06 | 4.00 | 3.94 | 3.88 | 3.81 | 3.75 | 3.68 | 3.62 | 3.55 | 3.48 | 3.40 | 3.33 | 3.26 | 3.18 |
| 71.5 | 181.6 | 4.29 | 4.24 | 4.18 | 4.13 | 4.07 | 4.01 | 3.95 | 3.88 | 3.82 | 3.75 | 3.69 | 3.62 | 3.55 | 3.47 | 3.40 | 3.33 | 3.25 |
| 72.0 | 182.9 | 4.36 | 4.31 | 4.25 | 4.20 | 4.14 | 4.08 | 4.02 | 3.95 | 3.89 | 3.82 | 3.76 | 3.69 | 3.62 | 3.55 | 3.47 | 3.40 | 3.32 |

TABLE 5.—MEXICAN AMERICAN MALES FVC LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)—Continued

[Reference value equation: 0.2376 + (−0.00891)(age) + (−0.00182)(age$^2$) + (0.0014947)(height$^2$)]

| Height in inches | Height in centimeters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 72.5 | 184.2 | 4.44 | 4.38 | 4.33 | 4.27 | 4.21 | 4.15 | 4.09 | 4.03 | 3.96 | 3.90 | 3.83 | 3.76 | 3.69 | 3.62 | 3.54 | 3.47 | 3.39 |
| 73.0 | 185.4 | 4.50 | 4.45 | 4.39 | 4.33 | 4.28 | 4.22 | 4.15 | 4.09 | 4.03 | 3.96 | 3.89 | 3.83 | 3.76 | 3.68 | 3.61 | 3.54 | 3.46 |
| 73.5 | 186.7 | 4.57 | 4.52 | 4.46 | 4.41 | 4.35 | 4.29 | 4.23 | 4.16 | 4.10 | 4.03 | 3.97 | 3.90 | 3.83 | 3.76 | 3.68 | 3.61 | 3.53 |
| 74.0 | 188.0 | 4.65 | 4.59 | 4.54 | 4.48 | 4.42 | 4.36 | 4.30 | 4.24 | 4.17 | 4.11 | 4.04 | 3.97 | 3.90 | 3.83 | 3.76 | 3.68 | 3.60 |
| 74.5 | 189.2 | 4.71 | 4.66 | 4.60 | 4.55 | 4.49 | 4.43 | 4.37 | 4.30 | 4.24 | 4.17 | 4.11 | 4.04 | 3.97 | 3.90 | 3.82 | 3.75 | 3.67 |
| 75.0 | 190.5 | 4.79 | 4.73 | 4.68 | 4.62 | 4.56 | 4.50 | 4.44 | 4.38 | 4.31 | 4.25 | 4.18 | 4.11 | 4.04 | 3.97 | 3.90 | 3.82 | 3.75 |
| 75.5 | 191.8 | 4.86 | 4.81 | 4.75 | 4.70 | 4.64 | 4.58 | 4.52 | 4.45 | 4.39 | 4.32 | 4.25 | 4.19 | 4.12 | 4.04 | 3.97 | 3.90 | 3.82 |
| 76.0 | 193.0 | 4.93 | 4.88 | 4.82 | 4.76 | 4.71 | 4.65 | 4.58 | 4.52 | 4.46 | 4.39 | 4.32 | 4.26 | 4.18 | 4.11 | 4.04 | 3.97 | 3.89 |
| 76.5 | 194.3 | 5.01 | 4.95 | 4.90 | 4.84 | 4.78 | 4.72 | 4.66 | 4.60 | 4.53 | 4.47 | 4.40 | 4.33 | 4.26 | 4.19 | 4.12 | 4.04 | 3.96 |
| 77.0 | 195.6 | 5.08 | 5.03 | 4.97 | 4.92 | 4.86 | 4.80 | 4.74 | 4.67 | 4.61 | 4.54 | 4.47 | 4.41 | 4.34 | 4.26 | 4.19 | 4.12 | 4.04 |
| 77.5 | 196.9 | 5.16 | 5.10 | 5.05 | 4.99 | 4.93 | 4.87 | 4.81 | 4.75 | 4.68 | 4.62 | 4.55 | 4.48 | 4.41 | 4.34 | 4.27 | 4.19 | 4.12 |
| 78.0 | 198.1 | 5.23 | 5.18 | 5.12 | 5.06 | 5.00 | 4.94 | 4.88 | 4.82 | 4.76 | 4.69 | 4.62 | 4.55 | 4.48 | 4.41 | 4.34 | 4.26 | 4.19 |
| 78.5 | 199.4 | 5.31 | 5.25 | 5.20 | 5.14 | 5.08 | 5.02 | 4.96 | 4.90 | 4.83 | 4.77 | 4.70 | 4.63 | 4.56 | 4.49 | 4.42 | 4.34 | 4.26 |
| 79.0 | 200.7 | 5.38 | 5.33 | 5.27 | 5.22 | 5.16 | 5.10 | 5.04 | 4.97 | 4.91 | 4.84 | 4.78 | 4.71 | 4.64 | 4.57 | 4.49 | 4.42 | 4.34 |
| 79.5 | 201.9 | 5.46 | 5.40 | 5.35 | 5.29 | 5.23 | 5.17 | 5.11 | 5.05 | 4.98 | 4.92 | 4.85 | 4.78 | 4.71 | 4.64 | 4.57 | 4.49 | 4.41 |
| 80.0 | 203.2 | 5.54 | 5.48 | 5.43 | 5.37 | 5.31 | 5.25 | 5.19 | 5.13 | 5.06 | 5.00 | 4.93 | 4.86 | 4.79 | 4.72 | 4.64 | 4.57 | 4.49 |
| 80.5 | 204.5 | 5.61 | 5.56 | 5.51 | 5.45 | 5.39 | 5.33 | 5.27 | 5.20 | 5.14 | 5.07 | 5.01 | 4.94 | 4.87 | 4.80 | 4.72 | 4.65 | 4.57 |
| 81.0 | 205.7 | 5.69 | 5.63 | 5.58 | 5.52 | 5.46 | 5.40 | 5.34 | 5.28 | 5.21 | 5.15 | 5.08 | 5.01 | 4.94 | 4.87 | 4.80 | 4.72 | 4.65 |
| 81.5 | 207.0 | 5.77 | 5.71 | 5.66 | 5.60 | 5.54 | 5.48 | 5.42 | 5.36 | 5.29 | 5.23 | 5.16 | 5.09 | 5.02 | 4.95 | 4.88 | 4.80 | 4.73 |
| 82.0 | 208.3 | 5.85 | 5.80 | 5.74 | 5.68 | 5.62 | 5.56 | 5.50 | 5.44 | 5.37 | 5.31 | 5.24 | 5.17 | 5.10 | 5.03 | 4.96 | 4.88 | 4.81 |
| 82.5 | 209.6 | 5.93 | 5.88 | 5.82 | 5.76 | 5.70 | 5.64 | 5.58 | 5.52 | 5.46 | 5.39 | 5.32 | 5.25 | 5.18 | 5.11 | 5.04 | 4.96 | 4.89 |

TABLE 5A.—MEXICAN AMERICAN MALES FEV–1 LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: 0.6306 + (−0.02928)(age) + (0.0001267)(height$^2$)]

| Height in inches | Height in centimeters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 2.24 | 2.18 | 2.12 | 2.06 | 2.00 | 1.94 | 1.88 | 1.83 | 1.77 | 1.71 | 1.65 | 1.59 | 1.53 | 1.47 | 1.42 | 1.36 | 1.30 |
| 61.5 | 156.2 | 2.29 | 2.23 | 2.17 | 2.11 | 2.05 | 1.99 | 1.94 | 1.88 | 1.82 | 1.76 | 1.70 | 1.64 | 1.58 | 1.53 | 1.47 | 1.41 | 1.35 |
| 62.0 | 157.5 | 2.34 | 2.28 | 2.22 | 2.16 | 2.10 | 2.05 | 1.99 | 1.93 | 1.87 | 1.81 | 1.75 | 1.69 | 1.64 | 1.58 | 1.52 | 1.46 | 1.40 |
| 62.5 | 158.8 | 2.39 | 2.33 | 2.27 | 2.22 | 2.16 | 2.10 | 2.04 | 1.98 | 1.92 | 1.86 | 1.81 | 1.75 | 1.69 | 1.63 | 1.57 | 1.51 | 1.45 |
| 63.0 | 160.0 | 2.44 | 2.38 | 2.32 | 2.26 | 2.21 | 2.15 | 2.09 | 2.03 | 1.97 | 1.91 | 1.85 | 1.80 | 1.74 | 1.68 | 1.62 | 1.56 | 1.50 |
| 63.5 | 161.3 | 2.49 | 2.43 | 2.38 | 2.32 | 2.26 | 2.20 | 2.14 | 2.08 | 2.02 | 1.97 | 1.91 | 1.85 | 1.79 | 1.73 | 1.67 | 1.61 | 1.56 |
| 64.0 | 162.6 | 2.55 | 2.49 | 2.43 | 2.37 | 2.31 | 2.25 | 2.19 | 2.14 | 2.08 | 2.02 | 1.96 | 1.90 | 1.84 | 1.78 | 1.73 | 1.67 | 1.61 |
| 64.5 | 163.8 | 2.60 | 2.54 | 2.48 | 2.42 | 2.36 | 2.30 | 2.24 | 2.19 | 2.13 | 2.07 | 2.01 | 1.95 | 1.89 | 1.83 | 1.78 | 1.72 | 1.66 |
| 65.0 | 165.1 | 2.65 | 2.59 | 2.53 | 2.47 | 2.42 | 2.36 | 2.30 | 2.24 | 2.18 | 2.12 | 2.06 | 2.01 | 1.95 | 1.89 | 1.83 | 1.77 | 1.71 |
| 65.5 | 166.4 | 2.70 | 2.64 | 2.59 | 2.53 | 2.47 | 2.41 | 2.35 | 2.29 | 2.23 | 2.18 | 2.12 | 2.06 | 2.00 | 1.94 | 1.88 | 1.82 | 1.77 |
| 66.0 | 167.6 | 2.76 | 2.70 | 2.64 | 2.58 | 2.52 | 2.46 | 2.41 | 2.35 | 2.29 | 2.23 | 2.17 | 2.11 | 2.05 | 2.00 | 1.94 | 1.88 | 1.82 |
| 66.5 | 168.9 | 2.81 | 2.75 | 2.69 | 2.64 | 2.58 | 2.52 | 2.46 | 2.40 | 2.34 | 2.28 | 2.23 | 2.17 | 2.11 | 2.05 | 1.99 | 1.93 | 1.87 |
| 67.0 | 170.2 | 2.87 | 2.81 | 2.75 | 2.69 | 2.63 | 2.57 | 2.51 | 2.46 | 2.40 | 2.34 | 2.28 | 2.22 | 2.16 | 2.10 | 2.05 | 1.99 | 1.93 |
| 67.5 | 171.5 | 2.92 | 2.86 | 2.81 | 2.75 | 2.69 | 2.63 | 2.57 | 2.51 | 2.45 | 2.40 | 2.34 | 2.28 | 2.22 | 2.16 | 2.10 | 2.04 | 1.99 |
| 68.0 | 172.7 | 2.97 | 2.92 | 2.86 | 2.80 | 2.74 | 2.68 | 2.62 | 2.56 | 2.51 | 2.45 | 2.39 | 2.33 | 2.27 | 2.21 | 2.15 | 2.10 | 2.04 |
| 68.5 | 174.0 | 3.03 | 2.97 | 2.91 | 2.86 | 2.80 | 2.74 | 2.68 | 2.62 | 2.56 | 2.50 | 2.45 | 2.39 | 2.33 | 2.27 | 2.21 | 2.15 | 2.09 |
| 69.0 | 175.3 | 3.09 | 3.03 | 2.97 | 2.91 | 2.86 | 2.80 | 2.74 | 2.68 | 2.62 | 2.56 | 2.50 | 2.45 | 2.39 | 2.33 | 2.27 | 2.21 | 2.15 |
| 69.5 | 176.5 | 3.14 | 3.08 | 3.03 | 2.97 | 2.91 | 2.85 | 2.79 | 2.73 | 2.67 | 2.62 | 2.56 | 2.50 | 2.44 | 2.38 | 2.32 | 2.26 | 2.21 |
| 70.0 | 177.8 | 3.20 | 3.14 | 3.08 | 3.03 | 2.97 | 2.91 | 2.85 | 2.79 | 2.73 | 2.67 | 2.62 | 2.56 | 2.50 | 2.44 | 2.38 | 2.32 | 2.26 |
| 70.5 | 179.1 | 3.26 | 3.20 | 3.14 | 3.08 | 3.03 | 2.97 | 2.91 | 2.85 | 2.79 | 2.73 | 2.67 | 2.62 | 2.56 | 2.50 | 2.44 | 2.38 | 2.32 |
| 71.0 | 180.3 | 3.31 | 3.26 | 3.20 | 3.14 | 3.08 | 3.02 | 2.96 | 2.90 | 2.85 | 2.79 | 2.73 | 2.67 | 2.61 | 2.55 | 2.49 | 2.44 | 2.38 |
| 71.5 | 181.6 | 3.37 | 3.32 | 3.26 | 3.20 | 3.14 | 3.08 | 3.02 | 2.96 | 2.91 | 2.85 | 2.79 | 2.73 | 2.67 | 2.61 | 2.55 | 2.50 | 2.44 |
| 72.0 | 182.9 | 3.43 | 3.38 | 3.32 | 3.26 | 3.20 | 3.14 | 3.08 | 3.02 | 2.97 | 2.91 | 2.85 | 2.79 | 2.73 | 2.67 | 2.61 | 2.56 | 2.50 |
| 72.5 | 184.2 | 3.49 | 3.44 | 3.38 | 3.32 | 3.26 | 3.20 | 3.14 | 3.08 | 3.03 | 2.97 | 2.91 | 2.85 | 2.79 | 2.73 | 2.67 | 2.62 | 2.56 |
| 73.0 | 185.4 | 3.55 | 3.49 | 3.43 | 3.38 | 3.32 | 3.26 | 3.20 | 3.14 | 3.08 | 3.02 | 2.97 | 2.91 | 2.85 | 2.79 | 2.73 | 2.67 | 2.61 |
| 73.5 | 186.7 | 3.61 | 3.55 | 3.50 | 3.44 | 3.38 | 3.32 | 3.26 | 3.20 | 3.14 | 3.09 | 3.03 | 2.97 | 2.91 | 2.85 | 2.79 | 2.73 | 2.68 |
| 74.0 | 188.0 | 3.67 | 3.62 | 3.56 | 3.50 | 3.44 | 3.38 | 3.32 | 3.26 | 3.21 | 3.15 | 3.09 | 3.03 | 2.97 | 2.91 | 2.85 | 2.80 | 2.74 |
| 74.5 | 189.2 | 3.73 | 3.67 | 3.61 | 3.56 | 3.50 | 3.44 | 3.38 | 3.32 | 3.26 | 3.20 | 3.15 | 3.09 | 3.03 | 2.97 | 2.91 | 2.85 | 2.79 |
| 75.0 | 190.5 | 3.79 | 3.74 | 3.68 | 3.62 | 3.56 | 3.50 | 3.44 | 3.38 | 3.33 | 3.27 | 3.21 | 3.15 | 3.09 | 3.03 | 2.97 | 2.92 | 2.86 |
| 75.5 | 191.8 | 3.86 | 3.80 | 3.74 | 3.68 | 3.62 | 3.56 | 3.51 | 3.45 | 3.39 | 3.33 | 3.27 | 3.21 | 3.15 | 3.10 | 3.04 | 2.98 | 2.92 |
| 76.0 | 193.0 | 3.92 | 3.86 | 3.80 | 3.74 | 3.68 | 3.62 | 3.56 | 3.51 | 3.45 | 3.39 | 3.33 | 3.27 | 3.21 | 3.15 | 3.10 | 3.04 | 2.98 |
| 76.5 | 194.3 | 3.98 | 3.92 | 3.86 | 3.80 | 3.74 | 3.69 | 3.63 | 3.57 | 3.51 | 3.45 | 3.39 | 3.33 | 3.28 | 3.22 | 3.16 | 3.10 | 3.04 |
| 77.0 | 195.6 | 4.04 | 3.98 | 3.93 | 3.87 | 3.81 | 3.75 | 3.69 | 3.63 | 3.57 | 3.52 | 3.46 | 3.40 | 3.34 | 3.28 | 3.22 | 3.16 | 3.11 |
| 77.5 | 196.9 | 4.11 | 4.05 | 3.99 | 3.93 | 3.87 | 3.82 | 3.76 | 3.70 | 3.64 | 3.58 | 3.52 | 3.46 | 3.41 | 3.35 | 3.29 | 3.23 | 3.17 |
| 78.0 | 198.1 | 4.17 | 4.11 | 4.05 | 3.99 | 3.93 | 3.88 | 3.82 | 3.76 | 3.70 | 3.64 | 3.58 | 3.52 | 3.47 | 3.41 | 3.35 | 3.29 | 3.23 |
| 78.5 | 199.4 | 4.23 | 4.17 | 4.12 | 4.06 | 4.00 | 3.94 | 3.88 | 3.82 | 3.77 | 3.71 | 3.65 | 3.59 | 3.53 | 3.47 | 3.41 | 3.36 | 3.30 |
| 79.0 | 200.7 | 4.30 | 4.24 | 4.18 | 4.12 | 4.07 | 4.01 | 3.95 | 3.89 | 3.83 | 3.77 | 3.71 | 3.66 | 3.60 | 3.54 | 3.48 | 3.42 | 3.36 |
| 79.5 | 201.9 | 4.36 | 4.30 | 4.24 | 4.18 | 4.13 | 4.07 | 4.01 | 3.95 | 3.89 | 3.83 | 3.78 | 3.72 | 3.66 | 3.60 | 3.54 | 3.48 | 3.42 |
| 80.0 | 203.2 | 4.43 | 4.37 | 4.31 | 4.25 | 4.19 | 4.13 | 4.08 | 4.02 | 3.96 | 3.90 | 3.84 | 3.78 | 3.72 | 3.67 | 3.61 | 3.55 | 3.49 |
| 80.5 | 204.5 | 4.49 | 4.44 | 4.38 | 4.32 | 4.26 | 4.20 | 4.14 | 4.08 | 4.03 | 3.97 | 3.91 | 3.85 | 3.79 | 3.73 | 3.67 | 3.62 | 3.56 |
| 81.0 | 205.7 | 4.56 | 4.50 | 4.44 | 4.38 | 4.32 | 4.26 | 4.21 | 4.15 | 4.09 | 4.03 | 3.97 | 3.91 | 3.85 | 3.80 | 3.74 | 3.68 | 3.62 |
| 81.5 | 207.0 | 4.62 | 4.57 | 4.51 | 4.45 | 4.39 | 4.33 | 4.27 | 4.21 | 4.16 | 4.10 | 4.04 | 3.98 | 3.92 | 3.86 | 3.81 | 3.75 | 3.69 |
| 82.0 | 208.3 | 4.69 | 4.63 | 4.58 | 4.52 | 4.46 | 4.40 | 4.34 | 4.28 | 4.22 | 4.17 | 4.11 | 4.05 | 3.99 | 3.93 | 3.87 | 3.81 | 3.76 |
| 82.5 | 209.6 | 4.76 | 4.70 | 4.64 | 4.59 | 4.53 | 4.47 | 4.41 | 4.35 | 4.29 | 4.24 | 4.18 | 4.12 | 4.06 | 4.00 | 3.94 | 3.88 | 3.83 |

TABLE 6.—MEXICAN AMERICAN FEMALES FVC LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: 0.121 + (0.00307)(age) + (−0.000237)(age$^2$) + (0.00011570)(height$^2$)]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 2.48 | 2.44 | 2.39 | 2.35 | 2.30 | 2.25 | 2.20 | 2.15 | 2.10 | 2.04 | 1.98 | 1.92 | 1.86 | 1.79 | 1.73 | 1.66 | 1.59 |
| 61.5 | 156.2 | 2.53 | 2.48 | 2.44 | 2.40 | 2.35 | 2.30 | 2.25 | 2.20 | 2.14 | 2.09 | 2.03 | 1.97 | 1.91 | 1.84 | 1.78 | 1.71 | 1.64 |
| 62.0 | 157.5 | 2.57 | 2.53 | 2.49 | 2.44 | 2.40 | 2.35 | 2.30 | 2.24 | 2.19 | 2.13 | 2.07 | 2.01 | 1.95 | 1.89 | 1.82 | 1.75 | 1.68 |
| 62.5 | 158.8 | 2.62 | 2.58 | 2.54 | 2.49 | 2.44 | 2.39 | 2.34 | 2.29 | 2.24 | 2.18 | 2.12 | 2.06 | 2.00 | 1.94 | 1.87 | 1.80 | 1.73 |
| 63.0 | 160.0 | 2.66 | 2.62 | 2.58 | 2.53 | 2.49 | 2.44 | 2.39 | 2.34 | 2.28 | 2.22 | 2.17 | 2.11 | 2.04 | 1.98 | 1.91 | 1.85 | 1.78 |
| 63.5 | 161.3 | 2.71 | 2.67 | 2.63 | 2.58 | 2.54 | 2.49 | 2.44 | 2.38 | 2.33 | 2.27 | 2.21 | 2.15 | 2.09 | 2.03 | 1.96 | 1.89 | 1.82 |
| 64.0 | 162.6 | 2.76 | 2.72 | 2.68 | 2.63 | 2.58 | 2.54 | 2.49 | 2.43 | 2.38 | 2.32 | 2.26 | 2.20 | 2.14 | 2.08 | 2.01 | 1.94 | 1.87 |
| 64.5 | 163.8 | 2.81 | 2.77 | 2.72 | 2.68 | 2.63 | 2.58 | 2.53 | 2.48 | 2.42 | 2.37 | 2.31 | 2.25 | 2.19 | 2.12 | 2.06 | 1.99 | 1.92 |
| 65.0 | 165.1 | 2.86 | 2.81 | 2.77 | 2.73 | 2.68 | 2.63 | 2.58 | 2.53 | 2.47 | 2.42 | 2.36 | 2.30 | 2.24 | 2.17 | 2.11 | 2.04 | 1.97 |
| 65.5 | 166.4 | 2.90 | 2.86 | 2.82 | 2.78 | 2.73 | 2.68 | 2.63 | 2.58 | 2.52 | 2.47 | 2.41 | 2.35 | 2.28 | 2.22 | 2.15 | 2.09 | 2.02 |
| 66.0 | 167.6 | 2.95 | 2.91 | 2.87 | 2.82 | 2.78 | 2.73 | 2.68 | 2.63 | 2.57 | 2.51 | 2.46 | 2.40 | 2.33 | 2.27 | 2.20 | 2.14 | 2.07 |
| 66.5 | 168.9 | 3.00 | 2.96 | 2.92 | 2.87 | 2.83 | 2.78 | 2.73 | 2.67 | 2.62 | 2.56 | 2.51 | 2.45 | 2.38 | 2.32 | 2.25 | 2.19 | 2.12 |
| 67.0 | 170.2 | 3.05 | 3.01 | 2.97 | 2.92 | 2.88 | 2.83 | 2.78 | 2.73 | 2.67 | 2.61 | 2.56 | 2.50 | 2.43 | 2.37 | 2.30 | 2.24 | 2.17 |
| 67.5 | 171.5 | 3.11 | 3.06 | 3.02 | 2.98 | 2.93 | 2.88 | 2.83 | 2.78 | 2.72 | 2.67 | 2.61 | 2.55 | 2.49 | 2.42 | 2.36 | 2.29 | 2.22 |
| 68.0 | 172.7 | 3.15 | 3.11 | 3.07 | 3.02 | 2.98 | 2.93 | 2.88 | 2.82 | 2.77 | 2.71 | 2.66 | 2.60 | 2.53 | 2.47 | 2.40 | 2.34 | 2.27 |
| 68.5 | 174.0 | 3.21 | 3.16 | 3.12 | 3.08 | 3.03 | 2.98 | 2.93 | 2.88 | 2.82 | 2.77 | 2.71 | 2.65 | 2.59 | 2.52 | 2.46 | 2.39 | 2.32 |
| 69.0 | 175.3 | 3.26 | 3.22 | 3.17 | 3.13 | 3.08 | 3.03 | 2.98 | 2.93 | 2.87 | 2.82 | 2.76 | 2.70 | 2.64 | 2.57 | 2.51 | 2.44 | 2.37 |
| 69.5 | 176.5 | 3.31 | 3.27 | 3.22 | 3.18 | 3.13 | 3.08 | 3.03 | 2.98 | 2.92 | 2.87 | 2.81 | 2.75 | 2.69 | 2.62 | 2.56 | 2.49 | 2.42 |
| 70.0 | 177.8 | 3.36 | 3.32 | 3.28 | 3.23 | 3.18 | 3.13 | 3.08 | 3.03 | 2.98 | 2.92 | 2.86 | 2.80 | 2.74 | 2.68 | 2.61 | 2.54 | 2.47 |
| 70.5 | 179.1 | 3.41 | 3.37 | 3.33 | 3.28 | 3.24 | 3.19 | 3.14 | 3.09 | 3.03 | 2.97 | 2.92 | 2.86 | 2.79 | 2.73 | 2.66 | 2.60 | 2.53 |
| 71.0 | 180.3 | 3.46 | 3.42 | 3.38 | 3.33 | 3.29 | 3.24 | 3.19 | 3.13 | 3.08 | 3.02 | 2.97 | 2.91 | 2.84 | 2.78 | 2.71 | 2.65 | 2.58 |
| 71.5 | 181.6 | 3.52 | 3.48 | 3.43 | 3.39 | 3.34 | 3.29 | 3.24 | 3.19 | 3.13 | 3.08 | 3.02 | 2.96 | 2.90 | 2.83 | 2.77 | 2.70 | 2.63 |
| 72.0 | 182.9 | 3.57 | 3.53 | 3.49 | 3.44 | 3.40 | 3.35 | 3.30 | 3.24 | 3.19 | 3.13 | 3.07 | 3.01 | 2.95 | 2.89 | 2.82 | 2.75 | 2.69 |
| 72.5 | 184.2 | 3.63 | 3.59 | 3.54 | 3.50 | 3.45 | 3.40 | 3.35 | 3.30 | 3.24 | 3.19 | 3.13 | 3.07 | 3.01 | 2.94 | 2.88 | 2.81 | 2.74 |
| 73.0 | 185.4 | 3.68 | 3.64 | 3.59 | 3.55 | 3.50 | 3.45 | 3.40 | 3.35 | 3.30 | 3.24 | 3.18 | 3.12 | 3.06 | 3.00 | 2.93 | 2.86 | 2.79 |
| 73.5 | 186.7 | 3.74 | 3.69 | 3.65 | 3.61 | 3.56 | 3.51 | 3.46 | 3.41 | 3.35 | 3.30 | 3.24 | 3.18 | 3.12 | 3.05 | 2.99 | 2.92 | 2.85 |
| 74.0 | 188.0 | 3.79 | 3.75 | 3.71 | 3.66 | 3.62 | 3.57 | 3.52 | 3.46 | 3.41 | 3.35 | 3.29 | 3.23 | 3.17 | 3.11 | 3.04 | 2.97 | 2.90 |
| 74.5 | 189.2 | 3.84 | 3.80 | 3.76 | 3.71 | 3.67 | 3.62 | 3.57 | 3.52 | 3.46 | 3.40 | 3.35 | 3.29 | 3.22 | 3.16 | 3.09 | 3.03 | 2.96 |
| 75.0 | 190.5 | 3.90 | 3.86 | 3.82 | 3.77 | 3.72 | 3.68 | 3.63 | 3.57 | 3.52 | 3.46 | 3.40 | 3.34 | 3.28 | 3.22 | 3.15 | 3.08 | 3.01 |
| 75.5 | 191.8 | 3.96 | 3.92 | 3.87 | 3.83 | 3.78 | 3.73 | 3.68 | 3.63 | 3.58 | 3.52 | 3.46 | 3.40 | 3.34 | 3.27 | 3.21 | 3.14 | 3.07 |
| 76.0 | 193.0 | 4.01 | 3.97 | 3.93 | 3.88 | 3.84 | 3.79 | 3.74 | 3.68 | 3.63 | 3.57 | 3.51 | 3.45 | 3.39 | 3.33 | 3.26 | 3.19 | 3.12 |
| 76.5 | 194.3 | 4.07 | 4.03 | 3.99 | 3.94 | 3.89 | 3.85 | 3.79 | 3.74 | 3.69 | 3.63 | 3.57 | 3.51 | 3.45 | 3.39 | 3.32 | 3.25 | 3.18 |
| 77.0 | 195.6 | 4.13 | 4.09 | 4.04 | 4.00 | 3.95 | 3.90 | 3.85 | 3.80 | 3.75 | 3.69 | 3.63 | 3.57 | 3.51 | 3.44 | 3.38 | 3.31 | 3.24 |
| 77.5 | 196.9 | 4.19 | 4.15 | 4.10 | 4.06 | 4.01 | 3.96 | 3.91 | 3.86 | 3.80 | 3.75 | 3.69 | 3.63 | 3.57 | 3.50 | 3.44 | 3.37 | 3.30 |
| 78.0 | 198.1 | 4.24 | 4.20 | 4.16 | 4.11 | 4.07 | 4.02 | 3.97 | 3.91 | 3.86 | 3.80 | 3.74 | 3.68 | 3.62 | 3.56 | 3.49 | 3.42 | 3.36 |
| 78.5 | 199.4 | 4.30 | 4.26 | 4.22 | 4.17 | 4.13 | 4.08 | 4.03 | 3.97 | 3.92 | 3.86 | 3.80 | 3.74 | 3.68 | 3.62 | 3.55 | 3.48 | 3.41 |
| 79.0 | 200.7 | 4.36 | 4.32 | 4.28 | 4.23 | 4.19 | 4.14 | 4.09 | 4.03 | 3.98 | 3.92 | 3.86 | 3.80 | 3.74 | 3.68 | 3.61 | 3.54 | 3.48 |
| 79.5 | 201.9 | 4.42 | 4.38 | 4.33 | 4.29 | 4.24 | 4.19 | 4.14 | 4.09 | 4.04 | 3.98 | 3.92 | 3.86 | 3.80 | 3.73 | 3.67 | 3.60 | 3.53 |
| 80.0 | 203.2 | 4.48 | 4.44 | 4.40 | 4.35 | 4.30 | 4.25 | 4.20 | 4.15 | 4.10 | 4.04 | 3.98 | 3.92 | 3.86 | 3.80 | 3.73 | 3.66 | 3.59 |
| 80.5 | 204.5 | 4.54 | 4.50 | 4.46 | 4.41 | 4.36 | 4.32 | 4.26 | 4.21 | 4.16 | 4.10 | 4.04 | 3.98 | 3.92 | 3.86 | 3.79 | 3.72 | 3.65 |
| 81.0 | 205.7 | 4.60 | 4.56 | 4.51 | 4.47 | 4.42 | 4.37 | 4.32 | 4.27 | 4.21 | 4.16 | 4.10 | 4.04 | 3.98 | 3.91 | 3.85 | 3.78 | 3.71 |
| 81.5 | 207.0 | 4.66 | 4.62 | 4.58 | 4.53 | 4.48 | 4.43 | 4.38 | 4.33 | 4.28 | 4.22 | 4.16 | 4.10 | 4.04 | 3.98 | 3.91 | 3.84 | 3.77 |
| 82.0 | 208.3 | 4.72 | 4.68 | 4.64 | 4.59 | 4.55 | 4.50 | 4.45 | 4.39 | 4.34 | 4.28 | 4.22 | 4.16 | 4.10 | 4.04 | 3.97 | 3.90 | 3.83 |
| 82.5 | 209.6 | 4.79 | 4.74 | 4.70 | 4.66 | 4.61 | 4.56 | 4.51 | 4.46 | 4.40 | 4.35 | 4.29 | 4.23 | 4.17 | 4.10 | 4.04 | 3.97 | 3.90 |

TABLE 6A.—MEXICAN AMERICAN FEMALES FEV–1 LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)

[Reference value equation: 0.4529 + (−0.01178)(age) + (−0.000113)(age$^2$) + (0.00009890)(height$^2$)]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 1.98 | 1.93 | 1.88 | 1.84 | 1.79 | 1.74 | 1.69 | 1.64 | 1.58 | 1.53 | 1.48 | 1.42 | 1.36 | 1.31 | 1.25 | 1.19 | 1.13 |
| 61.5 | 156.2 | 2.02 | 1.97 | 1.92 | 1.88 | 1.83 | 1.78 | 1.73 | 1.68 | 1.62 | 1.57 | 1.52 | 1.46 | 1.40 | 1.35 | 1.29 | 1.23 | 1.17 |
| 62.0 | 157.5 | 2.06 | 2.01 | 1.96 | 1.92 | 1.87 | 1.82 | 1.77 | 1.72 | 1.66 | 1.61 | 1.56 | 1.50 | 1.44 | 1.39 | 1.33 | 1.27 | 1.21 |
| 62.5 | 158.8 | 2.10 | 2.05 | 2.01 | 1.96 | 1.91 | 1.86 | 1.81 | 1.76 | 1.70 | 1.65 | 1.60 | 1.54 | 1.48 | 1.43 | 1.37 | 1.31 | 1.25 |
| 63.0 | 160.0 | 2.14 | 2.09 | 2.04 | 2.00 | 1.95 | 1.90 | 1.85 | 1.79 | 1.74 | 1.69 | 1.63 | 1.58 | 1.52 | 1.47 | 1.41 | 1.35 | 1.29 |
| 63.5 | 161.3 | 2.18 | 2.13 | 2.08 | 2.04 | 1.99 | 1.94 | 1.89 | 1.84 | 1.78 | 1.73 | 1.68 | 1.62 | 1.56 | 1.51 | 1.45 | 1.39 | 1.33 |
| 64.0 | 162.6 | 2.22 | 2.17 | 2.13 | 2.08 | 2.03 | 1.98 | 1.93 | 1.88 | 1.82 | 1.77 | 1.72 | 1.66 | 1.61 | 1.55 | 1.49 | 1.43 | 1.37 |
| 64.5 | 163.8 | 2.26 | 2.21 | 2.16 | 2.12 | 2.07 | 2.02 | 1.97 | 1.92 | 1.86 | 1.81 | 1.76 | 1.70 | 1.64 | 1.59 | 1.53 | 1.47 | 1.41 |
| 65.0 | 165.1 | 2.30 | 2.25 | 2.21 | 2.16 | 2.11 | 2.06 | 2.01 | 1.96 | 1.91 | 1.85 | 1.80 | 1.74 | 1.69 | 1.63 | 1.57 | 1.51 | 1.45 |
| 65.5 | 166.4 | 2.34 | 2.30 | 2.25 | 2.20 | 2.15 | 2.10 | 2.05 | 2.00 | 1.95 | 1.89 | 1.84 | 1.78 | 1.73 | 1.67 | 1.61 | 1.55 | 1.49 |
| 66.0 | 167.6 | 2.38 | 2.34 | 2.29 | 2.24 | 2.19 | 2.14 | 2.09 | 2.04 | 1.99 | 1.94 | 1.88 | 1.83 | 1.77 | 1.71 | 1.66 | 1.60 | 1.54 |
| 66.5 | 168.9 | 2.43 | 2.38 | 2.33 | 2.28 | 2.24 | 2.19 | 2.14 | 2.08 | 2.03 | 1.98 | 1.92 | 1.87 | 1.81 | 1.76 | 1.70 | 1.64 | 1.58 |
| 67.0 | 170.2 | 2.47 | 2.42 | 2.38 | 2.33 | 2.28 | 2.23 | 2.18 | 2.13 | 2.07 | 2.02 | 1.97 | 1.91 | 1.86 | 1.80 | 1.74 | 1.68 | 1.62 |
| 67.5 | 171.5 | 2.51 | 2.47 | 2.42 | 2.37 | 2.32 | 2.27 | 2.22 | 2.17 | 2.12 | 2.07 | 2.01 | 1.96 | 1.90 | 1.84 | 1.78 | 1.73 | 1.67 |
| 68.0 | 172.7 | 2.55 | 2.51 | 2.46 | 2.41 | 2.36 | 2.31 | 2.26 | 2.21 | 2.16 | 2.11 | 2.05 | 2.00 | 1.94 | 1.88 | 1.83 | 1.77 | 1.71 |
| 68.5 | 174.0 | 2.60 | 2.55 | 2.51 | 2.46 | 2.41 | 2.36 | 2.31 | 2.26 | 2.20 | 2.15 | 2.10 | 2.04 | 1.99 | 1.93 | 1.87 | 1.81 | 1.75 |
| 69.0 | 175.3 | 2.64 | 2.60 | 2.55 | 2.50 | 2.45 | 2.40 | 2.35 | 2.30 | 2.25 | 2.20 | 2.14 | 2.09 | 2.03 | 1.97 | 1.92 | 1.86 | 1.80 |
| 69.5 | 176.5 | 2.69 | 2.64 | 2.59 | 2.54 | 2.50 | 2.45 | 2.39 | 2.34 | 2.29 | 2.24 | 2.18 | 2.13 | 2.07 | 2.01 | 1.96 | 1.90 | 1.84 |
| 70.0 | 177.8 | 2.73 | 2.68 | 2.64 | 2.59 | 2.54 | 2.49 | 2.44 | 2.39 | 2.34 | 2.28 | 2.23 | 2.17 | 2.12 | 2.06 | 2.00 | 1.94 | 1.88 |
| 70.5 | 179.1 | 2.78 | 2.73 | 2.68 | 2.64 | 2.59 | 2.54 | 2.49 | 2.43 | 2.38 | 2.33 | 2.27 | 2.22 | 2.16 | 2.11 | 2.05 | 1.99 | 1.93 |
| 71.0 | 180.3 | 2.82 | 2.77 | 2.73 | 2.68 | 2.63 | 2.58 | 2.53 | 2.48 | 2.42 | 2.37 | 2.32 | 2.26 | 2.21 | 2.15 | 2.09 | 2.03 | 1.97 |
| 71.5 | 181.6 | 2.87 | 2.82 | 2.77 | 2.72 | 2.68 | 2.63 | 2.58 | 2.52 | 2.47 | 2.42 | 2.36 | 2.31 | 2.25 | 2.20 | 2.14 | 2.08 | 2.02 |
| 72.0 | 182.9 | 2.91 | 2.87 | 2.82 | 2.77 | 2.72 | 2.67 | 2.62 | 2.57 | 2.52 | 2.46 | 2.41 | 2.36 | 2.30 | 2.24 | 2.18 | 2.13 | 2.07 |

TABLE 6A.—MEXICAN AMERICAN FEMALES FEV–1 LOWER LIMIT OF NORMAL VALUES, HANKINSON, ET AL. (1999)—Continued

[Reference value equation: 0.4529 + (−0.01178)(age) + (−0.000113)(age$^2$) + (0.00009890)(height$^2$)]

| Height in inches | Height in centimeters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 72.5 | 184.2 | 2.96 | 2.91 | 2.87 | 2.82 | 2.77 | 2.72 | 2.67 | 2.62 | 2.57 | 2.51 | 2.46 | 2.40 | 2.35 | 2.29 | 2.23 | 2.17 | 2.11 |
| 73.0 | 185.4 | 3.00 | 2.96 | 2.91 | 2.86 | 2.81 | 2.76 | 2.71 | 2.66 | 2.61 | 2.56 | 2.50 | 2.45 | 2.39 | 2.33 | 2.28 | 2.22 | 2.16 |
| 73.5 | 186.7 | 3.05 | 3.01 | 2.96 | 2.91 | 2.86 | 2.81 | 2.76 | 2.71 | 2.66 | 2.60 | 2.55 | 2.49 | 2.44 | 2.38 | 2.32 | 2.26 | 2.20 |
| 74.0 | 188.0 | 3.10 | 3.05 | 3.01 | 2.96 | 2.91 | 2.86 | 2.81 | 2.76 | 2.71 | 2.65 | 2.60 | 2.54 | 2.49 | 2.43 | 2.37 | 2.31 | 2.25 |
| 74.5 | 189.2 | 3.14 | 3.10 | 3.05 | 3.00 | 2.95 | 2.90 | 2.85 | 2.80 | 2.75 | 2.70 | 2.64 | 2.59 | 2.53 | 2.47 | 2.42 | 2.36 | 2.30 |
| 75.0 | 190.5 | 3.19 | 3.15 | 3.10 | 3.05 | 3.00 | 2.95 | 2.90 | 2.85 | 2.80 | 2.75 | 2.69 | 2.64 | 2.58 | 2.52 | 2.46 | 2.41 | 2.35 |
| 75.5 | 191.8 | 3.24 | 3.20 | 3.15 | 3.10 | 3.05 | 3.00 | 2.95 | 2.90 | 2.85 | 2.79 | 2.74 | 2.69 | 2.63 | 2.57 | 2.51 | 2.46 | 2.40 |
| 76.0 | 193.0 | 3.29 | 3.24 | 3.20 | 3.15 | 3.10 | 3.05 | 3.00 | 2.95 | 2.89 | 2.84 | 2.79 | 2.73 | 2.67 | 2.62 | 2.56 | 2.50 | 2.44 |
| 76.5 | 194.3 | 3.34 | 3.29 | 3.24 | 3.20 | 3.15 | 3.10 | 3.05 | 3.00 | 2.94 | 2.89 | 2.84 | 2.78 | 2.72 | 2.67 | 2.61 | 2.55 | 2.49 |
| 77.0 | 195.6 | 3.39 | 3.34 | 3.29 | 3.25 | 3.20 | 3.15 | 3.10 | 3.05 | 2.99 | 2.94 | 2.89 | 2.83 | 2.77 | 2.72 | 2.66 | 2.60 | 2.54 |
| 77.5 | 196.9 | 3.44 | 3.39 | 3.35 | 3.30 | 3.25 | 3.20 | 3.15 | 3.10 | 3.04 | 2.99 | 2.94 | 2.88 | 2.83 | 2.77 | 2.71 | 2.65 | 2.59 |
| 78.0 | 198.1 | 3.49 | 3.44 | 3.39 | 3.34 | 3.30 | 3.25 | 3.20 | 3.14 | 3.09 | 3.04 | 2.98 | 2.93 | 2.87 | 2.81 | 2.76 | 2.70 | 2.64 |
| 78.5 | 199.4 | 3.54 | 3.49 | 3.44 | 3.40 | 3.35 | 3.30 | 3.25 | 3.19 | 3.14 | 3.09 | 3.03 | 2.98 | 2.92 | 2.87 | 2.81 | 2.75 | 2.69 |
| 79.0 | 200.7 | 3.59 | 3.54 | 3.49 | 3.45 | 3.40 | 3.35 | 3.30 | 3.25 | 3.19 | 3.14 | 3.09 | 3.03 | 2.97 | 2.92 | 2.86 | 2.80 | 2.74 |
| 79.5 | 201.9 | 3.64 | 3.59 | 3.54 | 3.49 | 3.45 | 3.40 | 3.35 | 3.29 | 3.24 | 3.19 | 3.13 | 3.08 | 3.02 | 2.97 | 2.91 | 2.85 | 2.79 |
| 80.0 | 203.2 | 3.69 | 3.64 | 3.59 | 3.55 | 3.50 | 3.45 | 3.40 | 3.35 | 3.29 | 3.24 | 3.19 | 3.13 | 3.07 | 3.02 | 2.96 | 2.90 | 2.84 |
| 80.5 | 204.5 | 3.74 | 3.69 | 3.65 | 3.60 | 3.55 | 3.50 | 3.45 | 3.40 | 3.35 | 3.29 | 3.24 | 3.18 | 3.13 | 3.07 | 3.01 | 2.95 | 2.89 |
| 81.0 | 205.7 | 3.79 | 3.74 | 3.70 | 3.65 | 3.60 | 3.55 | 3.50 | 3.45 | 3.39 | 3.34 | 3.29 | 3.23 | 3.18 | 3.12 | 3.06 | 3.00 | 2.94 |
| 81.5 | 207.0 | 3.84 | 3.80 | 3.75 | 3.70 | 3.65 | 3.60 | 3.55 | 3.50 | 3.45 | 3.39 | 3.34 | 3.28 | 3.23 | 3.17 | 3.11 | 3.05 | 3.00 |
| 82.0 | 208.3 | 3.90 | 3.85 | 3.80 | 3.75 | 3.71 | 3.66 | 3.61 | 3.55 | 3.50 | 3.45 | 3.39 | 3.34 | 3.28 | 3.22 | 3.17 | 3.11 | 3.05 |
| 82.5 | 209.6 | 3.95 | 3.90 | 3.86 | 3.81 | 3.76 | 3.71 | 3.66 | 3.61 | 3.55 | 3.50 | 3.45 | 3.39 | 3.34 | 3.28 | 3.22 | 3.16 | 3.10 |

TABLE 7.—NAVAJO MALES FVC LOWER LIMIT OF NORMAL VALUES, CRAPO, ET AL. (1988)

[Reference value equation: [−6.2404 + (−0.0264)(age) + (0.0686)(height)] × (.817)]

| Height in inches | Height in centimeters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 2.53 | 2.48 | 2.44 | 2.40 | 2.35 | 2.31 | 2.27 | 2.22 | 2.18 | 2.14 | 2.09 | 2.05 | 2.01 | 1.97 | 1.92 | 1.88 | 1.84 |
| 61.5 | 156.2 | 2.60 | 2.56 | 2.51 | 2.47 | 2.43 | 2.38 | 2.34 | 2.30 | 2.25 | 2.21 | 2.17 | 2.12 | 2.08 | 2.04 | 2.00 | 1.95 | 1.91 |
| 62.0 | 157.5 | 2.67 | 2.63 | 2.59 | 2.54 | 2.50 | 2.46 | 2.41 | 2.37 | 2.33 | 2.28 | 2.24 | 2.20 | 2.15 | 2.11 | 2.07 | 2.02 | 1.98 |
| 62.5 | 158.8 | 2.74 | 2.70 | 2.66 | 2.62 | 2.57 | 2.53 | 2.49 | 2.44 | 2.40 | 2.36 | 2.31 | 2.27 | 2.23 | 2.18 | 2.14 | 2.10 | 2.05 |
| 63.0 | 160.0 | 2.81 | 2.77 | 2.73 | 2.68 | 2.64 | 2.60 | 2.55 | 2.51 | 2.47 | 2.42 | 2.38 | 2.34 | 2.29 | 2.25 | 2.21 | 2.17 | 2.12 |
| 63.5 | 161.3 | 2.88 | 2.84 | 2.80 | 2.76 | 2.71 | 2.67 | 2.63 | 2.58 | 2.54 | 2.50 | 2.45 | 2.41 | 2.37 | 2.32 | 2.28 | 2.24 | 2.19 |
| 64.0 | 162.6 | 2.96 | 2.91 | 2.87 | 2.83 | 2.79 | 2.74 | 2.70 | 2.66 | 2.61 | 2.57 | 2.53 | 2.48 | 2.44 | 2.40 | 2.35 | 2.31 | 2.27 |
| 64.5 | 163.8 | 3.03 | 2.98 | 2.94 | 2.90 | 2.85 | 2.81 | 2.77 | 2.72 | 2.68 | 2.64 | 2.59 | 2.55 | 2.51 | 2.46 | 2.42 | 2.38 | 2.33 |
| 65.0 | 165.1 | 3.10 | 3.05 | 3.01 | 2.97 | 2.93 | 2.88 | 2.84 | 2.80 | 2.75 | 2.71 | 2.67 | 2.62 | 2.58 | 2.54 | 2.49 | 2.45 | 2.41 |
| 65.5 | 166.4 | 3.17 | 3.13 | 3.08 | 3.04 | 3.00 | 2.95 | 2.91 | 2.87 | 2.82 | 2.78 | 2.74 | 2.69 | 2.65 | 2.61 | 2.57 | 2.52 | 2.48 |
| 66.0 | 167.6 | 3.24 | 3.20 | 3.15 | 3.11 | 3.07 | 3.02 | 2.98 | 2.94 | 2.90 | 2.85 | 2.81 | 2.77 | 2.72 | 2.68 | 2.64 | 2.59 | 2.55 |
| 66.5 | 168.9 | 3.31 | 3.27 | 3.23 | 3.18 | 3.14 | 3.10 | 3.05 | 3.01 | 2.97 | 2.92 | 2.88 | 2.84 | 2.79 | 2.75 | 2.71 | 2.66 | 2.62 |
| 67.0 | 170.2 | 3.38 | 3.34 | 3.30 | 3.25 | 3.21 | 3.17 | 3.12 | 3.08 | 3.04 | 3.00 | 2.95 | 2.91 | 2.87 | 2.82 | 2.78 | 2.74 | 2.69 |
| 67.5 | 171.5 | 3.46 | 3.41 | 3.37 | 3.33 | 3.28 | 3.24 | 3.20 | 3.15 | 3.11 | 3.07 | 3.03 | 2.98 | 2.94 | 2.90 | 2.85 | 2.81 | 2.77 |
| 68.0 | 172.7 | 3.52 | 3.48 | 3.44 | 3.39 | 3.35 | 3.31 | 3.27 | 3.22 | 3.18 | 3.14 | 3.09 | 3.05 | 3.01 | 2.96 | 2.92 | 2.88 | 2.83 |
| 68.5 | 174.0 | 3.60 | 3.55 | 3.51 | 3.47 | 3.42 | 3.38 | 3.34 | 3.29 | 3.25 | 3.21 | 3.17 | 3.12 | 3.08 | 3.04 | 2.99 | 2.95 | 2.91 |
| 69.0 | 175.3 | 3.67 | 3.63 | 3.58 | 3.54 | 3.50 | 3.45 | 3.41 | 3.37 | 3.32 | 3.28 | 3.24 | 3.20 | 3.15 | 3.11 | 3.07 | 3.02 | 2.98 |
| 69.5 | 176.5 | 3.74 | 3.69 | 3.65 | 3.61 | 3.56 | 3.52 | 3.48 | 3.43 | 3.39 | 3.35 | 3.31 | 3.26 | 3.22 | 3.18 | 3.13 | 3.09 | 3.05 |
| 70.0 | 177.8 | 3.81 | 3.77 | 3.72 | 3.68 | 3.64 | 3.59 | 3.55 | 3.51 | 3.46 | 3.42 | 3.38 | 3.34 | 3.29 | 3.25 | 3.21 | 3.16 | 3.12 |
| 70.5 | 179.1 | 3.88 | 3.84 | 3.80 | 3.75 | 3.71 | 3.67 | 3.62 | 3.58 | 3.54 | 3.49 | 3.45 | 3.41 | 3.36 | 3.32 | 3.28 | 3.24 | 3.19 |
| 71.0 | 180.3 | 3.95 | 3.91 | 3.86 | 3.82 | 3.78 | 3.73 | 3.69 | 3.65 | 3.60 | 3.56 | 3.52 | 3.48 | 3.43 | 3.39 | 3.35 | 3.30 | 3.26 |
| 71.5 | 181.6 | 4.02 | 3.98 | 3.94 | 3.89 | 3.85 | 3.81 | 3.76 | 3.72 | 3.68 | 3.63 | 3.59 | 3.55 | 3.51 | 3.46 | 3.42 | 3.38 | 3.33 |
| 72.0 | 182.9 | 4.10 | 4.05 | 4.01 | 3.97 | 3.92 | 3.88 | 3.84 | 3.79 | 3.75 | 3.71 | 3.66 | 3.62 | 3.58 | 3.53 | 3.49 | 3.45 | 3.41 |
| 72.5 | 184.2 | 4.17 | 4.13 | 4.08 | 4.04 | 4.00 | 3.95 | 3.91 | 3.87 | 3.82 | 3.78 | 3.74 | 3.69 | 3.65 | 3.61 | 3.56 | 3.52 | 3.48 |
| 73.0 | 185.4 | 4.24 | 4.19 | 4.15 | 4.11 | 4.06 | 4.02 | 3.98 | 3.93 | 3.89 | 3.85 | 3.80 | 3.76 | 3.72 | 3.67 | 3.63 | 3.59 | 3.55 |
| 73.5 | 186.7 | 4.31 | 4.27 | 4.22 | 4.18 | 4.14 | 4.09 | 4.05 | 4.01 | 3.96 | 3.92 | 3.88 | 3.83 | 3.79 | 3.75 | 3.70 | 3.66 | 3.62 |
| 74.0 | 188.0 | 4.38 | 4.34 | 4.30 | 4.25 | 4.21 | 4.17 | 4.12 | 4.08 | 4.04 | 3.99 | 3.95 | 3.91 | 3.86 | 3.82 | 3.78 | 3.73 | 3.69 |
| 74.5 | 189.2 | 4.45 | 4.41 | 4.36 | 4.32 | 4.28 | 4.23 | 4.19 | 4.15 | 4.10 | 4.06 | 4.02 | 3.97 | 3.93 | 3.89 | 3.84 | 3.80 | 3.76 |
| 75.0 | 190.5 | 4.52 | 4.48 | 4.44 | 4.39 | 4.35 | 4.31 | 4.26 | 4.22 | 4.18 | 4.13 | 4.09 | 4.05 | 4.00 | 3.96 | 3.92 | 3.87 | 3.83 |
| 75.5 | 191.8 | 4.59 | 4.55 | 4.51 | 4.46 | 4.42 | 4.38 | 4.34 | 4.29 | 4.25 | 4.21 | 4.16 | 4.12 | 4.08 | 4.03 | 3.99 | 3.95 | 3.90 |
| 76.0 | 193.0 | 4.66 | 4.62 | 4.58 | 4.53 | 4.49 | 4.45 | 4.40 | 4.36 | 4.32 | 4.27 | 4.23 | 4.19 | 4.14 | 4.10 | 4.06 | 4.01 | 3.97 |
| 76.5 | 194.3 | 4.73 | 4.69 | 4.65 | 4.61 | 4.56 | 4.52 | 4.48 | 4.43 | 4.39 | 4.35 | 4.30 | 4.26 | 4.22 | 4.17 | 4.13 | 4.09 | 4.04 |
| 77.0 | 195.6 | 4.81 | 4.76 | 4.72 | 4.68 | 4.63 | 4.59 | 4.55 | 4.51 | 4.46 | 4.42 | 4.38 | 4.33 | 4.29 | 4.25 | 4.20 | 4.16 | 4.12 |
| 77.5 | 196.9 | 4.88 | 4.84 | 4.79 | 4.75 | 4.71 | 4.66 | 4.62 | 4.58 | 4.54 | 4.49 | 4.45 | 4.41 | 4.36 | 4.32 | 4.28 | 4.23 | 4.19 |
| 78.0 | 198.1 | 4.95 | 4.90 | 4.86 | 4.82 | 4.77 | 4.73 | 4.69 | 4.65 | 4.60 | 4.56 | 4.52 | 4.47 | 4.43 | 4.39 | 4.34 | 4.30 | 4.26 |
| 78.5 | 199.4 | 5.02 | 4.98 | 4.93 | 4.89 | 4.85 | 4.80 | 4.76 | 4.72 | 4.68 | 4.63 | 4.59 | 4.55 | 4.50 | 4.46 | 4.42 | 4.37 | 4.33 |
| 79.0 | 200.7 | 5.09 | 5.05 | 5.01 | 4.96 | 4.92 | 4.88 | 4.83 | 4.79 | 4.75 | 4.70 | 4.66 | 4.62 | 4.58 | 4.53 | 4.49 | 4.45 | 4.40 |
| 79.5 | 201.9 | 5.16 | 5.12 | 5.07 | 5.03 | 4.99 | 4.94 | 4.90 | 4.86 | 4.82 | 4.77 | 4.73 | 4.69 | 4.64 | 4.60 | 4.56 | 4.51 | 4.47 |
| 80.0 | 203.2 | 5.23 | 5.19 | 5.15 | 5.10 | 5.06 | 5.02 | 4.97 | 4.93 | 4.89 | 4.85 | 4.80 | 4.76 | 4.72 | 4.67 | 4.63 | 4.59 | 4.54 |
| 80.5 | 204.5 | 5.31 | 5.26 | 5.22 | 5.18 | 5.13 | 5.09 | 5.05 | 5.00 | 4.96 | 4.92 | 4.87 | 4.83 | 4.79 | 4.75 | 4.70 | 4.66 | 4.62 |
| 81.0 | 205.7 | 5.37 | 5.33 | 5.29 | 5.24 | 5.20 | 5.16 | 5.11 | 5.07 | 5.03 | 4.99 | 4.94 | 4.90 | 4.86 | 4.81 | 4.77 | 4.73 | 4.68 |
| 81.5 | 207.0 | 5.45 | 5.40 | 5.36 | 5.32 | 5.27 | 5.23 | 5.19 | 5.14 | 5.10 | 5.06 | 5.01 | 4.97 | 4.93 | 4.89 | 4.84 | 4.80 | 4.76 |
| 82.0 | 208.3 | 5.52 | 5.48 | 5.43 | 5.39 | 5.35 | 5.30 | 5.26 | 5.22 | 5.17 | 5.13 | 5.09 | 5.04 | 5.00 | 4.96 | 4.92 | 4.87 | 4.83 |
| 82.5 | 209.6 | 5.59 | 5.55 | 5.51 | 5.46 | 5.42 | 5.38 | 5.33 | 5.29 | 5.25 | 5.20 | 5.16 | 5.12 | 5.07 | 5.03 | 4.99 | 4.94 | 4.90 |

TABLE 7A.—NAVAJO MALES FEV–1 LOWER LIMIT OF NORMAL VALUES, CRAPO, ET AL. (1988)

[Reference value equation: [−4.7504 + (−0.0283)(age) + (0.0558)(height)] × (0.812)]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 2.04 | 1.99 | 1.94 | 1.90 | 1.85 | 1.81 | 1.76 | 1.71 | 1.67 | 1.62 | 1.58 | 1.53 | 1.48 | 1.44 | 1.39 | 1.35 | 1.30 |
| 61.5 | 156.2 | 2.09 | 2.05 | 2.00 | 1.96 | 1.91 | 1.86 | 1.82 | 1.77 | 1.73 | 1.68 | 1.63 | 1.59 | 1.54 | 1.50 | 1.45 | 1.40 | 1.36 |
| 62.0 | 157.5 | 2.15 | 2.11 | 2.06 | 2.02 | 1.97 | 1.92 | 1.88 | 1.83 | 1.79 | 1.74 | 1.69 | 1.65 | 1.60 | 1.56 | 1.51 | 1.46 | 1.42 |
| 62.5 | 158.8 | 2.21 | 2.17 | 2.12 | 2.07 | 2.03 | 1.98 | 1.94 | 1.89 | 1.84 | 1.80 | 1.75 | 1.71 | 1.66 | 1.61 | 1.57 | 1.52 | 1.48 |
| 63.0 | 160.0 | 2.27 | 2.22 | 2.17 | 2.13 | 2.08 | 2.04 | 1.99 | 1.94 | 1.90 | 1.85 | 1.81 | 1.76 | 1.71 | 1.67 | 1.62 | 1.58 | 1.53 |
| 63.5 | 161.3 | 2.33 | 2.28 | 2.23 | 2.19 | 2.14 | 2.10 | 2.05 | 2.00 | 1.96 | 1.91 | 1.87 | 1.82 | 1.77 | 1.73 | 1.68 | 1.64 | 1.59 |
| 64.0 | 162.6 | 2.38 | 2.34 | 2.29 | 2.25 | 2.20 | 2.15 | 2.11 | 2.06 | 2.02 | 1.97 | 1.92 | 1.88 | 1.83 | 1.79 | 1.74 | 1.69 | 1.65 |
| 64.5 | 163.8 | 2.44 | 2.39 | 2.35 | 2.30 | 2.25 | 2.21 | 2.16 | 2.12 | 2.07 | 2.02 | 1.98 | 1.93 | 1.89 | 1.84 | 1.79 | 1.75 | 1.70 |
| 65.0 | 165.1 | 2.50 | 2.45 | 2.41 | 2.36 | 2.31 | 2.27 | 2.22 | 2.18 | 2.13 | 2.08 | 2.04 | 1.99 | 1.95 | 1.90 | 1.85 | 1.81 | 1.76 |
| 65.5 | 166.4 | 2.55 | 2.51 | 2.46 | 2.42 | 2.37 | 2.33 | 2.28 | 2.23 | 2.19 | 2.14 | 2.10 | 2.05 | 2.00 | 1.96 | 1.91 | 1.87 | 1.82 |
| 66.0 | 167.6 | 2.61 | 2.57 | 2.52 | 2.47 | 2.43 | 2.38 | 2.34 | 2.29 | 2.24 | 2.20 | 2.15 | 2.11 | 2.06 | 2.01 | 1.97 | 1.92 | 1.88 |
| 66.5 | 168.9 | 2.67 | 2.62 | 2.58 | 2.53 | 2.49 | 2.44 | 2.39 | 2.35 | 2.30 | 2.26 | 2.21 | 2.16 | 2.12 | 2.07 | 2.03 | 1.98 | 1.93 |
| 67.0 | 170.2 | 2.73 | 2.68 | 2.64 | 2.59 | 2.54 | 2.50 | 2.45 | 2.41 | 2.36 | 2.31 | 2.27 | 2.22 | 2.18 | 2.13 | 2.08 | 2.04 | 1.99 |
| 67.5 | 171.5 | 2.79 | 2.74 | 2.70 | 2.65 | 2.60 | 2.56 | 2.51 | 2.47 | 2.42 | 2.37 | 2.33 | 2.28 | 2.24 | 2.19 | 2.14 | 2.10 | 2.05 |
| 68.0 | 172.7 | 2.84 | 2.80 | 2.75 | 2.70 | 2.66 | 2.61 | 2.57 | 2.52 | 2.47 | 2.43 | 2.38 | 2.34 | 2.29 | 2.24 | 2.20 | 2.15 | 2.11 |
| 68.5 | 174.0 | 2.90 | 2.85 | 2.81 | 2.76 | 2.72 | 2.67 | 2.62 | 2.58 | 2.53 | 2.49 | 2.44 | 2.39 | 2.35 | 2.30 | 2.26 | 2.21 | 2.17 |
| 69.0 | 175.3 | 2.96 | 2.91 | 2.87 | 2.82 | 2.78 | 2.73 | 2.68 | 2.64 | 2.59 | 2.55 | 2.50 | 2.45 | 2.41 | 2.36 | 2.32 | 2.27 | 2.22 |
| 69.5 | 176.5 | 3.01 | 2.97 | 2.92 | 2.88 | 2.83 | 2.78 | 2.74 | 2.69 | 2.65 | 2.60 | 2.55 | 2.51 | 2.46 | 2.42 | 2.37 | 2.32 | 2.28 |
| 70.0 | 177.8 | 3.07 | 3.03 | 2.98 | 2.93 | 2.89 | 2.84 | 2.80 | 2.75 | 2.71 | 2.66 | 2.61 | 2.57 | 2.52 | 2.48 | 2.43 | 2.38 | 2.34 |
| 70.5 | 179.1 | 3.13 | 3.09 | 3.04 | 2.99 | 2.95 | 2.90 | 2.86 | 2.81 | 2.76 | 2.72 | 2.67 | 2.63 | 2.58 | 2.53 | 2.49 | 2.44 | 2.40 |
| 71.0 | 180.3 | 3.19 | 3.14 | 3.09 | 3.05 | 3.00 | 2.96 | 2.91 | 2.86 | 2.82 | 2.77 | 2.73 | 2.68 | 2.63 | 2.59 | 2.54 | 2.50 | 2.45 |
| 71.5 | 181.6 | 3.24 | 3.20 | 3.15 | 3.11 | 3.06 | 3.02 | 2.97 | 2.92 | 2.88 | 2.83 | 2.79 | 2.74 | 2.69 | 2.65 | 2.60 | 2.56 | 2.51 |
| 72.0 | 182.9 | 3.30 | 3.26 | 3.21 | 3.17 | 3.12 | 3.07 | 3.03 | 2.98 | 2.94 | 2.89 | 2.84 | 2.80 | 2.75 | 2.71 | 2.66 | 2.61 | 2.57 |
| 72.5 | 184.2 | 3.36 | 3.32 | 3.27 | 3.22 | 3.18 | 3.13 | 3.09 | 3.04 | 3.00 | 2.95 | 2.90 | 2.86 | 2.81 | 2.77 | 2.72 | 2.67 | 2.63 |
| 73.0 | 185.4 | 3.42 | 3.37 | 3.33 | 3.28 | 3.23 | 3.19 | 3.14 | 3.10 | 3.05 | 3.00 | 2.96 | 2.91 | 2.87 | 2.82 | 2.77 | 2.73 | 2.68 |
| 73.5 | 186.7 | 3.48 | 3.43 | 3.38 | 3.34 | 3.29 | 3.25 | 3.20 | 3.15 | 3.11 | 3.06 | 3.02 | 2.97 | 2.92 | 2.88 | 2.83 | 2.79 | 2.74 |
| 74.0 | 188.0 | 3.53 | 3.49 | 3.44 | 3.40 | 3.35 | 3.31 | 3.26 | 3.21 | 3.17 | 3.12 | 3.08 | 3.03 | 2.98 | 2.94 | 2.89 | 2.85 | 2.80 |
| 74.5 | 189.2 | 3.59 | 3.54 | 3.50 | 3.45 | 3.41 | 3.36 | 3.31 | 3.27 | 3.22 | 3.18 | 3.13 | 3.08 | 3.04 | 2.99 | 2.95 | 2.90 | 2.85 |
| 75.0 | 190.5 | 3.65 | 3.60 | 3.56 | 3.51 | 3.46 | 3.42 | 3.37 | 3.33 | 3.28 | 3.23 | 3.19 | 3.14 | 3.10 | 3.05 | 3.00 | 2.96 | 2.91 |
| 75.5 | 191.8 | 3.71 | 3.66 | 3.62 | 3.57 | 3.52 | 3.48 | 3.43 | 3.39 | 3.34 | 3.29 | 3.25 | 3.20 | 3.16 | 3.11 | 3.06 | 3.02 | 2.97 |
| 76.0 | 193.0 | 3.76 | 3.72 | 3.67 | 3.62 | 3.58 | 3.53 | 3.49 | 3.44 | 3.39 | 3.35 | 3.30 | 3.26 | 3.21 | 3.16 | 3.12 | 3.07 | 3.03 |
| 76.5 | 194.3 | 3.82 | 3.77 | 3.73 | 3.68 | 3.64 | 3.59 | 3.54 | 3.50 | 3.45 | 3.41 | 3.36 | 3.31 | 3.27 | 3.22 | 3.18 | 3.13 | 3.08 |
| 77.0 | 195.6 | 3.88 | 3.83 | 3.79 | 3.74 | 3.70 | 3.65 | 3.60 | 3.56 | 3.51 | 3.47 | 3.42 | 3.37 | 3.33 | 3.28 | 3.24 | 3.19 | 3.14 |
| 77.5 | 196.9 | 3.94 | 3.89 | 3.85 | 3.80 | 3.75 | 3.71 | 3.66 | 3.62 | 3.57 | 3.52 | 3.48 | 3.43 | 3.39 | 3.34 | 3.29 | 3.25 | 3.20 |
| 78.0 | 198.1 | 3.99 | 3.95 | 3.90 | 3.85 | 3.81 | 3.76 | 3.72 | 3.67 | 3.62 | 3.58 | 3.53 | 3.49 | 3.44 | 3.40 | 3.35 | 3.30 | 3.26 |
| 78.5 | 199.4 | 4.05 | 4.01 | 3.96 | 3.91 | 3.87 | 3.82 | 3.78 | 3.73 | 3.68 | 3.64 | 3.59 | 3.55 | 3.50 | 3.45 | 3.41 | 3.36 | 3.32 |
| 79.0 | 200.7 | 4.11 | 4.06 | 4.02 | 3.97 | 3.93 | 3.88 | 3.83 | 3.79 | 3.74 | 3.70 | 3.65 | 3.60 | 3.56 | 3.51 | 3.47 | 3.42 | 3.37 |
| 79.5 | 201.9 | 4.16 | 4.12 | 4.07 | 4.03 | 3.98 | 3.93 | 3.89 | 3.84 | 3.80 | 3.75 | 3.71 | 3.66 | 3.61 | 3.57 | 3.52 | 3.48 | 3.43 |
| 80.0 | 203.2 | 4.22 | 4.18 | 4.13 | 4.09 | 4.04 | 3.99 | 3.95 | 3.90 | 3.86 | 3.81 | 3.76 | 3.72 | 3.67 | 3.63 | 3.58 | 3.53 | 3.49 |
| 80.5 | 204.5 | 4.28 | 4.24 | 4.19 | 4.14 | 4.10 | 4.05 | 4.01 | 3.96 | 3.91 | 3.87 | 3.82 | 3.78 | 3.73 | 3.69 | 3.64 | 3.59 | 3.55 |
| 81.0 | 205.7 | 4.34 | 4.29 | 4.24 | 4.20 | 4.15 | 4.11 | 4.06 | 4.02 | 3.97 | 3.92 | 3.88 | 3.83 | 3.79 | 3.74 | 3.69 | 3.65 | 3.60 |
| 81.5 | 207.0 | 4.40 | 4.35 | 4.30 | 4.26 | 4.21 | 4.17 | 4.12 | 4.07 | 4.03 | 3.98 | 3.94 | 3.89 | 3.84 | 3.80 | 3.75 | 3.71 | 3.66 |
| 82.0 | 208.3 | 4.45 | 4.41 | 4.36 | 4.32 | 4.27 | 4.22 | 4.18 | 4.13 | 4.09 | 4.04 | 4.00 | 3.95 | 3.90 | 3.86 | 3.81 | 3.77 | 3.72 |
| 82.5 | 209.6 | 4.51 | 4.47 | 4.42 | 4.38 | 4.33 | 4.28 | 4.24 | 4.19 | 4.15 | 4.10 | 4.05 | 4.01 | 3.96 | 3.92 | 3.87 | 3.82 | 3.78 |

TABLE 8.—NAVAJO FEMALES FVC LOWER LIMIT OF NORMAL VALUES, CRAPO, ET AL. (1988)

[Reference value equation: [−2.9769 + (−0.0207)(age) + (0.0448)(height)] × (0.815)]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 2.40 | 2.37 | 2.34 | 2.30 | 2.27 | 2.23 | 2.20 | 2.17 | 2.13 | 2.10 | 2.07 | 2.03 | 2.00 | 1.96 | 1.93 | 1.90 | 1.86 |
| 61.5 | 156.2 | 2.45 | 2.42 | 2.38 | 2.35 | 2.32 | 2.28 | 2.25 | 2.21 | 2.18 | 2.15 | 2.11 | 2.08 | 2.05 | 2.01 | 1.98 | 1.94 | 1.91 |
| 62.0 | 157.5 | 2.50 | 2.46 | 2.43 | 2.40 | 2.36 | 2.33 | 2.30 | 2.26 | 2.23 | 2.19 | 2.16 | 2.13 | 2.09 | 2.06 | 2.03 | 1.99 | 1.96 |
| 62.5 | 158.8 | 2.55 | 2.51 | 2.48 | 2.44 | 2.41 | 2.38 | 2.34 | 2.31 | 2.28 | 2.24 | 2.21 | 2.17 | 2.14 | 2.11 | 2.07 | 2.04 | 2.01 |
| 63.0 | 160.0 | 2.59 | 2.56 | 2.52 | 2.49 | 2.45 | 2.42 | 2.39 | 2.35 | 2.32 | 2.29 | 2.25 | 2.22 | 2.18 | 2.15 | 2.12 | 2.08 | 2.05 |
| 63.5 | 161.3 | 2.64 | 2.60 | 2.57 | 2.54 | 2.50 | 2.47 | 2.43 | 2.40 | 2.37 | 2.33 | 2.30 | 2.27 | 2.23 | 2.20 | 2.16 | 2.13 | 2.10 |
| 64.0 | 162.6 | 2.68 | 2.65 | 2.62 | 2.58 | 2.55 | 2.52 | 2.48 | 2.45 | 2.41 | 2.38 | 2.35 | 2.31 | 2.28 | 2.25 | 2.21 | 2.18 | 2.14 |
| 64.5 | 163.8 | 2.73 | 2.69 | 2.66 | 2.63 | 2.59 | 2.56 | 2.53 | 2.49 | 2.46 | 2.42 | 2.39 | 2.36 | 2.32 | 2.29 | 2.26 | 2.22 | 2.19 |
| 65.0 | 165.1 | 2.78 | 2.74 | 2.71 | 2.67 | 2.64 | 2.61 | 2.57 | 2.54 | 2.51 | 2.47 | 2.44 | 2.40 | 2.37 | 2.34 | 2.30 | 2.27 | 2.24 |
| 65.5 | 166.4 | 2.82 | 2.79 | 2.75 | 2.72 | 2.69 | 2.65 | 2.62 | 2.59 | 2.55 | 2.52 | 2.48 | 2.45 | 2.42 | 2.38 | 2.35 | 2.32 | 2.28 |
| 66.0 | 167.6 | 2.87 | 2.83 | 2.80 | 2.77 | 2.73 | 2.70 | 2.67 | 2.63 | 2.60 | 2.56 | 2.53 | 2.50 | 2.46 | 2.43 | 2.40 | 2.36 | 2.33 |
| 66.5 | 168.9 | 2.91 | 2.88 | 2.85 | 2.81 | 2.78 | 2.75 | 2.71 | 2.68 | 2.64 | 2.61 | 2.58 | 2.54 | 2.51 | 2.48 | 2.44 | 2.41 | 2.37 |
| 67.0 | 170.2 | 2.96 | 2.93 | 2.89 | 2.86 | 2.83 | 2.79 | 2.76 | 2.73 | 2.69 | 2.66 | 2.62 | 2.59 | 2.56 | 2.52 | 2.49 | 2.46 | 2.42 |
| 67.5 | 171.5 | 3.01 | 2.98 | 2.94 | 2.91 | 2.87 | 2.84 | 2.81 | 2.77 | 2.74 | 2.71 | 2.67 | 2.64 | 2.60 | 2.57 | 2.54 | 2.50 | 2.47 |
| 68.0 | 172.7 | 3.05 | 3.02 | 2.99 | 2.95 | 2.92 | 2.88 | 2.85 | 2.82 | 2.78 | 2.75 | 2.72 | 2.68 | 2.65 | 2.61 | 2.58 | 2.55 | 2.51 |
| 68.5 | 174.0 | 3.10 | 3.07 | 3.03 | 3.00 | 2.97 | 2.93 | 2.90 | 2.86 | 2.83 | 2.80 | 2.76 | 2.73 | 2.70 | 2.66 | 2.63 | 2.59 | 2.56 |
| 69.0 | 175.3 | 3.15 | 3.11 | 3.08 | 3.05 | 3.01 | 2.98 | 2.95 | 2.91 | 2.88 | 2.84 | 2.81 | 2.78 | 2.74 | 2.71 | 2.68 | 2.64 | 2.61 |
| 69.5 | 176.5 | 3.19 | 3.16 | 3.12 | 3.09 | 3.06 | 3.02 | 2.99 | 2.96 | 2.92 | 2.89 | 2.85 | 2.82 | 2.79 | 2.75 | 2.72 | 2.69 | 2.65 |
| 70.0 | 177.8 | 3.24 | 3.21 | 3.17 | 3.14 | 3.10 | 3.07 | 3.04 | 3.00 | 2.97 | 2.94 | 2.90 | 2.87 | 2.83 | 2.80 | 2.77 | 2.73 | 2.70 |
| 70.5 | 179.1 | 3.29 | 3.25 | 3.22 | 3.19 | 3.15 | 3.12 | 3.08 | 3.05 | 3.02 | 2.98 | 2.95 | 2.92 | 2.88 | 2.85 | 2.81 | 2.78 | 2.75 |
| 71.0 | 180.3 | 3.33 | 3.30 | 3.26 | 3.23 | 3.20 | 3.16 | 3.13 | 3.09 | 3.06 | 3.03 | 2.99 | 2.96 | 2.93 | 2.89 | 2.86 | 2.82 | 2.79 |
| 71.5 | 181.6 | 3.38 | 3.34 | 3.31 | 3.28 | 3.24 | 3.21 | 3.18 | 3.14 | 3.11 | 3.07 | 3.04 | 3.01 | 2.97 | 2.94 | 2.91 | 2.87 | 2.84 |
| 72.0 | 182.9 | 3.43 | 3.39 | 3.36 | 3.32 | 3.29 | 3.26 | 3.22 | 3.19 | 3.16 | 3.12 | 3.09 | 3.05 | 3.02 | 2.99 | 2.95 | 2.92 | 2.89 |

TABLE 8.—NAVAJO FEMALES FVC LOWER LIMIT OF NORMAL VALUES, CRAPO, ET AL. (1988)—Continued

[Reference value equation: [−2.9769 + (−0.0207)(age) + (0.0448)(height)] × (0.815)]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 72.5 | 184.2 | 3.47 | 3.44 | 3.41 | 3.37 | 3.34 | 3.30 | 3.27 | 3.24 | 3.20 | 3.17 | 3.14 | 3.10 | 3.07 | 3.03 | 3.00 | 2.97 | 2.93 |
| 73.0 | 185.4 | 3.52 | 3.48 | 3.45 | 3.42 | 3.38 | 3.35 | 3.31 | 3.28 | 3.25 | 3.21 | 3.18 | 3.15 | 3.11 | 3.08 | 3.04 | 3.01 | 2.98 |
| 73.5 | 186.7 | 3.56 | 3.53 | 3.50 | 3.46 | 3.43 | 3.40 | 3.36 | 3.33 | 3.29 | 3.26 | 3.23 | 3.19 | 3.16 | 3.13 | 3.09 | 3.06 | 3.02 |
| 74.0 | 188.0 | 3.61 | 3.58 | 3.54 | 3.51 | 3.48 | 3.44 | 3.41 | 3.38 | 3.34 | 3.31 | 3.27 | 3.24 | 3.21 | 3.17 | 3.14 | 3.11 | 3.07 |
| 74.5 | 189.2 | 3.66 | 3.62 | 3.59 | 3.55 | 3.52 | 3.49 | 3.45 | 3.42 | 3.39 | 3.35 | 3.32 | 3.28 | 3.25 | 3.22 | 3.18 | 3.15 | 3.12 |
| 75.0 | 190.5 | 3.70 | 3.67 | 3.64 | 3.60 | 3.57 | 3.53 | 3.50 | 3.47 | 3.43 | 3.40 | 3.37 | 3.33 | 3.30 | 3.26 | 3.23 | 3.20 | 3.16 |
| 75.5 | 191.8 | 3.75 | 3.72 | 3.68 | 3.65 | 3.62 | 3.58 | 3.55 | 3.51 | 3.48 | 3.45 | 3.41 | 3.38 | 3.35 | 3.31 | 3.28 | 3.24 | 3.21 |
| 76.0 | 193.0 | 3.79 | 3.76 | 3.73 | 3.69 | 3.66 | 3.63 | 3.59 | 3.56 | 3.52 | 3.49 | 3.46 | 3.42 | 3.39 | 3.36 | 3.32 | 3.29 | 3.25 |
| 76.5 | 194.3 | 3.84 | 3.81 | 3.77 | 3.74 | 3.71 | 3.67 | 3.64 | 3.61 | 3.57 | 3.54 | 3.50 | 3.47 | 3.44 | 3.40 | 3.37 | 3.34 | 3.30 |
| 77.0 | 195.6 | 3.89 | 3.86 | 3.82 | 3.79 | 3.75 | 3.72 | 3.69 | 3.65 | 3.62 | 3.59 | 3.55 | 3.52 | 3.48 | 3.45 | 3.42 | 3.38 | 3.35 |
| 77.5 | 196.9 | 3.94 | 3.90 | 3.87 | 3.84 | 3.80 | 3.77 | 3.73 | 3.70 | 3.67 | 3.63 | 3.60 | 3.57 | 3.53 | 3.50 | 3.46 | 3.43 | 3.40 |
| 78.0 | 198.1 | 3.98 | 3.95 | 3.91 | 3.88 | 3.85 | 3.81 | 3.78 | 3.74 | 3.71 | 3.68 | 3.64 | 3.61 | 3.58 | 3.54 | 3.51 | 3.47 | 3.44 |
| 78.5 | 199.4 | 4.03 | 3.99 | 3.96 | 3.93 | 3.89 | 3.86 | 3.83 | 3.79 | 3.76 | 3.72 | 3.69 | 3.66 | 3.62 | 3.59 | 3.56 | 3.52 | 3.49 |
| 79.0 | 200.7 | 4.08 | 4.04 | 4.01 | 3.97 | 3.94 | 3.91 | 3.87 | 3.84 | 3.81 | 3.77 | 3.74 | 3.70 | 3.67 | 3.64 | 3.60 | 3.57 | 3.54 |
| 79.5 | 201.9 | 4.12 | 4.09 | 4.05 | 4.02 | 3.98 | 3.95 | 3.92 | 3.88 | 3.85 | 3.82 | 3.78 | 3.75 | 3.71 | 3.68 | 3.65 | 3.61 | 3.58 |
| 80.0 | 203.2 | 4.17 | 4.13 | 4.10 | 4.07 | 4.03 | 4.00 | 3.96 | 3.93 | 3.90 | 3.86 | 3.83 | 3.80 | 3.76 | 3.73 | 3.69 | 3.66 | 3.63 |
| 80.5 | 204.5 | 4.21 | 4.18 | 4.15 | 4.11 | 4.08 | 4.05 | 4.01 | 3.98 | 3.94 | 3.91 | 3.88 | 3.84 | 3.81 | 3.78 | 3.74 | 3.71 | 3.67 |
| 81.0 | 205.7 | 4.26 | 4.22 | 4.19 | 4.16 | 4.12 | 4.09 | 4.06 | 4.02 | 3.99 | 3.95 | 3.92 | 3.89 | 3.85 | 3.82 | 3.79 | 3.75 | 3.72 |
| 81.5 | 207.0 | 4.31 | 4.27 | 4.24 | 4.20 | 4.17 | 4.14 | 4.10 | 4.07 | 4.04 | 4.00 | 3.97 | 3.93 | 3.90 | 3.87 | 3.83 | 3.80 | 3.77 |
| 82.0 | 208.3 | 4.35 | 4.32 | 4.29 | 4.25 | 4.22 | 4.18 | 4.15 | 4.12 | 4.08 | 4.05 | 4.02 | 3.98 | 3.95 | 3.91 | 3.88 | 3.85 | 3.81 |
| 82.5 | 209.6 | 4.40 | 4.37 | 4.33 | 4.30 | 4.27 | 4.23 | 4.20 | 4.16 | 4.13 | 4.10 | 4.06 | 4.03 | 4.00 | 3.96 | 3.93 | 3.89 | 3.86 |

TABLE 8A.—NAVAJO FEMALES FEV–1 LOWER LIMIT OF NORMAL VALUES, CRAPO, ET AL. (1988)

[Reference value equation: [−1.8110 + (−0.0233)(age) + (0.0347)(height)] × (0.808)]

| Height in inches | Height in centi-meters | Age in years | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 49 | 51 | 53 | 55 | 57 | 59 | 61 | 63 | 65 | 67 | 69 | 71 | 73 | 75 | 77 | 79 | 81 |
| 61.0 | 154.9 | 1.96 | 1.92 | 1.88 | 1.84 | 1.81 | 1.77 | 1.73 | 1.69 | 1.66 | 1.62 | 1.58 | 1.54 | 1.51 | 1.47 | 1.43 | 1.39 | 1.35 |
| 61.5 | 156.2 | 1.99 | 1.96 | 1.92 | 1.88 | 1.84 | 1.81 | 1.77 | 1.73 | 1.69 | 1.65 | 1.62 | 1.58 | 1.54 | 1.50 | 1.47 | 1.43 | 1.39 |
| 62.0 | 157.5 | 2.03 | 1.99 | 1.95 | 1.92 | 1.88 | 1.84 | 1.80 | 1.77 | 1.73 | 1.69 | 1.65 | 1.62 | 1.58 | 1.54 | 1.50 | 1.47 | 1.43 |
| 62.5 | 158.8 | 2.07 | 2.03 | 1.99 | 1.95 | 1.92 | 1.88 | 1.84 | 1.80 | 1.77 | 1.73 | 1.69 | 1.65 | 1.61 | 1.58 | 1.54 | 1.50 | 1.46 |
| 63.0 | 160.0 | 2.10 | 2.06 | 2.02 | 1.99 | 1.95 | 1.91 | 1.87 | 1.84 | 1.80 | 1.76 | 1.72 | 1.69 | 1.65 | 1.61 | 1.57 | 1.54 | 1.50 |
| 63.5 | 161.3 | 2.14 | 2.10 | 2.06 | 2.02 | 1.99 | 1.95 | 1.91 | 1.87 | 1.84 | 1.80 | 1.76 | 1.72 | 1.68 | 1.65 | 1.61 | 1.57 | 1.53 |
| 64.0 | 162.6 | 2.17 | 2.14 | 2.10 | 2.06 | 2.02 | 1.98 | 1.95 | 1.91 | 1.87 | 1.83 | 1.80 | 1.76 | 1.72 | 1.68 | 1.65 | 1.61 | 1.57 |
| 64.5 | 163.8 | 2.21 | 2.17 | 2.13 | 2.09 | 2.06 | 2.02 | 1.98 | 1.94 | 1.91 | 1.87 | 1.83 | 1.79 | 1.75 | 1.72 | 1.68 | 1.64 | 1.60 |
| 65.0 | 165.1 | 2.24 | 2.21 | 2.17 | 2.13 | 2.09 | 2.05 | 2.02 | 1.98 | 1.94 | 1.90 | 1.87 | 1.83 | 1.79 | 1.75 | 1.72 | 1.68 | 1.64 |
| 65.5 | 166.4 | 2.28 | 2.24 | 2.20 | 2.17 | 2.13 | 2.09 | 2.05 | 2.02 | 1.98 | 1.94 | 1.90 | 1.86 | 1.83 | 1.79 | 1.75 | 1.71 | 1.68 |
| 66.0 | 167.6 | 2.31 | 2.28 | 2.24 | 2.20 | 2.16 | 2.13 | 2.09 | 2.05 | 2.01 | 1.98 | 1.94 | 1.90 | 1.86 | 1.82 | 1.79 | 1.75 | 1.71 |
| 66.5 | 168.9 | 2.35 | 2.31 | 2.27 | 2.24 | 2.20 | 2.16 | 2.12 | 2.09 | 2.05 | 2.01 | 1.97 | 1.94 | 1.90 | 1.86 | 1.82 | 1.79 | 1.75 |
| 67.0 | 170.2 | 2.39 | 2.35 | 2.31 | 2.27 | 2.24 | 2.20 | 2.16 | 2.12 | 2.08 | 2.05 | 2.01 | 1.97 | 1.93 | 1.90 | 1.86 | 1.82 | 1.78 |
| 67.5 | 171.5 | 2.42 | 2.39 | 2.35 | 2.31 | 2.27 | 2.23 | 2.20 | 2.16 | 2.12 | 2.08 | 2.05 | 2.01 | 1.97 | 1.93 | 1.90 | 1.86 | 1.82 |
| 68.0 | 172.7 | 2.46 | 2.42 | 2.38 | 2.34 | 2.31 | 2.27 | 2.23 | 2.19 | 2.16 | 2.12 | 2.08 | 2.04 | 2.00 | 1.97 | 1.93 | 1.89 | 1.85 |
| 68.5 | 174.0 | 2.49 | 2.46 | 2.42 | 2.38 | 2.34 | 2.30 | 2.27 | 2.23 | 2.19 | 2.15 | 2.12 | 2.08 | 2.04 | 2.00 | 1.97 | 1.93 | 1.89 |
| 69.0 | 175.3 | 2.53 | 2.49 | 2.45 | 2.42 | 2.38 | 2.34 | 2.30 | 2.27 | 2.23 | 2.19 | 2.15 | 2.12 | 2.08 | 2.04 | 2.00 | 1.96 | 1.93 |
| 69.5 | 176.5 | 2.56 | 2.53 | 2.49 | 2.45 | 2.41 | 2.37 | 2.34 | 2.30 | 2.26 | 2.22 | 2.19 | 2.15 | 2.11 | 2.07 | 2.04 | 2.00 | 1.96 |
| 70.0 | 177.8 | 2.60 | 2.56 | 2.52 | 2.49 | 2.45 | 2.41 | 2.37 | 2.34 | 2.30 | 2.26 | 2.22 | 2.19 | 2.15 | 2.11 | 2.07 | 2.03 | 2.00 |
| 70.5 | 179.1 | 2.64 | 2.60 | 2.56 | 2.52 | 2.49 | 2.45 | 2.41 | 2.37 | 2.33 | 2.30 | 2.26 | 2.22 | 2.18 | 2.15 | 2.11 | 2.07 | 2.03 |
| 71.0 | 180.3 | 2.67 | 2.63 | 2.59 | 2.56 | 2.52 | 2.48 | 2.44 | 2.41 | 2.37 | 2.33 | 2.29 | 2.26 | 2.22 | 2.18 | 2.14 | 2.10 | 2.07 |
| 71.5 | 181.6 | 2.71 | 2.67 | 2.63 | 2.59 | 2.56 | 2.52 | 2.48 | 2.44 | 2.40 | 2.37 | 2.33 | 2.29 | 2.25 | 2.22 | 2.18 | 2.14 | 2.10 |
| 72.0 | 182.9 | 2.74 | 2.70 | 2.67 | 2.63 | 2.59 | 2.55 | 2.52 | 2.48 | 2.44 | 2.40 | 2.37 | 2.33 | 2.29 | 2.25 | 2.22 | 2.18 | 2.14 |
| 72.5 | 184.2 | 2.78 | 2.74 | 2.70 | 2.67 | 2.63 | 2.59 | 2.55 | 2.52 | 2.48 | 2.44 | 2.40 | 2.36 | 2.33 | 2.29 | 2.25 | 2.21 | 2.18 |
| 73.0 | 185.4 | 2.81 | 2.77 | 2.74 | 2.70 | 2.66 | 2.62 | 2.59 | 2.55 | 2.51 | 2.47 | 2.44 | 2.40 | 2.36 | 2.32 | 2.29 | 2.25 | 2.21 |
| 73.5 | 186.7 | 2.85 | 2.81 | 2.77 | 2.74 | 2.70 | 2.66 | 2.62 | 2.59 | 2.55 | 2.51 | 2.47 | 2.43 | 2.40 | 2.36 | 2.32 | 2.28 | 2.25 |
| 74.0 | 188.0 | 2.89 | 2.85 | 2.81 | 2.77 | 2.73 | 2.70 | 2.66 | 2.62 | 2.58 | 2.55 | 2.51 | 2.47 | 2.43 | 2.40 | 2.36 | 2.32 | 2.28 |
| 74.5 | 189.2 | 2.92 | 2.88 | 2.84 | 2.81 | 2.77 | 2.73 | 2.69 | 2.66 | 2.62 | 2.58 | 2.54 | 2.50 | 2.47 | 2.43 | 2.39 | 2.35 | 2.32 |
| 75.0 | 190.5 | 2.96 | 2.92 | 2.88 | 2.84 | 2.80 | 2.77 | 2.73 | 2.69 | 2.65 | 2.62 | 2.58 | 2.54 | 2.50 | 2.47 | 2.43 | 2.39 | 2.35 |
| 75.5 | 191.8 | 2.99 | 2.95 | 2.92 | 2.88 | 2.84 | 2.80 | 2.77 | 2.73 | 2.69 | 2.65 | 2.62 | 2.58 | 2.54 | 2.50 | 2.46 | 2.43 | 2.39 |
| 76.0 | 193.0 | 3.03 | 2.99 | 2.95 | 2.91 | 2.87 | 2.84 | 2.80 | 2.76 | 2.72 | 2.69 | 2.65 | 2.61 | 2.57 | 2.54 | 2.50 | 2.46 | 2.42 |
| 76.5 | 194.3 | 3.06 | 3.02 | 2.99 | 2.95 | 2.91 | 2.87 | 2.84 | 2.80 | 2.76 | 2.72 | 2.69 | 2.65 | 2.61 | 2.57 | 2.53 | 2.50 | 2.46 |
| 77.0 | 195.6 | 3.10 | 3.06 | 3.02 | 2.99 | 2.95 | 2.91 | 2.87 | 2.83 | 2.80 | 2.76 | 2.72 | 2.68 | 2.65 | 2.61 | 2.57 | 2.53 | 2.50 |
| 77.5 | 196.9 | 3.13 | 3.10 | 3.06 | 3.02 | 2.98 | 2.95 | 2.91 | 2.87 | 2.83 | 2.80 | 2.76 | 2.72 | 2.68 | 2.65 | 2.61 | 2.57 | 2.53 |
| 78.0 | 198.1 | 3.17 | 3.13 | 3.09 | 3.06 | 3.02 | 2.98 | 2.94 | 2.90 | 2.87 | 2.83 | 2.79 | 2.75 | 2.72 | 2.68 | 2.64 | 2.60 | 2.57 |
| 78.5 | 199.4 | 3.20 | 3.17 | 3.13 | 3.09 | 3.05 | 3.02 | 2.98 | 2.94 | 2.90 | 2.87 | 2.83 | 2.79 | 2.75 | 2.72 | 2.68 | 2.64 | 2.60 |
| 79.0 | 200.7 | 3.24 | 3.20 | 3.17 | 3.13 | 3.09 | 3.05 | 3.02 | 2.98 | 2.94 | 2.90 | 2.86 | 2.83 | 2.79 | 2.75 | 2.71 | 2.68 | 2.64 |
| 79.5 | 201.9 | 3.28 | 3.24 | 3.20 | 3.16 | 3.12 | 3.09 | 3.05 | 3.01 | 2.97 | 2.94 | 2.90 | 2.86 | 2.82 | 2.79 | 2.75 | 2.71 | 2.67 |
| 80.0 | 203.2 | 3.31 | 3.27 | 3.24 | 3.20 | 3.16 | 3.12 | 3.09 | 3.05 | 3.01 | 2.97 | 2.93 | 2.90 | 2.86 | 2.82 | 2.78 | 2.75 | 2.71 |
| 80.5 | 204.5 | 3.35 | 3.31 | 3.27 | 3.23 | 3.20 | 3.16 | 3.12 | 3.08 | 3.05 | 3.01 | 2.97 | 2.93 | 2.90 | 2.86 | 2.82 | 2.78 | 2.75 |
| 81.0 | 205.7 | 3.38 | 3.34 | 3.31 | 3.27 | 3.23 | 3.19 | 3.16 | 3.12 | 3.08 | 3.04 | 3.01 | 2.97 | 2.93 | 2.89 | 2.85 | 2.82 | 2.78 |
| 81.5 | 207.0 | 3.42 | 3.38 | 3.34 | 3.31 | 3.27 | 3.23 | 3.19 | 3.15 | 3.12 | 3.08 | 3.04 | 3.00 | 2.97 | 2.93 | 2.89 | 2.85 | 2.82 |
| 82.0 | 208.3 | 3.45 | 3.42 | 3.38 | 3.34 | 3.30 | 3.27 | 3.23 | 3.19 | 3.15 | 3.12 | 3.08 | 3.04 | 3.00 | 2.96 | 2.93 | 2.89 | 2.85 |
| 82.5 | 209.6 | 3.49 | 3.45 | 3.42 | 3.38 | 3.34 | 3.30 | 3.26 | 3.23 | 3.19 | 3.15 | 3.11 | 3.08 | 3.04 | 3.00 | 2.96 | 2.93 | 2.89 |

## Appendix B to Part 79—Blood-Gas Study Tables

For arterial blood-gas studies performed at test locations between sea level and 2,999 feet above sea level:

| Arterial $pCO_2$ | and arterial $pO_2$ |
|---|---|
| 25 mmHg or below | 80 mmHg or below. |
| 26 mmHg | 79 mmHg or below. |
| 27 mmHg | 78 mmHg or below. |
| 28 mmHg | 77 mmHg or below. |
| 29 mmHg | 76 mmHg or below. |
| 30 mmHg | 75 mmHg or below. |
| 31 mmHg | 74 mmHg or below. |
| 32 mmHg | 73 mmHg or below. |
| 33 mmHg | 72 mmHg or below. |
| 34 mmHg | 71 mmHg or below. |
| 35 mmHg | 70 mmHg or below. |
| 36 mmHg | 69 mmHg or below. |
| 37 mmHg | 68 mmHg or below. |
| 38 mmHg | 67 mmHg or below. |
| 39 mmHg | 66 mmHg or below. |
| 40–49 mmHg | 65 mmHg or below. |
| Above 50 mmHg | Any value. |

For arterial blood-gas studies performed at test locations above 3,000 feet above sea level:

| Arterial $pCO_2$ | and arterial $pO_2$ |
|---|---|
| 25 mmHg or below | 75 mmHg or below. |
| 26 mmHg | 74 mmHg or below. |
| 27 mmHg | 73 mmHg or below. |
| 28 mmHg | 72 mmHg or below. |
| 29 mmHg | 71 mmHg or below. |
| 30 mmHg | 70 mmHg or below. |
| 31 mmHg | 69 mmHg or below. |
| 32 mmHg | 68 mmHg or below. |
| 33 mmHg | 67 mmHg or below. |
| 34 mmHg | 66 mmHg or below. |
| 35 mmHg | 65 mmHg or below. |
| 36 mmHg | 64 mmHg or below. |
| 37 mmHg | 63 mmHg or below. |
| 38 mmHg | 62 mmHg or below. |
| 39 mmHg | 61 mmHg or below. |
| 40–49 mmHg | 60 mmHg or below. |
| Above 50 mmHg | Any value. |

## Appendix C—Radiation Exposure Compensation Act Offset Worksheet—On Site Participants

[Present CPI = 185.20]

| VA payments year | Payment | Indicated year CPI | Claim # * inflated PV |
|---|---|---|---|
| 1960 | | 29.60 | $0.00 |
| 1961 | | 29.90 | $0.00 |
| 1962 | | 30.20 | $0.00 |
| 1963 | | 30.60 | $0.00 |
| 1964 | | 31.00 | $0.00 |
| 1965 | | 31.50 | $0.00 |
| 1966 | | 32.40 | $0.00 |
| 1967 | | 33.40 | $0.00 |

APPENDIX C—RADIATION EXPOSURE COMPENSATION ACT OFFSET WORKSHEET—ON SITE PARTICIPANTS—Continued

[Present CPI = 185.20]

| VA payments year | Payment | Indicated year CPI | Claim # * inflated PV |
|---|---|---|---|
| 1968 | | 34.80 | $0.00 |
| 1969 | | 36.70 | $0.00 |
| 1970 | | 38.80 | $0.00 |
| 1971 | | 40.50 | $0.00 |
| 1972 | | 41.80 | $0.00 |
| 1973 | | 44.40 | $0.00 |
| 1974 | | 49.30 | $0.00 |
| 1975 | | 53.80 | $0.00 |
| 1976 | | 56.90 | $0.00 |
| 1977 | | 60.60 | $0.00 |
| 1978 | | 65.20 | $0.00 |
| 1979 | | 72.60 | $0.00 |
| 1980 | | 82.40 | $0.00 |
| 1981 | | 90.90 | $0.00 |
| 1982 | | 96.50 | $0.00 |
| 1983 | | 99.60 | $0.00 |
| 1984 | | 103.90 | $0.00 |
| 1985 | | 107.60 | $0.00 |
| 1986 | | 109.60 | $0.00 |
| 1987 | | 113.60 | $0.00 |
| 1988 | | 118.30 | $0.00 |
| 1989 | | 124.00 | $0.00 |
| 1990 | | 130.70 | $0.00 |
| 1991 | | 136.20 | $0.00 |
| 1992 | | 140.30 | $0.00 |
| 1993 | | 144.50 | $0.00 |
| 1994 | | 148.20 | $0.00 |
| 1995 | | 152.40 | $0.00 |
| 1996 | | 156.90 | $0.00 |
| 1997 | | 160.50 | $0.00 |
| 1998 | | 163.00 | $0.00 |
| 1999 | | 166.60 | $0.00 |
| 2000 | | 172.20 | $0.00 |
| 2001 | | 177.10 | $0.00 |
| 2002 | | 179.90 | $0.00 |
| 2003 | | 184.00 | $0.00 |

APPENDIX C—RADIATION EXPOSURE COMPENSATION ACT OFFSET WORKSHEET—ON SITE PARTICIPANTS—Continued

[Present CPI = 185.20]

| VA payments year | Payment | Indicated year CPI | Claim # * inflated PV |
|---|---|---|---|
| 2004 | ..... | ..... | ..... |
| | Total, Column 4 | "Actuarial Present Value" of past payments = | $0.00 |
| | NET AMOUNT OWED CLAIMANT ($75,000 less APV) | | $75,000.00 |
| | ..... | ..... | ..... |
| | | Past CPI | |
| xxxx | | | ?? |

* Inflated PV is computed as {payment X (current CPI÷Year's CPI)}.

Dated: March 9, 2004.

**James B. Comey,**

*Deputy Attorney General.*

[FR Doc. 04–5732 Filed 3–22–04; 8:45am]

**BILLING CODE 4410–12–P**

Federal Register

Tuesday,
March 23, 2004

# Part III

# Department of the Interior

## Fish and Wildlife Service

## Fiscal Year 2004 Tribal Landowner Incentive Program and Tribal Wildlife Grants; Request for Grant Proposals; Notices

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Fiscal Year 2004 Tribal Landowner Incentive Program; Request for Grant Proposals

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of request for proposals; final policy, and implementation guidelines.

**SUMMARY:** We, the Fish and Wildlife Service (Service) are soliciting project proposals for Federal assistance under the Tribal Landowner Incentive Program (TLIP). This document describes how you can apply for funding under the TLIP and how we will determine which project proposals will be funded. The Department of the Interior and Related Agencies Appropriations Act for Fiscal Year (FY) 2004 allocated $29,630,000 from the Land and Water Conservation Fund for conservation grants to States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, and Tribes under a Landowner Incentive Program. This notice sets forth guidance for the allocation of $2,963,000 for TLIP.

**DATES:** Project proposals must be postmarked by May 24, 2004, and submited to the appropriate Regional Office (*see* Table 1 in **ADDRESSES**).

**ADDRESSES:** For information regarding collection requirements, applicants should contact the Native American Liaison in the Service's Regional Office for the State in which the proposed project would occur. The contact information for each Regional Office is listed in Table 1 below. Information on the TLIP is also available from the U.S. Fish and Wildlife Service, Office of the Native American Liaison, 1849 C Street, NW., Mail Stop 3251, Washington, DC 20240, and electronically at *http://grants.fws.gov/tribal.html.*

Project proposals should be submitted to the Service's Regional Office for the State in which the proposed project would occur (see Table 1 under this section). You must submit one original and two copies of the complete proposal. We will not accept facsimile project proposals.

TABLE 1.—WHERE TO SEND PROJECT PROPOSALS AND LIST OF REGIONAL CONTACTS

| Service region | States where the project will occur | Where to send your project proposal | Regional Native American Liaison and phone number |
|---|---|---|---|
| Region 1 | Hawaii, Idaho, Oregon, Washington, Nevada, and California. | Regional Director, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, OR 97232–4181. | Scott L. Aikin (503) 231–6123. |
| Region 2 | Arizona, New Mexico, Oklahoma, and Texas | Regional Director, U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., P.O. Box 1306, Albuquerque, NM 87103–1306. | John Antonio (505) 248–6810. |
| Region 3 | Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. | Regional Director, U.S. Fish and Wildlife Service, 1 Federal Drive, Fort Snelling, MN 55111–4080. | John Leonard (612) 713–5108. |
| Region 4 | Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. | Regional Director, U.S. Fish and Wildlife Service, 1875 Century Blvd, Rm. 410, Atlanta, GA 30345. | James D. Brown (404) 679–7125. |
| Region 5 | Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. | Regional Director, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035–9589. | D.J. Monette (413) 253–8662. |
| Region 6 | Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. | Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225–0486. | David Redhorse (303) 236–4575. |
| Region 7 | Alaska | Regional Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503–6199. | Tony DeGange (907) 786–3492. |

**FOR FURTHER INFORMATION CONTACT:** For further information, contact the Native American Liaison in the appropriate Regional Office (*see* Table 1 under **ADDRESSES**) or Patrick Durham, Office of the Native American Liaison, U.S. Fish and Wildlife Service, 1849 C Street, Mail Stop 3012 MIB, Washington, DC 20240, 202/208–4133.

**SUPPLEMENTARY INFORMATION:**

## I. Request for Proposals:

The Service invites submission of grant proposals from federally recognized Indian tribal governments (including Alaska Native Villages) for the protection and management of habitat to benefit federally listed, proposed, or candidate species, or other at-risk species. This program supports the efforts of tribal governments in programs that develop or augment the capacity to manage, conserve, or protect fish wildlife species of concern through the provision of funding and technical support.

## II. Definitions

The following definitions apply:

1. *At-Risk Species*—Any plant or animal species recognized as a species of conservation concern, such as species listed or identified by a State or a Tribe.

2. *Biological Opinion*—Any document that includes: (1) The opinion of the Fish and Wildlife Service or the National Marine Fisheries Service as to whether or not a Federal action is likely to jeopardize the continued existence of listed species, or result in the destruction or adverse modification of designated critical habitat; (2) a summary of the information on which the opinion is based; and (3) a detailed discussion of the effects of the action on listed species or designated critical habitat under the provisions of the Endangered Species Act.

3. *Candidate Species*—Plant and animal taxa considered for possible addition to the List of Endangered and Threatened Species.

4. *Conservation Recommendation*—The Fish and Wildlife Service's non-

binding suggestions resulting from formal or informal consultation, under the Endangered Species Act, that; (1) Identify discretionary measures a Federal agency can take to minimize or avoid the adverse effects of a proposed action on listed or candidate species, or designated critical habitat; (2) identify studies, monitoring, or research to develop new information on listed or candidate species, or designated critical habitat; and (3) include suggestions on how an agency can assist species conservation as part of their action and in furtherance of its authorities under section 7(a)(1) of the Endangered Species Act.

5. *Habitat*—The area that provides direct support for a given species, population, or community. It includes all environmental features that comprise an area such as air quality, water quality, vegetation and soil characteristics, and water supply.

6. *Listed Species*—Any species of fish, wildlife, or plant that has been determined to be endangered or threatened under section 4 of the Endangered Species Act.

7. *Mitigation*—Activities carried out under National Environmental Policy Act regulations, for the purpose of moderating, reducing, or alleviating the impacts of a proposed activity, including (a) avoiding the impact by not taking a certain action; (b) minimizing impacts by limiting the degree or magnitude of the action; (c) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (d) reducing or eliminating the impact over time by undertaking preservation and maintenance operations during the life of the action; and (e) compensating for the impact by replacing or providing substitute resources or environments.

8. *Proposed Species*—Any species of fish, wildlife, or plant that is proposed in the **Federal Register** to be listed under section 4 of the Endangered Species Act.

9. *Tribal Lands*—Lands held by the United States in trust for a Tribe or an individual Indian; or lands legally owned in fee simple by a Tribe or an individual Indian that are subject to Federal restrictions against alienation or encumbrance. Also lands for which a Tribe or an individual Indian retained specific right-of-way or uses as defined by treaty or other binding agreement (including Alaska Native Corporation lands).

## III. Background

The Department of the Interior and Related Agencies Appropriations Act of 2004 allocated $29,630,000 from the Land and Water Conservation Fund for conservation grants to States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, and Tribes under the Landowner Incentive Program. The Service herein provides the implementation guidance for the tribal component of the program.

In recent years, natural resource managers have increasingly recognized that private lands play a pivotal role in inking or providing important habits for fish, wildlife, and plant species. To protect and enhance these habitats through incentives for private landowners, Congress appropriated $29,630,000 for the Service to administer a new Landowner Incentive Program (LIP) for States and Tribes. The Service will award grants for actions and activities that protected and restore habitats that benefit federally listed, proposed, or candidate species, or other at-risk species on private lands. A primary objective of LIP is to establish, or supplement existing, landowner incentive programs that provide technical and financial assistance, including habitat protection and restoration, to private landowners for the protection and management of habitat to benefit federally-listed, proposed, or candidate species, or other at-risk species on private lands as stated in the appropriations language. LIP complements other Federal private lands conservation programs that focus on conservation of habitat.

The Service is providing guidance to the public and, particularly, to federally recognized Tribes, in the administration of the $2,963,000 allocated for TLIP. This program will provide conservation monies to federally recognized Tribes for actions and activities that protect and restore habitats that benefit federally-listed, proposed, or candidate species, or other at-risk species on tribal lands. TLIP was created because of the unique relationship between the Federal Government and Tribes and because tribal lands are not private lands and would not be eligible for funding under a State-administered LIP with a private lands grant distribution system. Because the Tribes directly administer the funds rather than distribute them further to individual landowners, the criteria used in evaluating program proposals differ to some extent from those used in the LIP. The results of both the LIP and TLIP would be similar in effect, because both encourage voluntary conservation of natural resources. A series of questions and answers follows and describes the guidance in some detail.

## IV. Implementation Guidelines

### *A. Eligibility*

1. Who May Participate in the TLIP

Federally recognized Tribes in all parts of the United States, including: federally recognized Tribes, pueblos, rancherias, and Alaska native village or traditional councils as defined by the Alaska Native Claims Settlement Act may participate.

2. Are State-Recognized Tribes or Petitioning Tribes Eligible To Receive Grants Under This Program?

No. Only federally recognized Tribes are eligible to receive grants under this program. Federally recognized Tribes are listed in the **Federal Register** (68 FR 68180; December 5, 2003).

3. Can Tribal Organizations or Other Entities (Including Individual Indian Allottees) Receive Grants Under This Program?

No. However, organizations or entities may participate as subgrantees or contractors to federally recognized Tribes.

4. What Process Will the Service Use To Solicit and Receive Proposals for Funding?

The Service will request proposals through a **Federal Register** notice. In addition, direct contact, and other forms of outreach to eligible applicants will be used. The Service's Regional Directors will receive all proposals.

5. Who Will Coordinate the Scoring of Grant Application Submissions?

The Regional Native American Liaisons of the Service will coordinate the process to screen proposals to ensure that they are complete and to score them according to nationally uniform criteria. Tribes are encouraged to contact the Native American Liaison in the appropriate Regional Office identified in Table 1 under **ADDRESSES** for additional assistance in submitting proposals.

6. How Will the Various Grant Application Submissions Be Reviewed for Funding?

A national panel will review regionally ranked proposals for recommendations to the Director of the Service (Director).

7. Who Will Serve as the National Review Panel?

Service and other Federal agency personnel, as appropriate, and as may be identified by the Director will serve on the panel.

8. Will Tribal Representatives Be Involved in Reviewing or Ranking Proposals?

No, only Federal employees will review and rank proposals.

9. Who Will Make the Final Determination for Grant Approval?

The Director will make the final determination for grant awards.

10. How Will the Tribes Be Notified Whether They Have Been Awarded Grants?

Applicants will be notified by the Director or Regional Directors as to whether or not they have been awarded grants. Regional Native American Liaisons will contact the tribal representatives that signed the grant applications.

*B. Application Requirements*

1. Is TLIP Exempt From Federal Grant Program Compliance?

No, the TLIP program must comply with all Federal grant program compliance requirements as specified in 43 CFR part 12, OMB Circulars A–133, A–102, and A–87; and Service Manual Chapters 522 FW1 and 523 FW1, except where specifically exempted. Tribal grantees are responsible for ensuring that subgrantees and contractors adhere to these requirements.

2. What Must Proposals Include for Participation in TLIP?

Proposals must include a cover letter, program summary, program narrative, budget narrative, and a completed Standard Form 424 Application for Federal Assistance (SF–424), and tribal resolution of support as described herein.

—*A cover letter* briefly states the main features of the proposed program.

—*A program summary* describes, in one-half page, the type of activity that would take place if the Service funds the proposal.

—*A program narrative* clearly identifies the problems that the proposal will correct or help solve for the protection and management of habitat to benefit federally listed, proposed, or candidate species, or other at-risk species on tribal lands, and the expected results or benefits. It must contain a needs assessment, objectives, timeline, methodology, geographic location (with maps), monitoring plan, and identification of clear, obtainable, and quantifiable goals and performance measures that will help achieve the management goals and objectives of the TLIP and relevant Service and tribal performance goals. The relevant Service goals are Goal 1 Sustainability of Fish and Wildlife Populations, including Migratory Bird Conservation (Goal 1.1), Imperiled Species (Goal 1.2), Interjurisdictional Fish (Goal 1.3), Marine Mammal Management (Goal 1.4), Species of International Concern (Goal 1.5), and Invasive Species (Goal 1.6); Goal 2, Habitat Conservation including; Habitat Conservation off Service Lands (Goal 2.3); and Mission Goal 4, Partnership in Natural Resources, including Tribal Governments (Goal 4.1) all of which can be found in the Service's Long-Term Strategic Plan for 2000 to 2005 at *http://planning.fws.gov/USFWStrategicPlanv3.pdf*. Related Service planning and results can be found at *http://planning.fws.gov/*.

—*A budget narrative* clearly justifies all proposed costs and indicates that the grantee will provide adequate management systems for fiscal and contractual accountability, including annual monitoring and evaluation of progress toward desired project objectives, goals, and performance measures. It should include discussion of direct cost items such as salaries, equipment, consultant services, subcontracts, and travel, as well as program matching or cost sharing information. If some partners will provide in-kind matching, they must be listed in the grant proposal with a letter of commitment from each. Only contributions made by non-Federal partners will be accepted as in-kind match. Applicants may cover new project administrative costs and the Tribal Indirect Cost Rate, but they cannot include pre-existing administrative costs.

—*An SF–424* form must be included with the grant application and is available on the internet at *http://training.fws.gov/fedaid/toolkit/sf424-f.pdf*.

—*A resolution of support* from the appropriate tribal governing body or from an individual with delegated tribal authority stating support for the proposal is required. If a resolution of support is not submitted with the proposal, one will be required prior to awarding the grant.

3. Where Can Applicants Obtain a Grant Proposal Application Kit?

Applicants can obtain a grant proposal package from the Native American Liaison in the appropriate Regional Office (*see* Table 1 under **ADDRESSES**) or at the Service's Grants Web site *http://grants.fws.gov/tribal.html*.

4. Are Matching Funds Required?

Yes, the Service requires a minimum of 25 percent non-Federal matching funds for participation in this program. No more than 75 percent of the project cost may be Federal funds.

5. Are In-Kind Contributions Eligible as Matching Funds?

Yes, in-kind contributions provided by the Tribe or a third party may be counted towards the required 25 percent non-federal matchng requirement. Any in-king contributions in excess of the required 25 percent may be used as a match to improve the potential ranking of a proposal. The Federal Government has defined ''in-kind'' as non-cash contributions made by the Tribe. In-kind contributions must be necessary and reasonable for carrying out the project, and must represent the same value that the Service would have paid for similar services or property if purchased on the open market. Allowable in-kind contributions are defined in 43 CFR 12.64. Additional information can be found at *http://training.fws.gov/fedaid/toolkit/inkind.pdf.*

6. Can a Tribe Submit More Than One Grant Proposal?

Tribes are encouraged to submit a single comprehensive grant proposal but multiple proposals are allowable.

7. What Maximum Level of Project Funding Will Be Considered Under TLIP?

The Service will award grants up to a maximum of $150,000. If more than one proposal is submitted by any one Tribe, no more than $150,000 total can be awarded to that Tribe. This amount is approximately 5 percent of the annual appropriation, and it allows for grants that are large enough to make a significant impact and be widely distributed. No proposal shall be accepted that requests more than $150,000, in federal funds.

8. What Minimum Level of Project Funding Will Be considered Under TLIP

There is no proposal or grant award minimum.

*C. Ranking Criteria*

What Ranking Criteria Will the Service Use?

The Service will score proposals based on the following criteria:

*Benefit:* What are the probable significant outcomes to protect and restore habitats that benefit federally listed, proposed, or candidate species, or other at-risk species on tribal lands if

this program is successfully completed? The Service requires that the Tribe articulate how the benefits of its proposal support the goals and objectives of the TLIP and Service and tribal Performance Goals in its proposal narratives.

*Performance Measures:* To what extent does the proposal provide obtainable and quantifiable performance measures and means to monitor, evaluate, and report on these measures compared to an initial baseline? The measures should be specific and clear and should provide demonstrable benefits to the target species of the action. These measures must support the goals and objectives of the TLIP, the Service, and the Tribe.

*Work Plan:* Are the program activities and objectives well-designed and achievable?

*Budget:* Are all major budget items justified in relation to the program objectives and clearly explained in the narrative description?

*Capacity Building:* To what extent does the program increase the grantee's capacity to implement actions and activities that protect and restore habitats that benefit federally listed, proposed, or candidate species, or other at-risk species on tribal lands?

*Contributions and Partnerships:* To what extent does the applicant display commitment to the project proposal through in-kind contribution or matching funds and to what extend does it incorporate contributions from other non-Federal partners in the form of either cash or in-kind services?

*D. TLIP Operations and Management*

1. Can Grantees Use TLIP Funds To Cover Costs of Environmental Review, Habitat Evaluation, Permit Review (*e.g.*, section 404), and Other Environmental Compliance Activities Associated With a TLIP Project Or Program?

Yes, the TLIP funds can cover these activities, provided they are directly related to the TLIP project or program being funded and are included in the budget and discussed in the program and budget narratives.

2. What Activities Are Eligible Under TLIP?

Eligible programs include those that improve, restore, preserve, or maintain habitat for endangered, threatened, candidate, or other at-risk species. Examples of the types of projects within identified tribal programs that the Service may fund include using prescribed burning to restore grasslands that support imperiled species, fencing to exclude animals from sensitive habitats, or planting native vegetation to restore degraded habitat. Tribes may implement TLIP projects on a variety of lands, including reservations, individual allotments, fee-lands, and village corporation and regional corporation lands in Alaska. Activities that result in the protect and management of listed, proposed, candidate, or other at-risk species and their habitat are eligible for funding.

3. What Species Are Considered Endangered, Threatened, Candidate, or At-Risk?

Those species federally listed as endangered or threatened under the Endangered Species Act of 1973, as amended, or species proposed or candidates for such listing, or at-risk species (*e.g.*, species recognized as a species of conservation concern, such as species listed or identified by a State or a Tribe).

4. Are Any Specific Activities Not Allowable Under the Guidance of TLIP?

A proposal cannot include activities required to comply with a Biological Opinion under the Endangered Species Act or include activities required to comply with a permit (*e.g.*, mitigation responsibilities). However, a proposal can include activities that implement conservation recommendations or to cover the costs of environmental review, habitat evaluation, permit review, and other environmental compliance activities that are required because of the TLIP project, provided they are included in the budget and discussed in the Program and Budget Narratives.

5. Does the Term ''Private Lands'' in the Landowner Incentive Program Appropriation Language Exclude Tribal Trust Lands From Participation in TLIP?

No, tribal trust lands are not ''public lands.'' For the purposes of inclusion under TLIP, federally recognized Tribes are considered landowners and are eligible.

6. Is the TLIP Program a Continuous Revenue Source For Tribal Wildlife Programs?

No, there is no authorization for appropriation of funds beyond FY 2004. Funds appropriated in FY 2004 are available until spent.

7. Can the Grantee Hold TLIP Funds in an Interest-Bearing Account?

Funds can be held in an interest-bearing account, although any interest earned in excess of $100 must be returned to the fiscally responsible Federal agency (43 CFR 12.64).

8. Can TLIP Funds Be Used To Purchase or Acquire Land or Other Interest in Real Property?

Yes, the Service must receive assurances that acquired lands shall be for purposes of conservation and protection of federally listed, proposed, candidate or at-risk species.

*E. Grant Award Procedures*

1. What Additional Information Must Be Provided To the Service By the Grantees Once Awards Are Announced?

Once the Director notifies grantees that their proposal has been selected for funding, the recipient must submit a grant agreement and attachments as required by Federal regulations. As with our other Federal programs, TLIP agreements must comply with 43 CFR part 12, the National Environmental Policy Act, section 7 of the Endangered Species Act, the National Historic Preservation Act, and all other applicable Federal laws and regulations. This grant program is also subject to provisions of Office of Management and Budget Circulars No. A–87, A–102, and A–133 (see *www.whitehouse.gov/omb/circulars*).

2. Once Grants Are Awarded, Who Should the Grantee Consider as the Lead Contact Person?

Once grants have been awarded, the grantee should consider the appropriate Regional Native American Liaison as the lead contact person for all matters pertaining to the particular award. Financial matters will be delegated to the Division of Federal Assistance through the Native American Liaison.

3. How Will Funds Be Discharged Once the Service Has Awarded TLIP Grants?

Subsequent to funding approval, grant funds are electronically provided through the Department of Health and Human Services' SMARTLINK payment management system. Through this electronic funds transfer (EFT), grantees will be able to receive funds as needed. Some of the tribal grantees may not be EFT complaint. In order for us to ensure optimal service to potential grantees within the current Federal Assistance process, grantees will need to obtain EFT capabilities compatible with the SMARTLINK payment management system. Grantees may request an advance of no more than 25 percent of the total grant if the advance is documented in the grant agreement.

4. What Reporting Requirements Must Tribes Meet Once Funds Are Obligated Under a TLIP Grant Agreement?

Quarterly Financial Status Reports (SF–272) which can be found at *http://www.whitehouse.gov/omb/grants/sf272.pdf*, must be submitted electronically. A final Financial Status Report (SF–269) which can be found at *http://www.whitehouse.gov.omb/grants/sf269.pdf*, will be due to the Regional Office within 90 days of the grant agreement ending date. An annual performance report—including a list of project accomplishments relative to those which were planned in the grant agreement—will also be required within 90 days of the end of each 12-month period. The effectiveness of each Tribe's program, as reported in the annual performance reports, will be an important factor considered during the grant award selection process in subsequent years.

5. Will Tribes Be Able To Claim Reimbursement for Administrative Costs (Overhead) and How Will Appropriate Overhead Rates Be Determined?

Yes. These costs can be included as long as they follow the OMB guidelines for administrative costs, which can be obtained through our Federal Assistance office in each Region. However, applicants are encouraged to keep these costs to a minimum of those expenses that are essential to the success of the proposed project. An applicant may include administrative overhead as an in-kind contribution that may improve the overall benefit of the project proposal. Please note that full-time equivalents costs must be tied to a specific project and should be included in proposals sparingly.

## V. Procedural Requirements

### *A. Regulatory Planning and Review (Executive Order 12866)*

This policy document identifies proposed eligibility criteria and selection factors that may be used to award grants under TLIP. The Service developed this policy to ensure consistent and adequate evaluation of grant proposals that are voluntarily submitted and to help prospective applicants understand how the Service will award grants. According to Executive Order 12866, this policy document is significant and has been reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below.

1. TLIP will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State or local communities. The Department of the Interior and Related Agencies Appropriations Act for Fiscal Year (FY) 2002 allowed the Secretary to create TLIP. In addition, grants that are funded will generate other, secondary benefits, including benefits to natural systems (*e.g.,* air, water) and local economies. All of these benefits are widely distributed and are not likely to be significant in any single location. It is likely that some residents where projects are initiated will experience some level of benefit, but quantifying these effects at this time is not possible. We do not expect the sum of all the benefits from this program, however, to have an annual effect on the economy of $100 million or more.

2. We do not believe the TLIP would create inconsistencies with other agencies' actions. Congress has given the Service the responsibility to administer this program.

3. TLIP would not materially alter the budgetary impact of entitlements, user fees, loan programs, or the rights and obligations of their recipients. This policy document addresses a grant program, authorized by Public Law 107–63, which should make greater resources available to applicants. The submission of grant proposals is completely voluntary, but necessary to receive benefits. When an applicant decides to submit a grant proposal, the proposed eligibility criteria and selection factors identified in this policy can be construed as requirements placed on the awarding of the grants. Additionally, we will place further requirements on grantees who are selected to receive funding under the TLIP program in order to obtain and retain and benefit they are seeking. These requirements include specific Federal financial management and reporting requirements as well as specific habitat improvements or other management activities described in the applicant's grant proposal.

### *B. Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, as amended, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*e.g.*, small businesses, small organizations, and small government jurisdictions). Indian Tribes are not considered to be small entities for purposes of the Act and, consequently, no regulatory flexibility analysis has been done.

### *C. Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996*

This implementation guidance is not considered a major rule under the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 804(2)) because it does not have an annual effect on the economy of $100 million or more. The amount of TLIP program funds provided this year is limited to $2,963,000.

This implementation guidance will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Actions under this implementation guidance will distribute Federal funds to Indian tribal governments and tribal entities for purposes consistent with activities similar to other Service programs designed to enable landowners to protect and conserve species as may be protected under the Endangered Species Act and the habitat that supports such species.

This implementation guidance does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

### *D. Unfunded Mandates Reform Act*

This implementation guidance would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995, (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This guidance will not 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 (2 U.S.C. 1532).

### *E. Takings Implication Assessment (Executive Order 12630)*

This implementation guidance does not have significant ''takings'' implications. This implementation guidance does not pertain to ''taking'' of private property interests, and its impact on private property would be an incentive that is totally landowner driven.

### *F. Executive Order 13211—Energy Effects*

On May 18, 2001, the President issued Executive Order 13211, which speaks to regulations that significantly affect energy supply, distribution, and use. The Executive Order requires agencies

to prepare Statements of Energy Effects when undertaking certain actions. This implementation guidance is not expected to significantly affect energy supplies, distribution, or use. Therefore, no Statement of Energy Effects has been prepared.

*G. Executive Order 13132—Federalism*

This implementation guidance does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of States.

*H. Civil Justice Reform (Executive Order 12988)*

This implementation guidance does not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of the Executive Order 12988.

*I. National Environmental Policy Act (NEPA)*

This implementation guidance does not constitute a Federal action significantly affecting the quality of the human environment. The Service has determined that the issuance of the implementation guidance is categorically excluded under the Department of the Interior's NEPA procedures in 516 DM 2, appendix 1, and 516 DM 6, appendix 1. The Service will be responsible for ensuring that grants funded through TLIP are in compliance with NEPA.

*J. Consultation and Coordination With Indian Tribal Governments (Executive Order 13175).*

Pursuant to Executive Order 13175 of November 6, 2000, ''Consultation and Coordination with Indian Tribal Governments,'' we have committed to consulting with tribal representatives in the finalization of the implementation guidance for the TLIP. We have evaluated any potential effects on federally recognized Indian Tribes and have determined that there are no potential adverse effects. This guidance expands tribal participation in Service programs and allows for opportunities for tribal wildlife management and conservation initiatives across Indian Country. We will continue to consult with tribal governments and tribal entities as a part of the policymaking process, and beyond in furthering our mutual goals for the TLIP.

*K. Paperwork Reduction Act (44 U.S.C. 3501*

The information collection requirements of this program will be largely met through the Federal Assistance Grants Application Booklet. Federal Assistance has OMB approval for this information collection under Control Number 1018–1019. This approval applies to grants managed by the Division of Federal Assistance, even if these grants are for other Divisions of the Service. We are collecting this information relevant to the eligibility, substantiality, relative value, and budget information from applicants in order to make awards of grants under these programs. We are collecting financial and performance information to track costs and accomplishments of these grant programs. 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.

Dated: March 12, 2004.

**Paul Hoffman,**

*Acting Assistant Secretary, Fish and Wildlife and Parks.*

[FR Doc. 04–6291 Filed 3–22–04; 8:45 am]

BILLING CODE 4310–55–M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Fiscal Year 2004 Tribal Wildlife Grants; Request for Grant Proposals

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of request for proposals; final policy, and implementation guidelines.

**SUMMARY:** We, the Fish and Wildlife Service (Service) are soliciting project proposals for Federal assistance under the Tribal Wildlife Grants program (TWG). This document describes how you can apply for funding under the TWG and how we will determine which project proposals will be funded. The Department of the Interior and Related Agencies Appropriations Act for Fiscal year (FY) 2004 authorized an appropriation of $69,137,000 for wildlife conservation grants to States and to the District of Columbia, U.S. Territories, and Tribes under provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished. The Act further specified that the Service use $5,926,000 of the funds for a competitive grant program available to federally recognized Indian Tribes. this allows the Secretary, through the Director of the Service, to manage a separate Tribal grant program not subject to the provisions of the formula-based State Wildlife Grants program, or other requirements of the State Wildlife Grants portion of Pub. L. 107–63. The Service is providing implementation guidance for this $5,926,000 TWG program.

**DATES:** Project proposals must be postmarked by May 24,2004, and submitted to the appropriate Regional Office (*see* Table 1 in **ADDRESSES**).

**ADDRESSES:** For information regarding collection requirements, applicants should contact the Native American Liaison in the Service's Regional office for the State in which the proposed project would occur. The contact information for each Regional Office is listed in Table 1 below. Information on the TWG is also available from the U.S. Fish and Wildlife Service, Office of the Native American Liaison, 1849 C Street, NW., Mail Stop 3251, Washington, DC 20240, fax (202) 501–3524 and electronically at *http://grants.fws.gov/tribal.html.*

Send your project proposal to the Service's Regional office for the State in which the proposed project would occur (*see* Table 1 under **ADDRESSES**). You must submit one original and two copies of the complete proposal. We will not accept facsimile project proposals.

TABLE 1.—WHERE TO SEND PROJECT PROPOSALS AND LIST OF REGIONAL CONTACTS

| Service region | States where the project will occur | Where to send your project proposal | Regional Native American liaison and phone number |
|---|---|---|---|
| Region 1 ..... | Hawaii, Idaho, Oregon, Washington, Nevada, and California. | Regional Director, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, OR 97232–4181. | Scott L. Aikin, (503) 231–6123. |

TABLE 1.—WHERE TO SEND PROJECT PROPOSALS AND LIST OF REGIONAL CONTACTS

| Service region | States where the project will occur | Where to send your project proposal | Regional Native American liaison and phone number |
|---|---|---|---|
| Region 2 | Arizona, New Mexico, Oklahoma, and Texas | Regional Director, U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., P.O. Box 1306, Albuquerque, NM 87103–1306. | John Antonio, (505) 248–6810. |
| Region 3 | Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. | Regional Director, U.S. Fish and Wildlife Service, 1 Federal Drive, Fort Snelling, MN 55111–4080. | John Leonard, (612) 713–5108. |
| Region 4 | Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. | Regional Director, U.S. Fish and Wildlife Service, 1875 Century Blvd., Rm. 410, Atlanta, GA 30345. | James D. Brown, (404) 679–7125. |
| Region 5 | Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. | Regional Director, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035–9589. | D.J. Monette, (413) 253–8662. |
| Region 6 | Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. | Regional Director, U.S. Fish and Wildlife Service, PO Box 25486, Denver Federal Center, Denver, CO 80225–0486. | David Redhorse, (303) 236–4575. |
| Region 7 | Alaska | Regional Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503–6199. | Tony DeGange, (907) 786–3492. |

**FOR FURTHER INFORMATION CONTACT:** For further information, contact the Native American Liaison in the appropriate Regional Office (*see* Table 1 under **ADDRESSES**) or Patrick Durham, Office of the Native American Liaison, U.S. Fish and Wildlife Service, 1849 C Street, Mail Stop 3012 MIB, Washington, DC 20240, 202/208–4133.

**SUPPLEMENTARY INFORMATION:**

## I. Request for Proposals

The Service invites submission of grant proposals from federally recognized Indian tribal governments (including Alaska Native Villages) for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished. This program supports the efforts of federally recognized Tribal governments in projects that develop or augment the capacity to manage, conserve, or protect fish and wildlife resources through the provision of funding and technical support.

## II. Definitions

The following definitions apply:

1. *Conservation Recommendation*—The Fish and Wildlife Service's non-binding suggestions resulting from formal or informal consultation, under the Endangered Species Act, that: (1) Identify discretionary measures a Federal agency can take to minimize or avoid the adverse effects of a proposed action on listed or candidate species, or designated critical habitat; (2) identify studies, monitoring, or research to develop new information on listed or candidate species, or designated critical habitat; and (3) include suggestions on how an agency can assist species conservation as part of their action and in furtherance of its authorities under Section 7(a)(1) of the Endangered Species Act.

2. *Biological Opinion*—Any document that includes: (1) The opinion of the Fish and Wildlife Service or the National Marine Fisheries Service as to whether or not a Federal action is likely to jeopardize the continued existence of listed species, or result in the destruction or adverse modification of designated critical habitat; (2) a summary of the information on which the opinion is based; and (3) a detailed discussion of the effects of the action on listed species or designated critical habitat under the provisions of the Endangered Species Act.

3. *Habitat*—The area that provides direct support for a given species, population, or community. It includes all environmental features that comprise an area such as air quality, water quality, vegetation and soil characteristics, and water supply.

4. *Mitigation*—Activities carried out under National Environmental Policy Act regulations, for the purpose of moderating, reducing, or alleviating the impacts of a proposed activity, including (a) avoiding the impact by not taking a certain action; (b) minimizing impacts by limiting the degree or magnitude of the action; (c) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (d) reducing or eliminating the impact over time by undertaking preservation and maintenance operations during the life of the action; and (e) compensation for the impact by replacing or providing substitute resources or environments.

## III. Background

The Department of the Interior and Related Agencies Appropriations Act for Fiscal Year (FY) 2004 authorized an appropriation of $69,137,000 for wildlife conservation grants to States and to the District of Columbia, U.S. Territories, and Tribes under provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished. The Act further specified that the Service use $5,926,000 of the funds to establish a competitive grant program available to federally recognized Tribes. This language allows the Secretary, through the Director of the Service, to establish a separate Tribal grant program that would not be subject to the provisions of the formula-based State Wildlife Grant program, or other requirements of the State Wildlife Grants portion of these funds. The Service is providing guidance in administration of this $5,926,000 Tribal Wildlife Grant program.

## IV. Implementation Guidelines

*A. Eligibility*

1. Who May Participate in the TWG Program?

Federally recognized Tribes in all parts of the United States, including federally recognized Tribes, pueblos, rancherias, and Alaska native villages or traditional councils as defined by the Alaska Native Claims Settlement Act.

2. Are State-Recognized Tribes or Petitioning Tribes Eligible To Receive Grants Under This Program?

No, only federally recognized Tribes are eligible to receive grants under this program. Federally recognized Tribes are listed in the **Federal Register** (68 FR 68180; December 5, 2003).

3. Can Tribal Organizations or Other Entities (Including Individual Indian Allottees Receive Grants Under This Program?

No. However, organizations or entities may participate as subgrantees or contractors to federally recognized Tribes.

4. What Process Will the Service Use To Solicit and Receive Proposals for Funding?

The Service will request proposals through a **Federal Register** notice. In addition, direct contact, and other forms of outreach to eligible applicants will be used. The Service's Regional Directors will receive all proposals.

5. Who Will Coordinate the Scoring of Grant Application Submissions?

The Regional Native American Liaisons of the Service will coordinate the process to screen proposals to ensure that they are complete and to score them according to nationally uniform criteria. Tribes are encouraged to contact the Native American Liaison in the appropriate Regional Office identified in Table 1 under **ADDRESSES** for additional assistance in submitting proposals.

6. How Will Grant Application Submissions Be Reviewed for Funding?

A national panel will review regionally ranked proposals for recommendations to the Director of the Service (Director).

7. Who Will Serve as the National Review Panel?

Service and other Federal agency personnel, as appropriate, and as may be identified by the Director will serve on the panel.

8. Will Tribal Representatives Be Involved in Reviewing or Ranking Proposals?

No, only Federal employees will review and rank proposals.

9. Who Will Make the Final Determination for Grant Approval?

The Director will make the final determination for grant awards.

10. How Will the Tribes Be Notified Whether or Not They Have Been Awarded Grants?

Applicants will be notified by the Director or Regional Directors as to whether or not they have been awarded grants. Regional Native American Liaisons will contact tribal representatives who signed the grant applications.

*B. Application Requirements*

1. Is the TWG Program Exempt From Federal Grant Program Compliance?

No, the TWG program must comply with all Federal grant program compliance requirements as specified in 43 CFR part 12: OMB Circulars A–133, A–102, and A–87; and Service Manual Chapters 522 FW1 and 523 FW1, except where specifically exempted. Tribal grantees are responsible for ensuring that subgrantees and contractors adhere to these requirements.

2. What Must Proposals for Participation in the TWG Program Include?

Proposals must include a cover letter, program summary, program narrative, budget narrative, a completed Standard Form 424 Application for Federal Assistance (SF–424), and tribal resolution of support as described herein.

—*A cover letter* briefly states the main features of the proposed project.

—*A program summary* describes, in one-half page, the type of activity that would take place if the Service funds the proposal.

—*A program narrative* clearly identifies the problems that the proposal will correct or help solve as they relate to the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, and the expected results or benefits. It must contain a needs assessment, objectives, timeline, methodology, geographic location (with maps), monitoring plan, and identification of clear, obtainable, and quantifiable goals and performance measures that will help achieve the management goals and objectives of the TWG and relevant Service and tribal performance goals. The relevant Service goals are *Goal 1,* Sustainability of Fish and Wildlife Populations, including Migratory Bird Conservation (Goal 1.1), Imperiled Species (Goal 1.2), Interjurisdictional Fish (Goal 1.3), Marine Mammal Management (Goal 1.4), Species of International Concern (Goal 1.5), and Invasive Species (Goal 1.6); *Goal 2,* Habitat Conservation; including Habitat Conservation off Service Lands (Goal 2.3); and Mission *Goal 4,* Partnerships in Natural Resources, including tribal Governments (Goal 4.1), all of which can be found in the Service's Long-Term Strategic Plan for 2000 to 2005 at *http://planning.fws.gov/USFWStrategicPlanv3.pdf.* Related Service planning and results can be found at *http://planning.fws.gov/.*

—*A budget narrative* clearly justifies all proposed costs and indicates that the grantee will provide adequate management systems for fiscal and contractual accountability, including annual monitoring and evaluation of progress toward desired project objectives, goals, and performance measures. It should include discussion of direct cost items such as salaries, equipment, consultant services, subcontracts, and travel, as well as program matching or cost sharing information. If some partners will provide in-kind matching, they must be listed in the grant proposal with a letter of commitment from each. Only contributions made by non-Federal partners will be accepted as in-kind match. Applicants may cover new project administrative costs and the Tribal Indirect Cost Rate, but they cannot include pre-existing administrative costs.

—*An SF–424 form* must be included with the grant application and is available on the internet at *http://training.fws.gov/fedaid/toolkit/sf424-f.pdf.*

—*A resolution of support* from the appropriate tribal governing body or from an individual with delegated tribal authority stating support for the proposal is required. If a resolution of support is not submitted with the proposal, one will be required prior to awarding the grant.

3. Where Can Applicants Obtain a Grant Proposal Package?

Applicants can obtain a grant proposal package from the Native American Liaison in the appropriate Regional Office (*see* Table 1 under **ADDRESSES**) or at the Service's Grants Web site *http://grants.fws.gov/tribal.html.*

4. Are Matching Funds Required?

No, Congress did not require matching funds for this appropriation. However, the Service will consider matching funds as an indication of tribal commitment to the program and to encourage partnerships.

5. Are In-Kind Contributions Eligible as Matching Funds?

Yes, in-kind contributions provided by the Tribe or a third party may be used as a match to improve the potential ranking of a proposal. The Service has defined ''in-kind'' as noncash contributions made by the Tribe. In-kind contributions must be necessary and reasonable for carrying out the program, and must represent the same value that the Service would have paid for similar services or property if purchased on the open market. Allowable in-kind contributions are defined in 43 CFR 12.64. Additional information can be found at *http://training.fws.gov/fedaid/toolkit/inkind.pdf.*

6. Can a Tribe Submit More Than One Grant Proposal?

Tribes are encouraged to submit a single comprehensive grant proposal, but multiple proposals are allowable.

7. What Maximum Level of Project Funding Will Be Considered Under the TWG Program?

The Service will award grants up to a maximum of $250,000. If more than one proposal is submitted by any one Tribe, no more than $250,000 total can be awarded to that Tribe. No proposal shall be accepted that requests more than $250,000, in Federal funds.

8. What Minimum Level of Project Funding That Will Be Considered Under the TWG Program?

There is no proposal or grant award minimum.

*C. Ranking Criteria*

What Ranking Criteria Will the Service Use?

The Service will score proposals based on the following criteria:

*Benefit:* What are the expected benefits to fish and wildlife resources, including species that are not hunted or fished, and their habitat if this program is successfully completed? The Service requires that the Tribe articulate how the benefits of its proposal support the goals and objectives of the TWG and Service and tribal Performance Goals in their proposal narratives.

*Performance Measures:* To what extent does the proposal provide obtainable and quantifiable performance measures and a means to monitor, evaluate, and report on these measures compared to an initial baseline? The measures should be specific and clear, and should provide demonstrable benefits to the target species of the action. These actions must support the goals and objectives of the TWG, the Service and the Tribe.

*Work Plan:* Are the program activities and objectives well-designed and achievable?

*Budget:* Are all major budget items justified in relation to the program objectives and clearly explained in the narrative description?

*Capacity Building:* To what extent does the program increase the grantee's capacity to provide for the benefit of wildlife and their habitat?

*Contributions and Partnerships:* To what extent does the applicant display commitment to the project proposal through in-kind contribution or matching funds and to what extent does it incorporate contributions from other non-Federal partners in the form of either cash or in-kind services?

*D. TWG Operations and Management*

1. In the Course of Implementing a TWG Project or Program, Can Grantees Use TWG Funds To Pay for Costs of Conservation Law Enforcement or Education?

Yes, if the law enforcement or education component is considered critical to the success of a project which directly contributes to the conservation of wildlife species and their habitats with the greatest conservation need.

2. What Activities Are Included in the ''Development and Implementation of Programs for the Benefit of Wildlife,'' as Referenced in the Department of the Interior and Related Agencies Appropriations Act for FY 2004?

Activities may include, but are not limited to, planning for wildlife and habitat conservation, ongoing and/or new fish and wildlife management actions, fish and wildlife related laboratory and field research; natural history studies, habitat mapping, field surveys and population monitoring, habitat preservation, land acquisition, conservation easements, and outreach efforts. Priority for funding from the TWG Program shall be for those projects with the greatest conservation benefit identified by the Tribe.

3. Can Project Funds Be Used for Species of Tribal Cultural Significance?

Yes, realizing that fish, wildlife and plant resources are important to the traditions and cultures of Tribes these types of projects are eligible.

4. Can Grantees Use TWG Funds To Cover Costs of Environmental Review, Habitat Evaluation, Permit Review (*e.g.,* Section 404), and Other Environmental Compliance Activities Associated With a TWG Project?

Yes, they can fund these activities provided they are directly related to the TWG program or project being funded and are included in the budget and discussed in the program and budget narratives.

5. Are There Any Specific Activities That Are Not Allowable Under the Guidance of TWG?

A proposal cannot include activities required to comply with a Biological Opinion under the Endangered Species Act or include activities required to comply with a permit (*e.g.,* mitigation responsibilities). However, a proposal can include activities that implement conservation recommendations or to cover the costs of environmental review, habitat evaluation, permit review, and other environmental compliance activities that are required because of the TWG project, provided they are included in the budget and discussed in the Program and Budget Narratives.

6. Is the TWG Program a Continuous Revenue Source for Tribal Wildlife Programs?

No, there is no authorization for appropriation of funds beyond FY 2004. Appropriated funds are available until spent.

7. Can the Grantee Hold TWG Funds in an Interest-Bearing Account?

Funds can be held in an interest-bearing account, although any interest earned in excess of $100 must be returned to the fiscally responsible Federal agency (43 CFR 12.64).

8. Can TWG Funds Be Used To Purchase or Acquire Land or Other Interest in Real Property?

Yes, the Service must receive assurances that acquired lands shall be for purposes of conservation consistent with the TWG program.

*E. Grant Award Procedures*

1. What Additional Information Must Be Provided to the Service by the Grantees Once Awards Are Announced?

Once the Director notifies a grantee that their proposal was selected for funding, the recipient must submit a grant agreement and attachments as required by Federal regulations. As with our other Federal programs, TWG

agreements must comply with 43 CFR part 12, the National Environmental Policy Act, Section 7 of the Endangered Species Act, the National Historic Preservation Act, and all other applicable Federal laws and regulations. This grant program is also subject to provisions of Office of Management and Budget Circulars No. A–87, A–102, and A–133 (*see http://www.whitehouse.gov/omb/circulars*).

2. Once Grants Are Awarded, Who Should the Grantee Consider as the Lead Contact Person?

Once grants have been awarded, the grantee should consider the Regional Native American Liaison (*See* Table 1) as the lead contact person for all matters pertaining to the particular award. Financial matters will be delegated to the Division of Federal Assistance through the Native American Liaison.

3. How Will Funds Be Disbursed Once the Service Has Awarded TWG Grants?

Subsequent to funding approval, grant funds are electronically provided through the Health and Human Services' SMARTLINK payment management system. Through this electronic funds transfer (EFT), grantees will be able to receive funds as needed. Some of the tribal grantees may not be EFT compliant. In order to ensure optimal service to potential grantees within the current Federal Assistance process, grantees will need to obtain EFT capabilities compatible with the SMARTLINK payment management system. Grantees may request an advance of no more than 25 percent of the total grant if the advance is documented in the grant agreement.

4. What Reporting Requirements Must Tribes Meet Once Funds Are Obligated Under a TWG Grant Agreement?

Quarterly Financial Status Reports (SF–272), which can be found at *http://www.whitehouse.gov/omb/grants/sf272.pdf* must be submitted electronically. A final Financial Status Report (SF–269), which can be found at *http://www.whitehouse.gov/omb/grants/sf269.pdf*, will be due to the Regional Office within 90 days of the grant agreement ending date. An annual performance report—including a list of project accomplishments relative to those which were planned in the grant agreement—will also be required within 90 days of the end of each 12 month period. The effectiveness of each Tribe's program, as reported in the annual performance reports, will be an important factor considered during the grant award selection process in subsequent years.

5. Will Tribes Be Able To Claim Reimbursement for Administrative Costs (Overhead) and How Will Appropriate Overhead Rates Be Determined?

Yes. These costs can be included as long as they follow the OMB guidelines for administrative costs, which can be obtained through our Federal Assistance office in each Region. However, applicants are encouraged to keep these costs to a minimum of those expenses that are essential to the success of the proposed project. An applicant may include administrative overhead as an in-kind contribution that may improve the overall benefit of the project proposal. Please note that full-time equivalents costs must be tied to a specific project and should be included in proposals sparingly.

## V. Procedural Requirements

### *A. Regulatory Planning and Review (Executive Order 12866)*

This policy document identifies eligibility criteria and selection factors that may be used to award grants under the TWG program. The Service developed this policy to ensure consistent and adequate evaluation of grant proposals that are voluntarily submitted and to help prospective applicants understand how the Service will award grants. According to Executive Order 12866, this policy document is significant and has been reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below.

1. The TWG will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State or local communities. The Department of the Interior and Related Agencies Appropriations Act for Fiscal Year (FY) 2002 allowed the Secretary to create the TWG program. In addition, grants that are funded will generate other, secondary benefits, including benefits to natural systems (*e.g.*, air, water) and local economies. All of these benefits are widely distributed and are not likely to be significant in any single location. It is likely that some residents where projects are initiated will experience some level of benefit, but quantifying these effects at this time is not possible. We do not expect the sum of all the benefits from this program, however, to have an annual effect on the economy of $100 million or more.

2. We do not believe the TWG program would create inconsistencies with other agencies' actions. Congress has given the Service the responsibility to administer this program.

3. The TWG program would not materially alter the budgetary impact of entitlements, user fees, loan programs, or the rights and obligations of their recipients. This policy document addresses a grant program, authorized by Pub. L. 107–63, which should make greater resources available to applicants. The submission of grant proposals is completely voluntary, but necessary to receive benefits. When an applicant decides to submit a grant proposal, the proposed eligibility criteria and selection factors identified in this policy can be construed as requirements placed on the awarding of the grants. Additionally, we will place further requirements on grantees that are selected to receive funding under the TWG program in order to obtain and retain the benefit they are seeking. These requirements include specific Federal financial management and reporting requirements as well as specific habitat improvements or other management activities described in the applicant's grant proposal.

### *B. Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, as amended, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that described the effects of the rule on small entities (*e.g.*, small businesses, small organizations, and small government jurisdictions). Indian Tribes are not considered to be small entities for purposes of the Act and, consequently, no regulatory flexibility analysis has been done.

### *C. Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996*

This implementation guidance is not considered a major rule under the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 802(2)) because it does not have an annual effect on the economy of $100 million or more. The yearly amount of TWG program funds is limited to $5,926,000 in FY 2004.

This implementation guidance will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Actions under this implementation guidance will distribute Federal funds to Indian tribal governments and tribal entities for

purposes consistent with activities similar to programs under the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act.

This implementation guidance does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

*D. Unfunded Mandates Reform Act*

This implementation guidance would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1965 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This guidance will not 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 (2 U.S.C. 1532).

*E. Takings Implication Assessment (Executive Order 12630)*

This implementation guidance does not have significant ''takings'' implications. This implementation guidance does not pertain to ''taking'' of private property interests, nor does it impact private property.

*F. Executive Order 13211—Energy Effects*

On May 18, 2001, the President issued Executive Order 13211 which speaks to regulations that significantly affect enerty supply, distribution, and use. The Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This implementation guidance is not expected to significantly affect energy supplies, distribution, or use. Therefore, no Statement of Energy Effects has been prepared.

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*I. National Environmental Policy Act (NEPA)*

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*J. Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)*

Pursuant to Executive Order 13175 of November 6, 2000, ''Consultation and Coordination with Indian Tribal Governments,'' we have committed to consulting with tribal representatives in the finalization of the implementation guidance for the TWG program. We have evaluated any potential effects on federally recognized Indian Tribes and have determined that there are no potential adverse effects. This guidance expands tribal participation in Service programs and allows for opportunities for tribal wildlife management and conservation initiatives across Indian Country. We will continue to consult with tribal governments and tribal entities as a part of the policymaking process and beyond in furthering our mutual goals for the TWG program.

*K. Paperwork Reduction Act (44 U.S.C. 3501)*

This information collection requirements of this program will be largely met through the Federal Assistance Grants Application Booklet. Federal Assistance has OMB approval for this information collection under Control Number 1018–1019. This approval applies to grants managed by the Division of Federal Assistance, even if these grants are for other Divisions of the Service. We are collecting this information relevant to the eligibility, substantiality, relative value, and budget information from applicants in order to make awards of grants under these programs. We are collecting financial and performance information to track costs and accomplishments of these grant programs. 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.

Dated: March 12, 2004.

**Paul Hoffman,**

*Acting Assistant Secretary, Fish and Wildlife and Parks.*

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**BILLING CODE 4310–55–M**

Federal Register

Tuesday,
March 23, 2004

# Part IV

# Securities and Exchange Commission

**17 CFR Parts 232, 239, et al.**

**Rulemaking for EDGAR System; Proposed Rule**

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 232, 239, 249, 259, 269, 270 and 274

**[Release Nos. 33–8401; 34–49426; 35–27816; 39–2417; IC–26388 File No. S7–16–04]**

**RIN 3235–AH79**

### Rulemaking for EDGAR System

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rules.

**SUMMARY:** We propose to expand the information that we require certain investment company filers to submit to us electronically through our Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system and to make certain technical changes to that system. Specifically, we propose that certain open-end management investment companies and insurance company separate accounts identify in their EDGAR submissions information relating to their series and classes (or contracts, in the case of separate accounts). In addition, we are proposing to add several investment company filings to the list of those that must be filed electronically and to make several minor and technical amendments to our rules governing the electronic submission of filings through EDGAR. These proposed amendments are intended to keep EDGAR current technologically and to make it more useful to the investing public and Commission staff.

**DATES:** Comments should be submitted on or before May 24, 2004.

**ADDRESSES:** Comments may be submitted electronically or by paper. Electronic comments may be submitted by: (1) electronic form on the SEC Web site (*http://www.sec.gov*) or (2) e-mail to *rule-comments@sec.gov*. Mail paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. All submissions should refer to file number S7–16–04; this file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet Web site (*http://www.sec.gov*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. We do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about the proposed rules, please contact one of the following members of our staff: in the Division of Investment Management, Ruth Armfield Sanders, Senior Special Counsel; or Carolyn A. Miller, Senior Financial Analyst, at (202) 942–0978; for technical questions relating to the EDGAR system, in the Office of Information Technology, Richard D. Heroux, EDGAR Program Manager, at (202) 942–8800.

**SUPPLEMENTARY INFORMATION:** Today we propose amendments to the following rules relating to electronic filing on the EDGAR system: Rules 11, 102, 201, and 311 of Regulation S–T [1] and Forms SE [2] and TH [3] under the Securities Act of 1933 (Securities Act or 1933 Act),[4] the Securities Exchange Act of 1934 (Exchange Act),[5] the Public Utility Holding Company Act of 1935 (Public Utility Holding Company Act),[6] the Trust Indenture Act of 1939 (Trust Indenture Act),[7] and the Investment Company Act of 1940 (Investment Company Act).[8] We also propose new Rule 312 under Regulation S–T.

Recently, we have initiated a series of amendments to keep EDGAR current technologically and to make it more useful to the investing public and Commission staff. In April 2000, we adopted rule and form amendments in connection with the modernization of EDGAR.[9] In the modernization proposing release, we noted that, as the use of electronic databases grows, it becomes increasingly important for members of the public to have electronic access to our filings. We stated in that release that we were contemplating future rulemaking to bring more of our filings into the EDGAR system on a mandatory basis. In May 2002, we adopted rules requiring foreign private issuers and foreign governments to file most of their documents electronically.[10] In May 2003, we adopted rules requiring electronic filing of beneficial ownership reports filed by officers, directors and principal security holders under section 16(a) [11] of the Exchange Act.[12]

Today, we propose to require that open-end investment companies and insurance company separate accounts electronically identify in their filings to which of their series and classes (or contracts) the filing relates. We make this proposal, in light of the primary goals of the EDGAR system since its inception, to facilitate the rapid dissemination of financial and business information in connection with filings by investment companies. Requiring these entities to identify the series and classes (or contracts) to which filings relate would benefit members of the investing public and the financial community by making information contained in Commission filings more easily searchable and readily available to them. We also propose to add several investment company filings to the list of filings that must be made electronically and to make a number of technical amendments to rules and forms in connection with filing on the EDGAR system.

## I. Identification of Open-End Management Investment Company Series and Classes and Contracts of Insurance Company Separate Accounts

### *A. Background*

In the modernization adopting and proposing releases, we requested comment on the use of eXtensible Markup Language (XML) for EDGAR tagging in EDGAR submissions. We requested comment on the impact of our requiring, where applicable, that filers provide XML tagging concerning fee-related data; for investment companies, identification of individual series (portfolios) and classes; and for variable insurance products, identification of separate accounts. Commenters agreed that XML tagging would be useful and potentially a very powerful tool.[13]

We have moved toward XML tagging of submission header information beginning with EDGAR modernization. Our first step was to provide for XML

[1] 17 CFR 232.11, 232.102, 232.201, and 232.311.

[2] 17 CFR 239.64, 249.444, 259.603, 269.8, and 274.403.

[3] 17 CFR 239.65, 249.447, 259.604, 269.10 and 274.404.

[4] 15 U.S.C. 77a *et seq.*

[5] 15 U.S.C. 78a *et seq.*

[6] 15 U.S.C. 79a *et seq.*

[7] 15 U.S.C. 77sss *et seq.*

[8] 15 U.S.C. 80a-1 *et seq.*

[9] See Rulemaking for EDGAR System, Release No. 33–7855 (Apr. 27, 2000) [65 FR 24788] (the modernization adopting release). See also Release No. 33–7803 (Mar. 3, 2000) [65 FR 11507] (the modernization proposing release).

[10] See Mandated EDGAR Filing for Foreign Issuers, Release No. 33–8099 (May 14, 2002) [67 FR 36678].

[11] 15 U.S.C. 78p(a).

[12] See Mandated EDGAR Filing and Web Site Posting for Forms 3, 4 and 5, Release No. 33–8230 (May 7, 2003) [68 FR 25788] (the EDGAR Section 16 release).

[13] *See* discussion under ''EDGAR Tags'' in Section I.L of the modernization proposing release.

tagging in modernized EDGARLink.[14] Next, we required filers to submit both filing and header information for their Section 16 reports on EDGAR in a standard format of XML.[15]

In this age of information, we believe that filings made with us are of much greater use to investors if they are readily available in electronic form. We now, therefore, propose rules to allow the investing public and our staff to track filings made on behalf of series and classes of mutual funds and individual contracts of insurance company separate accounts Our proposals would accomplish this technologically through expanded use of XML tagging.

Many open-end investment companies (mutual funds) registering on Form N–1A [16] are organized as single registrants with several portfolios (series) under sections 18(f)(1) and (2)[17] of the Investment Company Act and Rule 18f–2 thereunder.[18] Each series may also issue more than one class of securities under Rule 18f–3[19] of the Investment Company Act. Series and classes of a registrant are often marketed separately, without reference to other series or classes or to the registrant's name. The same is true for insurance company separate accounts organized as management investment companies registering on Form N–3.[20]

Insurance company separate accounts register and issue multiple contracts.[21] The individual contracts of insurance company separate accounts registering on Forms N–4 (used by separate accounts that offer variable annuity contracts organized as unit investment trusts) [22] and N–6 (used by separate accounts that offer variable life insurance policies) [23] are also marketed separately and make filings separately under the name of the Investment Company Act registrant.

Any particular filing for a single registrant may be filed for only some of its series and classes (or contracts, in the case of separate accounts). A single registrant may make multiple filings of the same type (or example, post-effective amendment filings), each covering different series and/or classes (or contracts) of that registrant. We keep records of filings on an investment company registrant basis, but we do not have in place the programming capability needed to keep records on a series, class or contract basis. Funds must currently provide information in the text of their filings identifying for which series or classes (or contracts) their filings are being made, but currently they do not provide this information as part of the electronic identifying data they enter in the EDGAR submission template. We propose to require that open-end management investment companies and separate accounts who register on Forms N–1A, N–3, N–4, and N–6 (collectively, ''S/C Funds'') obtain identifiers for their series and classes (or contracts, in the case of separate accounts) and electronically identify for which series and classes (or contracts) of the S/C Fund a particular filing is made.

Implementation of Requirement for Series and Class (Contract) Identifiers—Existing Series and Classes (Contracts)

We propose to begin implementation of this requirement by having all S/C Funds enter their existing series and class (and contract) identification onto a special section of the EDGAR Filing Web site (the ''Series and Classes (Contracts) Information Page.'')[24] Each S/C Fund would enter information for each of its existing series and classes (or contract) at this Web site page; each would provide series names,[25] class (or contract) names,[26] and ticker symbols, if any; [27] after this information is entered, we would issue series and class identifiers. These identifiers would be ten characters in length (nine numbers preceded by an ''S'' for series identifiers and a ''C'' for class (contract) identifiers) and would uniquely, and persistently, identify each series and/or class (or contract). These identifiers would be available to the public. Information filed with us containing these identifiers would be searchable by the public and our staff using the series and class (contract) identifiers and also using the series and class (contract) names without the need for reference to the S/C Fund issuing the series and/or class (contract). The information relating to its series and classes (contracts), including their identifiers, would be available to the S/C Fund quickly via e-mail notification following the entering of information and at the EDGAR Filing Web site, from which the S/C Fund may copy it as needed. The S/C Fund would also use the Series and Classes (Contracts) Information Page to update series and class (contract) information as required upon specified events, such as name change and deactivation, liquidation, or other events resulting in the elimination of a series or class or deregistration of the S/C Fund.

We propose to keep the Series and Classes (Contracts) Information Page on the EDGAR Filing Web site open for entry of information for existing series and classes for a period of approximately six months before requiring specified filings to include series and class (contract) identifiers. We propose to set a date at the end of the six-month period by which S/C Funds would be required to have entered information for their existing series and classes (contracts) and received their series and class (or contract) identifiers, and after which EDGAR would not accept specified filings without required series and class

[14] EDGARLink users do not insert the XML tagging, since they enter their submission header information using an input screen that does not contain tags. EDGARLink creates and transmits to EDGAR the XML tagged submission.

[15] *See* Section III of the EDGAR Section 16 release.

[16] 17 CFR 239.15A and 274.11A.

[17] 15 U.S.C. 80a–18(f)(1) and(2).

[18] 17 CFR 270.18f–2.

[19] 17 CFR 270.18f–3.

[20] 17 CFR 239.17A and 274.11b.

[21] The separate account is a registrant under the Investment Company Act. Generally, each contract issued by the separate account is separately registered under the 1933 Act and is assigned a separate 1933 Act file number. Sometimes, however, more than one contract or versions of a contract can be registered in the same 1933 Act registration statement; these contracts are assigned the same 1933 Act file number.

[22] 17 CFR 239.17b and 274.11c.

[23] 17 CFR 239.17c and 274.11d.

[24] Each S/C Fund will enter information on the Series and Classes (Contracts) Information Page concerning only their series and classes (contracts) currently in existence. Series and classes (contracts) which come into existence on or after the Mandatory Series/Class (Contract) Identification Date (discussed below) will enter the information for their new series and classes (contracts) in a separate section of the EDGAR submission template of the initial registration statement or post-effective amendment filing by which they add the new series or class (contract).

A S/C Fund that is not organized as a series company and that has no separate classes would be deemed to have one series and class. See footnote 45 and related text.

[25] A S/C Fund must enter a unique name for each of its series, *i.e.*, a S/C Fund may not enter duplicate series names for its own series (although its series might have the same name(s) as the series of other S/C Funds). For each of its series, the S/C Fund should enter the name by which that series is most commonly known. For example, if the ''Acme Trust'' complex has a series named the ''Bond Fund'' which is known and marketed as ''the Acme Bond Fund,'' the fund should enter the name ''Acme Bond Fund'' as the name of the series.

[26] A S/C Fund must enter a unique name for each of its classes (contracts) existing under each series, *i.e.*, a S/C Fund may not enter duplicate class (contract) names for classes (contracts) of the same series. Most class names are letters or names such as ''Institutional'' or ''Retail.'' Insurance company separate accounts must enter unique names for their contracts; if they currently have duplicate names, then the separate accounts should add to the contract name further identifying information, such as number indicating the date of the contract's creation or Securities Act file number issued to that contract.

[27] S/C Funds will enter their ticker symbols, if any, at the class (contract) level (in addition to their class name).

(contract) identifiers (the ''Mandatory Series/Class (Contract) Identification Date''). The EDGAR Filer Manual would outline the specifics and formatting requirements of the information the S/C Funds are to enter onto the system and the information that they would need to include in specified filings.

Implementation of Requirement for Series and Class (Contract) Identifiers—New Series and Classes (Contracts)

If a S/C Fund adds a new series or class (contract) on or after the Mandatory Series/Class (Contract) Identification Date, the S/C Fund would not enter information concerning the new series or class (contract) on the Series and Classes (Contracts) Information Page on the EDGAR Filing Web site.[28] Instead, the S/C Fund would enter information concerning its new series or classes (contracts) which come into existence on or after the Mandatory Series/Class (Contract) Identification Date in a separate area of the EDGAR submission template as part of the substantive filing by which it adds the new series or class (contract). For example, on and after the Mandatory Series/Class (Contract) Identification Date, a newly registered open-end management investment company (mutual fund) filing on Form N–1A would add its new series and/or classes (contracts) in its initial ''N–1A'' submission template; an existing mutual fund would add its new series in its ''485APOS'' template and would add its new classes in a ''485APOS'' submission template; a newly registered separate account organized as a management investment company filing on Form N–3 would add its new contract information in its initial ''N–3'' submission template; newly registered separate accounts filing on Forms N–4 and N–6 would add their new contract information in the initial ''N–4'' or ''N–6'' submission template, respectively, filed to register the new contract. The identifiers for new series and classes added via the submission template would be available to the S/C Fund quickly via e-mail notification following the filing in which the information was entered. These identifiers would also be available at the EDGAR Filing Web site, from which the S/C Fund may copy as needed and at which the S/C Fund would update series and class (contract) information as required upon specified events, such as name change and deactivation of a series or class or deregistration of the S/C Fund.

Mandatory Series/Class (Contract) Identification Date

We propose to require that funds receive their series and class (contract) identifiers for existing series and classes before the Mandatory Series/Class (Contract) Identification Date. However, we plan to leave the Series and Classes (Contracts) Information Page open for entry of information for existing series and classes for several weeks following the Mandatory Series/Class (Contract) Identification Date, so that S/C Funds which, despite good faith efforts, fail to previously enter the information for all their series and classes (contracts) in existence prior to the Mandatory Series/Class (Contract) Identification Date would still have the opportunity to enter that information. However, since third party filers, including parties to mergers, would need to use this information in filings, all S/C Funds would need to ensure that the information concerning their existing series and classes (contracts) was entered prior to the closing of the Series and Classes (Contracts) Information Page for entry of information.

After the Mandatory Series/Class (Contract) Identification Date, we would give notice as to the date on which we would close the Series and Classes (Contracts) Information Page for entry of information concerning existing series and classes. On and after that date, the Series and Classes (Contracts) Information Page would be used only for retrieving and editing series and class (contract) information. After the closing of the Series and Classes (Contracts) Information Page for entry of data for existing series and classes (contracts), if a S/C Fund fails to enter its information in a timely manner and receive its identifiers, the staff may require the S/C Fund to file a post-effective amendment to generate the identifiers via the submission template. Until the S/C Fund provides the information concerning its series and classes (contracts) and is issued identifiers, it would be unable to make other filings that require series and class (contract) identifiers.

We believe that this method for S/C Funds to obtain identifiers for their existing series and classes (contracts) would provide the most flexibility for S/C Funds. This method would allow S/C Funds an extended period of time in which to provide the information and obtain the identifiers. A S/C Fund may choose to obtain its identifiers for all its existing series and classes at one time via the Series and Classes (Contracts) Information Page. Or, a S/C Fund may choose to spread out its entering of information and receipt of identifiers through the six-month period during which the Page would be open for entry of information. Each S/C Fund would need to make sure, however, that it has obtained its identifiers for all its series and classes (contracts) in existence prior to the Mandatory Series/Class (Contract) Identification Date before that date.

Requirement to Include Series and Class (Contract) Identifiers in EDGAR Filings; Consequence of Non-Compliance

We propose that, on and after the Mandatory Series/Class (Contract) Identification Date, S/C Funds be required to use series and class (contract) identifiers in certain EDGAR submissions specified in the EDGAR Filer Manual. We propose to add the series and class (or contract) identification requirement to the EDGARLink header templates of certain investment company EDGAR submissions.[29] We believe the method we have chosen for S/C Funds to obtain identifiers for their existing series and classes (contracts) would help insure that identifiers are assigned to existing series and classes (contracts) well in advance of EDGAR filings requiring them. The only instances in which identifiers would be generated at the time of a filing by entry of information via the EDGAR submission template would be when a new S/C Fund comes into existence or when an existing S/C Fund adds new series or classes (contracts).[30] The S/C Fund would be able to ''cut and paste'' the series and

[28] If a S/C Fund makes a filing on behalf of a new series or class (contract) before the Mandatory Series/Class (Contract) Identification Date, the S/C Fund will enter the information concerning that new series or class (contract) on the Series and Classes (Contracts) Information Page on the EDGAR Filing Web site after the first filing made on behalf of the new series or class (contract); this is consistent with the procedure for other series and classes (contracts) in existence before the Mandatory Series/Class (Contract) Identification Date.

[29] Filings using the following EDGAR submission types would be subject to series and class (contract) identification: N–1A, N–1A/A, N–3, N–3/A, N–4, N–4/A, N–6, N–6A, 485APOS, 485BPOS, 485BXT, POS AMI, 497, 497K1, 497K2, 497K3A, 497K3B, 497J, 497AD, N–14, N–14/A, N–14AE, N–14AE/A, N–30D, N–30D/A, N–30B–2, N–CSR, N–CSR/A, N–CSRS, N–CSRS/A, NT–NCSR, NT–NCSR/A, N–PX, N–PX/A, 24F–2NT, 24F–2NT/A, NSAR–A, NSAR–A/A, NSAR–AT, NSAR–AT/A, NSAR–B, NSAR–B/A, NSAR–BT, NSAR–BT/A, NSAR–U, NSAR–U/A, NT–NSAR, NT–NSAR/A, N–Q, N–Q/A and all proxy submission types that may be filed by or with respect to investment companies.

[30] The following EDGAR submission types will allow for entry of information for new series: N–1A, N–1A/A, N–3, N–3/A, N–4, N–4/A, N–6, N–6/A, 485APOS, and POS AMI. The following submission types will allow for the entry of information for new classes (contracts): N–1A, N–1A/A, N–3, N–3/A, N–4, N–4/A, N–6, N–6/A, 485APOS, 485BPOS, and POS AMI. We note that these are the characteristics of the EDGAR submission types; nevertheless, S/C Funds should use only those EDGAR submission types that correspond to the form and rule under which the S/C Fund makes its substantive filing.

class (contract) identifying information from the Web site into filings as needed.[31] We propose to require that S/C Funds include the identifiers in all filings relating to the series and classes (contracts). Indeed, the identifiers would be a substantive requirement of the filing. Consequently, failure of a S/C Fund to include correctly the required identifiers would mean that a filing for that series and/or class (or contract) has not been made.[32] On and after the Mandatory Series/Class (Contract) Identification Date, filings requiring series and class (contract) identifiers would be suspended if the identifiers are not included in the EDGAR filing or if they are not identifiers associated with the CIK[33] of the S/C Fund, necessitating a resubmission of the filing in question.[34]

By requiring that the S/C Fund electronically identify the series and classes (or contracts) for which a filing is made, we would facilitate the ability of the investing public and our staff to search easily for EDGAR filings made on behalf of specified series and classes (contracts). The electronic identification of series and classes (contracts) would enable the investing public to search our Web site for filings covering the series and classes (contracts) they need. We believe that our proposals today recognize that disclosures in filings are only as useful as they are available; we believe our proposals would facilitate substantially the investing public's access to investment company information needed for their investment decisions. To this end, it is critical that S/C Funds obtain and include the correct identifying information in their filings.

Requirement To Update Information

S/C Funds would also have a duty to update and keep current their series and class (or contract) information. For example, filers would be required to update their information via the Series and Classes (Contracts) Information Page for series and class (or contract) name changes or deactivation (if a series is never offered or no longer makes filings because of merger, liquidation or other means of elimination or if the S/C Fund has merged out of existence or deregistered).

Identification of Investment Company Type; Parties to a Merger

In conjunction with our rules to require the identification of series and classes (contracts), we are also adding to the submission templates of selected filings used by investment companies an additional field for identification of the type of investment company making the filing.[35] Companies may be required to check a box if they are investment companies (for certain submissions) and to select from a pull-down menu in the EDGAR submission template their investment company ''type,'' where type is chosen according to whether a company's last effective registration statement was filed on Form N–1A (open-end management investment companies), N–2 (closed-end management investment companies, including business development companies),[36] N–3 (separate accounts organized as management investment companies that offer variable annuities), N–4 (separate accounts organized as unit investment trusts that offer variable annuities), N–5 (small business investment companies),[37] N–6 (separate accounts organized as unit investment trust that offer variable life insurance policies), S–1 (face amount certificate companies),[38] S–3 (face amount certificate companies),[39] or S–6 (unit investment trusts, other than those filing on Forms N–4 and N–6).[40] S/C Funds would also be required to supply electronic information in the EDGAR template concerning the acquiring fund and the target (and their series and classes or contracts, if any in existence) in connection with merger-related filings on Form N–14,[41] under Rule 425,[42] and under the proxy rules.

Identification Requirement Applicable to Non-Registrants Filing Proxies

We also propose to require non-registrant third parties making proxy filings with respect to investment companies to designate ''type'' of investment company and to include series and/or class (or contract) identifiers in designated proxy submission types. After the Mandatory Series/Class (Contract) Identification Date, when filings are made with series and class (contract) identifiers and specification of investment company type, this information would be available on the EDGAR page of our public Web site (sec.gov), as is currently each entity's CIK. Until our public Web site is populated with series and class information from filings, filers may obtain this information from our public company database site at *http://www.edgarcompany.sec.gov.*

Electronic Filing Responsibilities

With respect to these proposed requirements, including the updating requirements, we emphasize that it is the investment company's responsibility to ensure the correctness of this information and its use in each of its filings on the EDGAR system. Each S/C Fund must ensure that it receives all of its series and class (or contract) identifiers for series and classes (contracts) in existence before the Mandatory Series/Class (Contract) Identification Date; that it enters correctly information concerning series and classes coming into existence on or after the Mandatory Series/Class (Contract) Identification Date; and that its filings are made using the correct EDGAR codes, including series and class (or contract) identifiers. A S/C Fund may verify the codes and identifiers under which its filing was made and accepted by reading its electronic notice of acceptance, which would contain the CIK, file number(s) and, where applicable, series and class (or contract) names and identifiers.

*B. Regulation S–T and Related Form Amendments in Connection With Series and Class (Contract) Identification Requirements*

New Rule 312 under Regulation S–T

We propose to add new Rule 312 under Regulation S–T in connection with identification of series and classes. New Rule 312 would provide that all S/C Funds (*i.e.*, investment companies

[31] Filers will also be able to cut and paste from any compatible source. For example, if filers have a listing of series and classes (contracts) in a word processing document, they should be able to cut and paste from that document. However, if filers do so, they must ensure that the secondary documents are kept up-to-date with the most current series and class data.

[32] See proposed amendments to Rule 11 of Regulation S–T, discussed in Section I.B below. The staff will not have the ability to change series and class data via post-acceptance corrections. The staff will, of course, consider filing date adjustments under Rule 13(b) of Regulation S–T (17 CFR 232.13(b)), and grant relief in appropriate instances, depending on the facts and circumstances of each request.

[33] A filer's CIK (or ''central index key'') is a ten-digit number uniquely identifying that filer.

[34] Because of the consequences of failure to correctly include identifiers in filings, we note that the duty to insert the identifiers, as well as the duty of electronic filing in general, should not be assigned to the least experienced person in the investment company's organization or delegated exclusively to a filing agent.

[35] S/C Funds, which are required to obtain series and class (contract) identifiers via the Series and Classes (Contracts) Information Page, will also enter information concerning their type on that page.

[36] 17 CFR 239.14 and 274.11a–1.

[37] 17 CFR 239.24 and 274.5.

[38] 17 CFR 239.11.

[39] 17 CFR 239.13.

[40] 17 CFR 239.16.

[41] 17 CFR 239.23.

[42] 17 CFR 230.425.

whose last registration statement was filed on Form N–1A, N–3, N–4, or N–6) must obtain identifiers for their constituent series existing under sections 18(f)(1) and (2)[43] of the Investment Company Act and Investment Company Act Rule 18f–2[44] and identify the series for which a particular filing is being made. A S/C Fund that is not organized as a series company would be deemed to have one series and must obtain a series identifier and include that identifier in specified filings.[45] This requirement is to assure that investors, the public, and our staff would be able to electronically search within the same universe of filers for each entity operating as a mutual fund or separate account, whether it is a single S/C Fund separate series (a ''stand alone'' fund) or a series of a S/C Fund.

Under Rule 312 as proposed, each such investment company or series that has multiple classes under Investment Company Act Rule 18f–3[46] (or that issues multiple contracts, in the case of insurance company separate accounts) would also be required to obtain a class (or contract) identifier for each class (or contract) and include that identifier in specified submission types.[47] S/C Funds or series that are not organized as multiple class companies shall be deemed to have one class and must obtain a class identifier and include that identifier.[48]

Rule 312 as proposed would require that S/C Funds or series provide identifying information when they file certain merger documents (Form N–14,[49] Rule 425,[50] and proxy filings), including information about both the target and acquiring fund or series(s), class, or contract.

Under Rule 312 as proposed, S/C Funds would have a duty to keep the information regarding their series and classes up to date. S/C Funds would update their information via the Series and Classes (Contracts) Information Page if the name of a series or class (or contract) changed. S/C Funds also would deactivate the identifiers for a series and/or class (or contract) via the Series and Classes (Contracts) Information Page if it was no longer offered by the S/C Fund or the S/C Fund deregistered.

Rule 11 Under Regulation S–T

Currently, Rule 11 of Regulation S–T defines the phrase ''official filing'' to mean any filing that is received and accepted by us, regardless of filing medium and exclusive of header information, tags and any other technical information required in an electronic filing. We propose to amend this definition to provide that the electronic identification of investment company type and inclusion of identifiers for series and class (or contract, in the case of separate accounts of insurance companies), as we propose to require under Rule 312 of Regulation S–T, would be deemed part of the official filing. Failure of an investment company to include correctly the required identifiers would mean that a filing for that series and/or class (or contract) has not been made.

Forms TH and SE

Form TH[51] is the form that filers use as a cover for filings made in paper under a temporary hardship exemption pursuant to Rule 201 of Regulation S–T. Under Rule 201, confirming electronic copies of filings made in paper under temporary hardship exemptions must be made within [6] business days of the date of the paper filings. Form SE[52] is the form that electronic filers must use to submit any paper format exhibit permitted under Rule 201, 202, or 311 of Regulation S–T.[53] We propose to amend Forms TH and SE to require the inclusion of series and class (or contract) identifying information for those filings for which the identifiers would be required in the confirming electronic copy or associated electronic filing, respectively.

*C. Request for Comment in Connection With Series and Class (Contract) Identification Requirements*

We request comment on the impact and feasibility of our proposal to require certain open-end management investment companies and insurance company separate accounts to identify in their EDGAR submissions information relating to their series and classes (or contracts, in the case of separate accounts). We ask commenters to provide detailed information on any difficulties and considerations unique to these proposed requirements. We ask commenters to address the issues of the general approach of the proposed requirements, the length of time it may take for investment companies to prepare for the proposed requirements, and the language of the new and amended rules. In the event commenters believe that any aspect of the proposed requirements would be burdensome, we ask for specific details and alternative approaches.

**II. Proposed Mandatory Electronic Investment Company Filings**

Currently, investment companies must submit in paper filings of fidelity bonds under section 17(g),[54] sales literature filed with us under section 24(b),[55] and litigation material filed under section 33 of the Investment Company Act.[56] We are now proposing to amend Rule 101 to make these submissions mandatory electronic submissions.

Currently, the electronic filing rules do not permit filers to submit electronically on the EDGAR system sales literature filed with us[57] under section 24(b) of the Investment Company Act.[58] Because of the format and graphics which characterize these submissions, at the time of the original adoption of the EDGAR rules, we believed that the burden to registrants of electronically formatting sales literature appeared to outweigh the usefulness of developing an electronic database.[59] Given the advances in technology and the availability of HTML as a format for official EDGAR filings, we now propose to require filers to make these submissions electronically.[60] We note that, for filers who are required to file with us prospectuses submitted under Securities Act Rule 482[61] (482 ads), the

[43] 15 U.S.C. 80a–18(f)(1) and (2).

[44] 17 CFR 270.18f–2.

[45] This ''dummy'' series would be assigned the same name as the S/C Fund.

[46] 17 CFR 270.18f–3.

[47] Separate accounts registering on Forms N–4 and N–6 would be deemed to have one ''dummy series'' assigned the same name as the S/C Fund and would obtain a separate identifier at the ''class'' level (rather than series identifiers) for each of their contracts.

[48] This ''dummy'' class would be assigned the same name as the series to which it belonged. ''Stand alone'' funds with no separate series or classes would be deemed to have one series and one class, each assigned the same name as the S/C Fund.

[49] 17 CFR 230.23.

[50] 17 CFR 230.425.

[51] 17 CFR 239.65, 249.447, 259.604, 269.10 and 274.404.

[52] 17 CFR 239.64, 249.444, 259.603, 269.8, and 274.403.

[53] 17 CFR 232.201, 232.202, or 232.311.

[54] 15 U.S.C. 80a–17(g). *See* Release No. 33–6978 (Feb. 23, 1993) (58 FR 14848) and Release No. 33–7241 (Nov. 13, 1995) (60 FR 57682) at footnotes 26–32 and accompanying text.

[55] 15 U.S.C. 80a–24(b).

[56] 15 U.S.C. 80a–31.

[57] Most investment company registrants file sales literature with the National Association of Securities Dealers (NASD), in lieu of filing us, as permitted by Rule 24b–3 under the Investment Company Act [17 CFR 270.24b–3.]. We are not proposing to change Rule 24b–3; these filers would continue to make their submissions to the NASD only.

[58] *See* Rules 24b–1, 24b–2, and 24b–3 (17 CFR 270.24b–1, 270.24b–2, and 270.24b–3).

[59] *See* Release No. 33–6978 at footnotes 51 and 52 and accompanying text.

[60] We are proposing to amend both Rule 101 of Regulation S–T and Rule 24b–2 under the Investment Company Act, which currently provide that filers submit such material to us in paper only.

[61] 17 CFR 230.482.

filers must already submit the 482 ads electronically.[62] We request comment on whether we should require filers to submit EDGAR sales literature in HTML format. We also note that, if we were to make mandatory the electronic submission of sales literature, under paragraph (c) of Rule 304 of Regulation S–T,[63] filers would be required to retain copies of sales literature documents including graphic materials for a period of five years and would be required to furnish to the Commission or the staff, upon request, a copy of any or all of such documents.

We still require investment companies to submit in paper format filings under section 17(g) [64] and litigation material filed under section 33 of the Investment Company Act. Filings under section 17(g) consist of the registrant's fidelity bond, which is filed under Rule 17g–1(g)(1),[65] and claims and settlements filed under Rule 17g–1(g)(2) and (3), respectively.[66] Filings of litigation material under section 33 include a wide variety of documents.[67] Since we believe that most filers would have electronic copies of their fidelity bonds and claims and settlements as well as litigation materials, we believe that these filings should be available to the public through our EDGAR system. We therefore propose to make these filings mandatory electronic submissions.

We request comment on the impact and feasibility of our making these filings under Sections 17(g), 24(b) and 33 mandatory electronic submissions.[68] We ask commenters to provide detailed information on any difficulties and considerations unique to each category. We ask commenters to address the issue of the length of time it may take for investment companies to prepare for the mandatory electronic submission of any category of these filings. We request comment on whether fidelity bonds and claims and settlements as well as litigation materials are generally available electronically and, if not, whether it would be burdensome for us to require filers to file them electronically. In the event commenters believe that electronic filing of any of these categories would be burdensome, we ask for comment on whether we should allow electronic filing on a voluntary basis.

## III. Technical Amendments to EDGAR System Filing Requirements

We propose to make technical corrections to our rules relating to paper exhibits for EDGAR filings and incorporation by reference by investment companies into documents filed on EDGAR, as discussed below.

### *A. Rule 102(d) of Regulation S–T*

Currently, paragraph (d) of Rule 102 provides that each electronic filing requiring exhibits must contain an exhibit index. It further requires that, whenever an exhibit is filed in paper pursuant to a temporary or continuing hardship exemption, the filer must place the letter ''P'' next to the listed exhibit in the exhibit index to reflect that the exhibit was filed in paper pursuant to such exemption. However, the rule does not require the designation ''P'' for an exhibit filed in paper other than pursuant to a hardship exemption. Nor does the rule require designation of the authority under which a filer was submitting an exhibit in paper. We propose to amend paragraph (d) to require the designation ''P'' for all exhibits filed in paper, the designation ''Rule 311'' next to the letter ''P'' in the exhibit index for exhibits filed pursuant to Rule 311 of Regulation S–T, and the letters ''TH'' or ''CH,'' respectively, next to the letter ''P'' in the exhibit index for exhibits filed pursuant to temporary or continuing hardship exemptions.

The rule also currently requires that, whenever a confirming electronic copy of an exhibit is filed pursuant to a hardship exemption, the exhibit index must specify where the confirming electronic copy can be located and the filer must place the designation ''CE'' (confirming electronic) next to the listed exhibit in the exhibit index. We request comment on the usefulness of the rule's requirement that the exhibit index must specify where the confirming electronic copy can be located. For example, where an exhibit filed in paper under a temporary hardship exemption is later incorporated by reference into a filing, is the provision useful in locating the electronic confirming copy of the paper exhibit? If commenters find that the provision is not useful, we encourage commenters to provide suggested revisions to make the rule more helpful to users of the information.

### *B. Rule 102(e) of Regulation S–T*

Paragraph (e) of Rule 102 provides that any incorporation by reference by a registered investment company or a business development company must relate only to documents that have been filed in electronic format. We propose to amend this rule to codify staff interpretation that incorporation by reference in an EDGAR filing by a registered investment company or a business development company must relate only to documents that have been filed in electronic format on the EDGAR system. A filer may not incorporate by reference electronic filings made with us but not made via the EDGAR system.[69]

### *C. Rule 201 of Regulation S–T*

Rule 201(a)(1) of Regulation S-T currently provides that, where a filer makes a paper submission pursuant to a temporary hardship exemption, a microfiche copy of the paper document is the official filing of the registrant. Microfiche is no longer the official format for filings made in paper under the temporary hardship exemption; paper filings are now electronically imaged. Accordingly, we propose to amend Rule 201(a)(1) to reflect this change. We are also removing the phrase ''of the registrant,'' since an official filing may be made by a non-registrant third party.

### *D. Rule 311(h)(1) of Regulation S–T*

Rule 311 sets forth the requirements for filers submitting documents in paper under cover of Form SE. Paragraph

[62] *See* Release No. 33–7122 (Dec. 19, 1994) [59 FR 67752 (Dec. 30, 1994)] at footnote 32 and accompanying text.

[63] 17 CFR 232.304(c).

[64] This includes submission of an investment company's fidelity bond; see Release No. 33–7241 at footnotes 30 and 31 and accompanying text.

[65] 17 CFR 270.17g–1(g)(1).

[66] 17 CFR 270.17g–1(g)(2) and (3).

[67] The documents include the following: (1) All pleadings, verdicts, or judgments filed with the court or served in connection with such action or claim; (2) any proposed settlement, compromise, or discontinuance of such action or claim; and (3) motions, transcripts, or other documents filed in or issued by the court or served in connection with such action or claim as may be requested in writing by the Commission. If any of the documents in (1) or (2) above are delivered to the company or party defendant, section 33 requires that the document be filed with the Commission not later than 10 days after receipt. If the document is filed in court or delivered by the company or party defendant, it must be filed with the Commission within five days after the filing or delivery.

We take this opportunity to remind investment companies of their section 33 filing obligations in light recent private law suits brought against certain fund groups in connection with allegations regarding late trading, abusive market timing, and related matters. In connection with staff concerns in this area in the past, see Letters from Kathryn B. McGrath, Director, Division of Investment Management, to Matthew P. Fink, General Counsel, Investment Company Institute, and to Gary Hughes, Chief Counsel, American Council of Life Insurance, each dated October 11, 1985.

[68] We anticipate that the EDGAR submission types for these filings would be as follows: 40–17G (fidelity bond filed pursuant to Rule 17g–1(g)(1)); 40–17GCS (notice of claim or settlement filed pursuant to Rule 17g–1(g)(2) or (3)); 40–24B2 (sales literature filed pursuant to Rule 24b–2); and 40–33 (litigation material filed pursuant to section 33 of the Investment Company Act).

[69] For example, a registrant could not incorporate by reference in an EDGAR filing to a document submitted electronically on the IARD system.

(h)(1) of Rule 311 currently provides that, if the subject of a temporary hardship exemption is an exhibit only, a filer must file the exhibit under cover of Form SE no later than one business day after the date the exhibit was to be filed electronically. We propose to amend this provision to clarify the current requirement [70] that the filer must submit the exhibit and a Form TH (the cover form for submitting a filing under a temporary hardship exemption) under cover of Form SE. [71]

*E. Form SE*

We propose to make an additional amendment to Form SE that parallels the changes to the exhibit index requirement discussed above. Currently, Form SE does not require the filer to specify under which of these rules the filer is submitting the paper format exhibit. We propose to amend the form to require filers to indicate under which rule they are submitting the paper exhibit, *i.e.*, Rule 201 (Temporary Hardship Exemption), Rule 202 (Continuing Hardship Exemption), or Rule 311 (Permitted Paper Exhibit). We also propose to amend the General Instructions to Form SE to clarify that, if the filer is submitting the exhibit under a temporary hardship exemption, the filer must submit both the exhibit and a Form TH (the cover form for submitting a filing under a temporary hardship exemption) under cover of Form SE. Finally, we propose to add to the General Instructions a statement of the current requirement that exhibits filed under a continuing hardship exemption must include the legend required by Rule 202(c) of Regulation S–T. [72]

## IV. General Request for Comment

You are invited to submit written comments relating to the rule proposals set forth in this release. Comments may be submitted electronically or by paper. Electronic comments may be submitted by: (1) electronic form on the SEC Web site (*http://www.sec.gov*) or (2) e-mail to *rule-comments@sec.gov.* Mail paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. All submissions should refer to file number S7–16–04; this file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet Web site (*http://www.sec.gov*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. We do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

We request comment not only on the specific issues we discuss in this release, but on any other approaches or issues that we should consider in connection with filing on the EDGAR system, particularly filings by investment companies. We seek comment from any interested persons, including those required to file information with us on the EDGAR system, as well as investors, disseminators of EDGAR data, EDGAR filing agents, and other members of the public who have access to and use information from the EDGAR system.

## V. Cost-Benefit Analysis

We are sensitive to the costs and burdens of our rules. The rules we are proposing today reflect certain changes to the information currently provided in certain investment company submissions and technical amendments to our EDGAR filing rules. Specifically, the proposals would require certain open-end management investment companies and insurance company separate accounts to identify in their EDGAR submissions information relating to their series and classes (or contracts, in the case of separate accounts). This information is already required in the text of the filing itself; the proposals would require this information to be included in an electronically tagged form. In addition, the proposals would add several investment company filings to the list of those that must be filed electronically and make several minor and technical amendments to our rules governing the electronic submission of filings through EDGAR.

*A. Expected Benefits*

We expect that the addition of series and class (contract) identifiers ultimately would result in considerable benefits to the securities markets, investors, and other members of the public, by expanding the accessibility of information, and increasing the types of information, filed and made available for public review through the EDGAR system. The primary goal of the EDGAR system since its inception has been to facilitate the rapid dissemination of financial and business information in connection with filings, including filings by investment companies. Requiring these entities to identify the series and classes (or contracts) to which filings relate would benefit members of the investing public and the financial community by making information contained in Commission filings more easily searchable and readily available to them.

We believe that currently EDGAR can be difficult to use to find filings related to specific series and classes of funds, discouraging both the public and Commission staff from using it. We believe the improvements that would result from the series and class project would induce a substantial amount of new demand for the services provided by the EDGAR system and our public Web site. The proposals would result in the benefit to the public of the EDGAR page of our Web site being a comprehensive source from which to find series and class filings.

We also expect that our proposals for mandatory electronic filing of documents that previously could be filed only in paper format would result in economic benefits to current electronic filers. Investment companies should benefit from the increased efficiencies in the filing process for these filings resulting from the proposed amendments. By electronically transmitting theses documents directly to the Commission, investment companies will avoid the uncertainties and delays that can occur with the manual delivery of paper filings. Filers also will benefit from no longer having to submit multiple copies of paper documents to the Commission.

The proposed amendments should benefit investors, financial analysts and others by increasing the efficiency of retrieving and disseminating fidelity bonds, litigation materials, and sales literature (for non-NASD) filed with the Commission. The mandated electronic transmission of these documents will enable investors to access them more quickly. Instead of having to come in person or through an agent to the Commission's public reference room to conduct a search for a particular filing that is in paper or microfiche, an investor will be able to find and review the filing on any computer with an Internet connection by accessing the EDGAR system through the Commission's Web site or through a third party Web site that links to EDGAR. The proposed amendments will also enable financial analysts and others to retrieve, analyze and disseminate more rapidly this information. An investor should be able to form more

[70] See Release No. 33–6977 (Feb. 23, 1993) [58 FR 14628] at footnote 213 and accompanying text.

[71] We also propose to make conforming amendments to Note 1 to Rule 201(a) of Regulation S–T (17 CFR 232.201(a)).

[72] 17 CFR 232.202(c).

efficient investment decisions about particular investment companies. Both filers and investors should benefit from increased efficiencies in the Commission's storage, retrieval, and analysis of these filings which would result from the proposed amendments. Mandated EDGAR filing of these documents would result in their addition to the Commission's central electronic repository of filings that is free to anyone that has access to a computer linked to the Internet. Because the Commission's staff will be able to retrieve and analyze information contained in these filings more readily than under our current paper system, mandated electronic filing of these documents should facilitate the staff's retrieval and review of a particular document.

*B. Expected Costs*

We believe that the rules we propose today for identification of series and classes (contracts) impose few or no costs related to substantive disclosure. Rather, the proposals may result in initial costs in connection with entering information onto the EDGAR filing Web site to obtain identifiers. Filers may experience some minimal costs in initially keying in data on their series and classes (contracts) when they obtain their identifiers. Additionally, they may experience minimal programming costs in including the identifying data in specified filings and, when necessary, obtaining identifiers for new series and classes (contracts). Disseminators of EDGAR data and EDGAR filing agents may incur some transitional costs as they revise their software and, in some instances, hardware to accommodate the proposed tagging changes to keep track of series and class identifiers for certain investment company filings. Disseminators may choose to reprogram their systems to take advantage of the new tagging scheme for identifying series and classes of mutual funds and contracts of insurance company separate accounts. As a result, disseminators may incur additional costs for processing.

We expect that the proposed amendments to make certain filings mandatory electronic submissions will result in some costs to issuers. However, for the following reasons, we also expect that filers should not bear the full range of costs resulting from adoption of the proposed amendments. The expected costs consist of ongoing costs, but not initial costs. Initial costs are those associated with the purchase of compatible computer equipment and software, including EDGAR software if obtained from a third-party vendor and not from the Commission's Web site. Initial costs also include those resulting from the training of existing employees to be EDGAR proficient or the hiring of additional employees or agents that are already skilled in EDGAR processing. Initial costs further include those associated with the formatting and transmission of a foreign issuer's first document filed on EDGAR. These transmission costs may include those related to subscribing to an Internet service provider. All filers who would be affected by these proposals are current EDGAR filers who will experience no additional initial costs. Ongoing costs are those associated with the electronic formatting and transmission of subsequent EDGAR filings. Filers may also incur future costs resulting from the training or hiring of employees regarding updated EDGAR filing requirements. The magnitude of these costs will depend on filers' levels of technological proficiency and their previous familiarity with EDGAR filing requirements. They will incur the costs associated with formatting and transmitting their documents on EDGAR. These filers have already incurred initial costs associated with the preparation of most of their filings in an electronic format. They have already trained their employees or hired an in-house information technology team or a third party agent, such as an Internet services company or financial printer, to format electronically their financial statements and other documents of interest to investors. These filers should be capable of electronically processing these documents for the EDGAR system. Consequently, the mandated EDGAR requirements should result only in costs related primarily to the electronic formatting of these documents in a format compatible with EDGAR, and transmission of the EDGAR formatted documents to the Commission.

We expect the technical corrections to the Regulation S–T provisions should be beneficial to filers inasmuch as they, as have previous technical corrections, would clarify existing rules and make the filing community at large more aware of current practices and interpretations.

*C. Comment Solicited*

We solicit comment on the costs and benefits of the proposed amendments. We request your views on the costs and benefits described above as well as on any other costs and benefits that could result from adoption of these proposals. Please identify any costs or benefits associated with the rule proposals relating to series and class (contract) identifiers, proposed categories of additional mandatory electronic filings, and technical corrections to our electronic filing rules governing the EDGAR system and any impact that the rule proposals may have on the ease of locating and using EDGAR data. In particular, what are the benefits that investors, financial analysts, other members of the financial community, and foreign issuers should realize from these proposals? Will the proposed amendments help an investor to form more efficient investment decisions about investment companies? What are the expected initial and ongoing costs of series and class (contract) identification and the added categories of mandated EDGAR filing? Will the magnitude of these costs depend on filers' levels of technological proficiency and their previous familiarity with EDGAR filing requirements? Are there costs in addition to those discussed above? Are there unidentified costs associated with the proposed technical amendments and, if so, what are they?

We encourage commenters to identify any costs or benefits associated with the rule proposals. We also request data to quantify the costs and value of the benefits identified.

## VI. Analysis of Burdens on Competition, Capital Formation and Efficiency

Section 23(a)(2) of the Exchange Act requires us, in adopting rules under the Exchange Act, to consider the anti-competitive effects of any rules that we adopt thereunder. Furthermore, section 2(b) of the Securities Act,[73] section 3(f) of the Exchange Act,[74] and section 2(c)[75] of the Investment Company Act require us, when engaging in rulemaking, and considering or determining whether an action is necessary or appropriate in the public interest, to consider whether the action would promote efficiency, competition, and capital formation and to consider any anti-competitive effects of proposed rules. In compliance with our responsibilities under these sections, we request comment on whether the proposals, if adopted, would promote efficiency, competition, and capital formation. We encourage commenters to provide empirical data or other facts to support their views.

In compliance with our responsibilities under the previously mentioned provisions, we considered preliminarily whether the amendments would promote efficiency, competition and capital formation. We ask for

[73] 15 U.S.C. 77b(b).

[74] 15 U.S.C. 78c(f).

[75] 15 U.S.C. 80a–2(c).

comment on whether filing agents and information disseminators would be disparately affected depending on whether they choose to reprogram their systems to use the additional EDGAR tagging information available for investment companies. However, as a preliminary matter, we believe that the proposed rules would not impose any burden on competition not necessary or appropriate in the furtherance of the purposes of the securities laws.

Preliminarily, we believe it is likely that the proposed rules if adopted would not have any adverse effect on capital formation. We believe they would promote efficiency by making the information investors can receive electronically easier to find. The proposed rules would apply equally to all entities of the same types currently required to file on EDGAR. Because the proposed rules and amendments are designed to require filers to provide information in a format that would be more useful to investors, we believe, as a preliminary matter, that the amendments are appropriate in the public interest and for the protection of investors.

## VII. Initial Regulatory Flexibility Analysis

This Initial Regulatory Flexibility Analysis (Analysis) has been prepared in accordance with 5 U.S.C. 603 and relates to our proposed rule and form amendments under the Securities Act, the Exchange Act, the Investment Company Act, the Trust Indenture Act, and the Public Utility Holding Company Act to require that open-end investment companies and insurance company separate accounts electronically identify in their filings to which of their series and classes (or contracts) the filing relates; to add several investment company filings to the list of filings that must be made electronically; and to make a number of technical amendments to rules and forms in connection with filing on the EDGAR system. Specifically, the proposals would require certain open-end management investment companies and insurance company separate accounts to identify in their EDGAR submissions information relating to their series and classes (or contracts, in the case of separate accounts). In addition, they would add several investment company filings to the list of those that must be filed electronically and make several minor and technical amendments to our rules governing the electronic submission of filings through EDGAR.

### *A. Reasons for, and Objectives of, Proposed Amendments*

Many open-end investment companies (mutual funds) registering on Form N–1A are organized as single registrants with several portfolios (series) under sections 18(f)(1) and (2) of the Investment Company Act and Rule 18f–2 thereunder. Each series may also issue more than one class of securities under Rule 18f–3 of the Investment Company Act. Series and classes of a registrant are often marketed separately, without reference to other series or classes or to the registrant's name. The same is true for insurance company separate accounts organized as management investment companies registering on Form N–3.

Insurance company separate accounts register and issue multiple contracts. The individual contracts of insurance company separate accounts registering on Forms N–4 (funded by separate accounts organized as unit investment trusts) and N–6 (funded by separate accounts organized as unit investment trust that offer variable life insurance policies) [76] are also marketed separately and make filings separately under the name of the Investment Company Act registrant.

Any particular filing for a single registrant may be filed for only some of its series and classes (or contracts, in the case of separate accounts). A single registrant may make multiple filings of the same type (or example, post-effective amendment filings), each covering different series and/or classes (or contracts) of that registrant. We keep records of filings on an investment company registrant basis, but we do not keep records on a series, class or contract basis. Our objective is to be able to track filings on a series and class (contract) basis by requiring that open-end management investment companies and separate accounts who register on Forms N–1A, N–3, N–4, and N–6 (collectively, ''S/C Funds'') obtain identifiers for their series and classes (or contracts, in the case of separate accounts) and electronically identify for which series and classes (or contracts) of the S/C Fund a particular filing is made.

On and after the Mandatory Series/Class (Contract) Identification Date, S/C Funds would have to use series and class (contract) identifiers in certain EDGAR submissions specified in the EDGAR Filer Manual. The series and class (or contract) identification would be added as a requirement to the EDGARLink header templates of certain investment company EDGAR submissions.

The proposals would also require certain current paper filings to be submitted electronically. Currently, investment companies must submit in paper filings under section 17(g),[77] sales literature filed with us under section 24(b),[78] and litigation material filed under section 33 of the Investment Company Act.[79] We recommend that the Commission propose to amend Rule 101 to make these submissions mandatory electronic submissions.

Finally, the proposals would modify Rule 102(d) of Regulation S–T regarding references to paper filings in the electronic filings' exhibit indices to require references to all exhibits filed in paper and make changes to Form SE to make it more useful (*e.g.*, identify the applicable rule in Regulation S–T allowing the exhibit to be filed in paper).

### *B. Legal Basis*

We are proposing amendments to Rules 11, 102, 201, and 311 of Regulation S–T and Forms SE and TH under the Securities Act, the Securities Exchange Act, the Public Utility Holding Company Act, the Trust Indenture Act, and the Investment Company Act, and are proposing new Rule 312 under Regulation S–T, pursuant to authority set forth in sections 6, 7, 8, 10 and 19(a) of the Securities Act (15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a)), sections 3, 12, 13, 14, 15(d), 23(a) and 35A of the Exchange Act (15 U.S.C.78c, 78l, 78m, 78n, 78o(d), 78w(a) and 7878ll), sections 3, 5, 6, 7, 10, 12, 13, 14, 17 and 20 of the Public Utility Holding Company Act (15 U.S.C. 79c, 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, and79t), section 319 of the Trust Indenture Act (15 U.S.C. 77sss), and sections 8, 30, 31 and 38 of the Investment Company Act (15 U.S.C. 80a–8, 80a–29, 80a–30, 80a–37).

### *C. Small Entities Subject to the Rule*

For purposed of the Regulatory Flexibility Act, an investment company is a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million of less as of the end of its most recent fiscal year.[80] Approximately 145 out of 5,025 investment companies registered on

[76] 17 CFR 239.17c and 274.11d.

[77] 15 U.S.C. 80a–17(g). See Release No. 33–6978 and Release No. 33–7241 at footnotes 26–32 and accompanying text.

[78] 15 U.S.C. 80a–24(b).

[79] 15 U.S.C. 80a–31.

[80] 17 CFR 270.0–10.

Form N–1A meet this definition.[81] We estimate that few, if any, separate accounts registered on Form N–3, N–4, or N–6 are small entities.[82]

*D. Reporting, Recordkeeping, and Other Compliance Requirements*

The proposed amendments would require S/C funds to include in their EDGAR filings identification of their series and classes (contracts). It would also require them to provide information concerning the type of investment company and information about the other party to a merger filing.

The Commission estimates some one-time formatting and on-going burdens that would be imposed on all funds, including funds that are small entities. We note, however, that funds currently must keep track of their series and classes (or contracts) and that the addition of a number assigned to each should create only a de minimus burden. We solicit comment on the effect the proposed amendments would have on small entities.

*E. Duplicative, Overlapping or Conflicting Federal Rules*

There are no rules that duplicate, overlap, or conflict with the proposed amendments.

*F. Significant Alternatives*

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small issuers. In connection with the proposed rules and rule and form amendments, the Commission considered the following alternatives: (i) The establishment of differing compliance or reporting requirements that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance and reporting requirements under the proposed amendments for small entities; (iii) the use of performance rather than design standards; and (iv) an exemption from coverage of the proposed amendments, or any part thereof, for small entities. The proposals would require S/C funds to include in their EDGAR filings identification of their series and classes (contracts). They would also require them to provide information concerning the type of investment company and information about the other party to a merger filing.

The Commission believes at the present time that special compliance or reporting requirements for small entities, or an exemption from coverage for small entities, would not be appropriate or consistent with investor protection. Different requirements for funds that are small entities may create the risk that the shareholders in these funds would not be as able as investors in larger funds to locate Commission filings and disclosure documents. We believe it is important that the benefits resulting from the be provided to investors in all investment companies, not just investors in investment companies that are not considered small entities.

We have endeavored through the proposed amendments to minimize the regulatory burden on all funds, including small entities, while meeting our regulatory objectives. Small entities should benefit form the Commission's reasoned approach to the proposed amendments to the same degree as other investment companies. Further clarification, consolidation, or simplification of the proposals for funds that are small entities would be inconsistent with the Commission's concern for investor protection. Finally, we do not consider using performance rather than design standards to be consistent with our statutory mandate of investor protection.

*G. Solicitation of Comments*

The Commission encourages the submission of written comments with respect to any aspect of this analysis. Comment is specifically requested on the number of small entities that would be affected by the proposed rules and rule and form amendments and the likely impact of the proposals on small entities. Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. These comments will be considered in the preparation of the Final Regulatory Flexibility Analysis if the proposed rules and rule and form amendments are adopted, and will be placed in the same public file as comments on the proposed amendments themselves. Comments may be submitted electronically or by paper. Electronic comments may be submitted by: (1) Electronic form on the SEC Web site *(http://www.sec.gov)* or (2) e-mail to *rule-comments@sec.gov*. Mail paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. All submissions should refer to file number S7–16–04; this file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. We do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**VIII. Paperwork Reduction Act**

The proposed rule amendments would affect two forms that contains ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995.[83] The title of the affected information collections are the EDGAR Forms SE and TH.

Form SE (OMB Control Number 3235–0327) is used by electronic filers to submit exhibits in paper to the extent permitted under Rules 201, 202 and 311 of Regulation S–T; Form TH (Control Number 3235–0425) is used by electronic filers to submit paper filings pursuant to a temporary hardship exemption to the extent permitted under Rule 201 under Regulation S–T.

Compliance with the proposed amendments would be mandatory. The information required by the proposed amendments would not be kept confidential. The above forms would not impose a retention period for any recordkeeping requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. We expect that, if adopted, the proposed amendments would obligate applicants to disclose on Forms SE and TH essentially the same information that they are required to disclose today. We therefore believe that the overall information collection burden of Forms SE and TH would remain approximately the same. As a result, we have not submitted the revisions to the collections of information to the Office of Management and Budget for review

[81] This estimate is based on analysis by the Division of Investment Management staff of information from databases compiled by third-party information providers, including Morningstar, Inc. and Lipper.

[82] This estimate is based on figures complied by the Division of Investment Management staff regarding separate accounts registered on Forms N–3, N–4, and N–6. In determining whether an insurance company separate account is a small entity for purposes of the Regulatory Flexibility Act, the assets of insurance company separate accounts are aggregated with the assets of their sponsoring insurance companies. Rule 0–10(b) under the Investment Company Act (17 CFR 270.0–10(b)).

[83] 44 U.S.C. 3501 *et seq.*

under 44 U.S.C. 3507(d) and 5 CFR 1320.11.

We are soliciting comment on the expected Paperwork Reduction Act effects of the proposed rule amendments. In particular, we solicit comment on the accuracy of our estimate that no additional burden would result from the proposed amendments. We further request comment on whether the proposed changes to the collection of information are necessary for the proper performance of the Commission's functions, including whether the additional information garnered would have practical utility. In addition, we solicit comment on whether there are ways to enhance the quality, utility, and clarity of the information to be collected. We further solicit comment on whether there are ways to minimize the burden of information collection on those applicants who file Forms SE and TH, including through the use of automated collection techniques or other forms of information technology. Finally, we solicit comment on whether the proposed amendments would have any effects on any other collection of information not previously identified in this section.

## IX. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996,[84] a rule is ''major'' if it results or is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumer of individual industries; or
- Significant adverse effects on competition, investment, or innovation.

We request comment on and information regarding the potential impact of the proposed amendments on the economy on an annual basis. In particular, comments should address whether the proposed changes, if adopted, would have a $100,000,000 annual effect on the economy, cause a major increase in costs or prices, or have a significant adverse effect on competition, investment, or innovation. We request commenters to empirical data to support their views.

## X. Statutory Basis

We propose the rule amendments outlined above under sections 6, 7, 8, 10 and 19(a) of the Securities Act, sections 3, 12, 13, 14, 15(d), 23(a) and 35A of the Exchange Act, sections 3, 5, 6, 7, 10, 12, 13, 14, 17 and 20 of the Public Utility Holding Company Act, section 319 of the Trust Indenture Act, and sections 8, 30, 31 and 38 of the Investment Company Act.

[84] Pub. L. 104–21, title II, 110 Stat. 857 (1996).

## List of Subjects

*17 CFR Part 232*

Administrative practice and procedure, Confidential business information, Reporting and recordkeeping requirements, Securities.

*17 CFR Part 239*

Reporting and recordkeeping requirements, Securities.

*17 CFR Part 249*

Brokers, Reporting and recordkeeping requirements, Securities.

*17 CFR Part 259*

Electric utilities, Holding companies, Reporting and recordkeeping requirements, Securities.

*17 CFR Part 269*

Securities, Trusts and trustees.

*17 CFR Part 270*

Confidential business information, Investment companies, Reporting and recordkeeping requirements, Securities.

*17 CFR Part 274*

Investment companies, Reporting and recordkeeping requirements, Securities.

## Text of the Proposed Rule and Form Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows.

## PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

1. The authority citation for Part 232 continues to read in part as follows:

**Authority:** 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll(d), 79t(a), 80a–8, 80a–29, 80a–30 and 80a–37.

* * * * *

2. Amend § 232.11 by revising the definition of ''official filing'' to read as follows:

### § 232.11 Definition of terms used in part 232.

* * * * *

*Official filing.* The term *official filing* means any filing that is received and accepted by the Commission, regardless of filing medium and exclusive of header information, tags and any other technical information required in an electronic filing; except that electronic identification of investment company type and inclusion of identifiers for series and class (or contract, in the case of separate accounts of insurance companies) as required by rule 312 of Regulation S–T (§ 232.312) are deemed part of the official filing.

* * * * *

3. Amend § 232.101 by revising paragraphs (a)(1)(iv) and (c)(7) to read as follows:

### § 232.101 Mandated electronic submissions and exceptions.

(a) * * *

(1) * * *

(iv) Documents filed with the Commission pursuant to sections 8, 17, 20, 23(c), 24(b), 24(e), 24(f), 30, and 33 of the Investment Company Act (15 U.S.C. 80a–8, 80a–17, 80a–20, 80a–23(c), 80a–24(b), 80a–24(e), 80a–24(f), 80a–29, and 80a–32); *provided, however* that submissions under section 6(c) of that Act (15 U.S.C. 80a–6(c)) and documents related to applications for exemptive relief under any section of that Act, shall not be made in electronic format;

* * * * *

(c) * * *

(7) Promotional and sales material submitted pursuant to Securities Act Industry Guide 5 (§ 229.801(e) of this chapter) or otherwise supplementally furnished for review by the staff of the Division of Corporation Finance;

* * * * *

4. Amend § 232.102 by revising paragraphs (d) and (e) to read as follows:

### § 232.102 Exhibits.

* * * * *

(d) Each electronic filing requiring exhibits must include an exhibit index which must immediately precede the exhibits filed with the document. The index must list each exhibit filed, whether filed electronically or in paper. Whenever a filer files an exhibit in paper pursuant to a temporary or continuing hardship exemption (§ 232.201 or § 232.202) or pursuant to rule 311 (§ 232.311), the filer must place the letter ''P'' next to the listed exhibit in the exhibit index of the electronic filing to reflect the fact that the filer filed the exhibit in paper. In addition, if the exhibit is filed in paper pursuant to rule 311 (§ 232.311), the filer must place the designation ''Rule 311'' next to the letter ''P'' in the exhibit index. If the exhibit is filed in paper pursuant to a temporary or continuing hardship exemption, the filer must place the letters ''TH'' or ''CH,'' respectively, next to the letter ''P'' in the exhibit index. Whenever an electronic confirming copy of an exhibit is filed pursuant to a hardship exemption (§ 232.201 or

§ 232.202(d)), the exhibit index should specify where the confirming electronic copy can be located; in addition, the designation ''CE'' (confirming electronic) should be placed next to the listed exhibit in the exhibit index.

(e) Notwithstanding the provisions of paragraphs (a) through (d) of this section, any incorporation by reference by a registered investment company or a business development company must relate only to documents that have been filed in electronic format on the EDGAR system, unless the document has been filed in paper under a hardship exemption (§ 232.201 or § 232.202) and any required confirming electronic copy has been submitted.

* * * * *

5. Amend § 232.201 by revising paragraph (a)(1), revising the note heading following paragraph (a)(4), and revising Note 1 to read as follows:

**§ 232.201 Temporary hardship exemption.**

(a) * * *

(1) An electronic imaged copy of the paper format document shall be the official filing for purposes of the federal securities laws.

* * * * *

*Notes to paragraph (a):*

1. Where a temporary hardship exemption relates to an exhibit only, the filer must file the paper format exhibit and a Form TH (§§ 239.65, 249.447, 259.604, 269.10 and 274.404 of this chapter) under cover of Form SE (§§ 239.64, 249.444, 259.603, 269.8, and 274.403 of this chapter).

* * * * *

6. Amend § 232.311 by revising paragraph (h)(1) to read as follows:

**§ 232.311 Documents submitted in paper under cover of Form SE.**

* * * * *

(h) * * *

(1) If the subject of a temporary hardship exemption is an exhibit only, the filer must file the exhibit and a Form TH (§§ 239.65, 249.447, 259.604, 269.10 and 274.404 of this chapter) under cover of Form SE (§§ 239.64, 249.444, 259.603, 269.8, and 274.403 of this chapter) no later than one business day after the date the exhibit was to be filed electronically.

* * * * *

7. Section 232.312 is added to read as follows:

**§ 232.312 Identification of investment company type and series and/or class (or contract).**

(a) Registered investment companies and business development companies must indicate their investment company type, based on whether the registrant's last effective registration statement or amendment was filed on Form N–1A (§§ 239.15A and 274.11A of this chapter), Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), Form N–3 (§§ 239.17A and 274.11b of this chapter), Form N–4 (§§ 239.17b and 274.11c of this chapter), Form N–5(§§ 239.24 and 274.5 of this chapter), Form N–6 (§§ 239.17c and 274.11d of this chapter), Form S–1 (§ 239.11 of this chapter), Form S–3 (§ 239.13 of this chapter), or Form S–6 (§ 239.16 of this chapter) in those EDGAR submissions identified in the EDGAR Filer Manual.

(b) Registered investment companies whose last effective registration statement or amendment was filed on Form N–1A (§§ 239.15A and 274.11A of this chapter), Form N–3 (§§ 239.17A and 274.11b of this chapter), Form N–4 (§§ 239.17b and 274.11c of this chapter), or Form N–6 (§§ 239.17c and 274.11d of this chapter) must, under the procedures set forth in the EDGAR Filer Manual:

(1) Provide electronically, and keep current, information concerning their existing and new series and/or classes (or contracts, in the case of separate accounts), including series and/or class name and ticker symbol, if any, and be issued series and/or class (or contract) identification numbers;

(2) Deactivate for EDGAR purposes any series and/or class (or contract, in the case of separate accounts) that are no longer offered, go out of existence, or deregister following the last filing for that series and/or class (or contract, in the case of separate accounts), but the registrant must not deactivate the last remaining series unless the registrant deregisters; and

(3) For those EDGAR submissions identified in the EDGAR Filer Manual, include all series and/or class (or contract) identifiers of each series and/or class (or contract) on behalf of which the filing is made.

(c) Registered investment companies whose last effective registration statement or amendment was filed on Form N–1A (§§ 239.15A and 274.11A of this chapter), Form N–3 (§§ 239.17A and 274.11b of this chapter), Form N–4 (§§ 239.17b and 274.11c of this chapter), or Form N–6 (§§ 239.17c and 274.11d of this chapter) must provide electronically, as specified in the EDGAR Filer Manual, in the EDGAR submission identifying information concerning the acquiring fund and the target fund (and the series and/or classes(es), if any, of each if in existence at the time of the filing) in connection with merger filings on Form N–14 (§ 239.23 of this chapter), under Securities Act rule 425 (§ 230.425 of this chapter), and in compliance with Regulation 14A (§ 240.14a–1 of this chapter), Schedule 14A (§ 240.14a–101 of this chapter), and all other applicable rules and regulations adopted pursuant to section 14(a) of the Exchange Act, as referenced in Investment Company Act rule 20a–1 (§ 270.20a–1 of this chapter).

(d) Non-registrant third party filers making proxy filings with respect to investment companies must designate in the EDGAR submission the type of investment company (as referenced in paragraph (a) of this section) and include series and/or class (or contract) identifiers in designated EDGAR proxy submission types, in accordance with the EDGAR Filer Manual.

## PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

8. The authority citation for Part 239 continues to read in part as follows:

**Authority:** 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78u–5, 78w(a), 78ll(d), 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, 79t, 80a–8, 80a–24, 80a–26, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

## PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

9. The authority citation for Part 249 continues to read in part as follows:

**Authority:** 15 U.S.C. 78a *et seq.* and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

## PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

10. The authority citation for Part 259 continues to read as follows:

**Authority:** 15 U.S.C. 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, 79t.

## PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

11. The authority citation for Part 269 continues to read as follows:

**Authority:** 15 U.S.C. 77ddd(c), 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77sss, 78ll(d), unless otherwise noted.

## PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

12. The authority citation for Part 270 continues to read in part as follows:

**Authority:** 15 U.S.C. 80a–1 *et seq.*, 80a–34(d), 80a–37, 80a–39, unless otherwise noted.

* * * * *

13. Section 270.24b–2 is revised to read as follows:

**§ 270.24b–2 Filing copies of sales literature.**

Copies of material filed with the Commission for the sole purpose of complying with section 24(b) of the Act (15 U.S.C. 80a–24(b)) either shall be accompanied by a letter of transmittal which makes appropriate references to said section or shall make such appropriate reference on the face of the material.

## PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

14. The authority citation for Part 274 continues to read in part as follows:

**Authority:** 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, and 80a–29, unless otherwise noted.

* * * * *

15. Revise Form SE (referenced in §§ 239.64, 249.444, 259.603, 269.8 and 274.403) to read as follows:

**Note**—The text of Form SE does not and this amendment will not appear in the Code of Federal Regulations.

**OMB APPROVAL**

OMB Number: 3235–xxxx
Expires: xxxxxxxxxxxxxxxx
Estimated average burden hours per response: xxxx

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION, Washington, DC**

**FORM SE—FORM FOR SUBMISSION OF PAPER FORMAT EXHIBITS BY EDGAR ELECTRONIC FILERS**

_____
Exact name of registrant as specified in charter

_____
Registrant CIK Number

_____
Electronic report, schedule or registration statement

_____
SEC filer number,
of which the documents are a part if available

_____
S–

_____
(Series identifier(s) and names(s), if applicable; add more lines as needed)
C–

_____
(Class identifier(s) and names(s), if applicable; add more lines as needed)

_____
Report period (if applicable)

_____
Name of person filing this exhibit (if other than the registrant)

Identify the provision of Regulation S–T (§ 232 of this chapter) under which this exhibit is being filed in paper (check only one):

_____
Rule 201 (Temporary Hardship Exemption)

_____
Rule 202 (Continuing Hardship Exemption)

_____
Rule 311 (Permitted Paper Exhibit)

*SIGNATURES*

Filings Made by the Registrant:

The registrant has duly caused this form to be signed on its behalf by the undersigned, duly authorized, in the City of _____, State of _____, on _____ 20 _____.

_____
Registrant
By:

_____
(Name)

_____
(Title)

Filings Made by Person Other than the Registrant:

After reasonable inquiry and to the best of my knowledge and belief, I certify on _____ 20 _____, that the information set forth in this statement is true and complete.

By:

_____
(Name)

_____
(Title)

**FORM SE—GENERAL INSTRUCTIONS**

*1. Rule as to Use of Form SE.*

A. Electronic filers must use this form to submit any paper format exhibit under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, or the Investment Company Act of 1940, *provided that* the submission of such exhibit in paper is permitted under Rule 201, 202, or 311 of Regulation S–T (§ 232.201, 232.202, or 232.311 of this chapter).

B. Electronic filers are subject to Regulation S–T (Part 232 of this chapter) and the EDGAR Filer Manual. We direct your attention to the General Rules and Regulations under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the electronic filing rules and regulations under these Acts.

*2. Preparation of Form SE.*

Submit in paper format four complete copies of both the Form SE and the exhibit filed under cover of the Form SE.

*3. Filing of Form SE*

A. If you are filing the exhibit under a temporary hardship exemption, submit the exhibit and a Form TH (§§ 239.65, 249.447, 259.604, 269.10 and 274.404 of this chapter) under cover of this Form SE no later than one business day after the date on which the exhibit was to have been filed electronically. See Rule 201 of Regulation S–T (§ 232.201 of this chapter).

B. If you are filing the exhibit under a continuing hardship exemption under Rule 202 of Regulation S–T, or as allowed by Rule 311 of Regulation S–T, you may file the exhibit in paper under cover of Form SE up to six business days before or on the date of filing of the electronic format document to which it relates; you may not file the exhibit after the filing date of the electronic document to which it relates. Exhibits filed under a continuing hardship exemption must include the legend required by Rule 202(c). If you submit the paper exhibit in this manner, you will have satisfied any requirements that you file the exhibit with, provide the document with, or have the document accompany the electronic filing. This instruction does not affect any requirement that you deliver or furnish the information in the exhibit to persons other than the Commission.

C. Identify the exhibit being filed. Attach to the Form SE the paper format exhibit and an exhibit index if required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

*4. Signatures*

A. Submit one copy signed by each person on whose behalf you are submitting the form or by that person's authorized representative. If the form is signed by the authorized representative of a person (other than an executive officer or general partner), file with the form the evidence of the authority of the representative to sign on behalf of such person, except that you may incorporate by reference a power of attorney for this purpose that is already on file with the Commission.

B. Signatures may be in typed form rather than manual format.

16. Revise Form TH (referenced in §§ 239.65, 249.447, 259.604, 269.10 and 274.404 of this chapter) to read as follows:

**Note**—The text of Form TH does not and this amendment will not appear in the Code of Federal Regulations.

**OMB APPROVAL**

OMB Number: 3235–xxxx
Expires: xxxxxxxxxxxxxxxx
Estimated average burden hours per response: xxxx

**United States Securities and Exchange Commission, Washington, DC**

**Form TH—Notification of Reliance on Temporary Hardship Exemption**

_____
Report, schedule or registration statement to which the hardship exemption relates (give period of report, if applicable)

_____
SEC file number(s) under which filing made (Required, if assigned)

_____
CIK of filer or subject company CIK, as applicable

_____
Name of Filer or subject company, as applicable

_____
Filed-by CIK (for subject company filings only)

_____
Name of ''filed-by'' entity (for subject company filings only)

_____
S–

_____
(Series identifier(s) and names(s), if applicable; add more lines as needed)
C–

_____
(Class identifier(s) and names(s), if applicable; add more lines as needed)

*Part I—Filer Information*

_____
Full Name of Filer

_____
Address of Principal Office

_____
Street and Number

_____
City, State, and Postal Code; Country, if other than US

*Part II—Information Relating to the Hardship*

Furnish the following information:

1. A description of the nature and extent of the temporary technical difficulties experienced by the electronic filer in attempting to submit the document in electronic format.

2. A description of the extent to which the electronic filer has successfully submitted documents previously in electronic format with the same hardware and software, in test of required filings.

3. A description of the burden and expense involved to employ alternative means to submit the electronic submission in a timely manner.

Any other reasons an exemption is warranted.

*Part III—Representation of Intent to Submit Confirming Electronic Copy*

The filer shall include a representation that it shall cause to be filed a confirming electronic copy of the document file in paper under cover of the Form TH and that its filing will be in accordance with Rule 201(b) of Regulation S–T (232.201(b)) and appropriately designated as a ''confirming electronic copy'' in accordance with the requirements of the EDGAR Filer Manual.

*Part IV—Contact Person*

Name, telephone number, and e-mail address of person to contact in regard to this filing under Form TH:
Name _____
(Area code) (_____)
Phone number _____
e-mail address _____

*Part V—Signature*

_____
Name of Filer (if registrant, name as it appears in charter) has caused this Form TH to be signed on its behalf by the undersigned, being duly authorized:

Date: _____
By: _____

*Instruction:* This form my be signed by an executive officer of the registrant or by any other duly authorized representative.

**General Instructions**

1. Rule 201(a) of Regulation S–T requires an electronic filer relying on a temporary hardship exemption to file this Form TH in addition to filing a paper copy of a document otherwise required to be filed in electronic format.

2. Four signed copies of this Form TH must accompany the paper format document being filed pursuant to Rule 201; filers must file under Form TH within one business day after the date upon which the filer was originally to file the document electronically.

3. Signatures to the paper format document being filed with Form TH may be in typed form rather than in manual format. See Rule 302 of Regulation S–T (§ 232.302 of this chapter). Filers must satisfy all other requirements relating to paper format filings, including number of copies to be filed.

By the Commission.

Dated: March 16, 2004.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 04–6404 Filed 3–22–04; 8:45 am]

BILLING CODE 8010–01–P

Federal Register

Tuesday,
March 23, 2004

# Part V

# The President

## Proclamation 7763—National Poison Prevention Week, 2004

Federal Register
Vol. 69, No. 56
Tuesday, March 23, 2004

# Presidential Documents

**Title 3—**

## The President

**Proclamation 7763 of March 19, 2004**

## National Poison Prevention Week, 2004

**By the President of the United States of America**

**A Proclamation**

Each year, approximately 1 million calls to poison control centers are made because children may have ingested harmful substances. The National Poison Prevention Week Council organizes activities annually to raise awareness of the danger of unintentional poisoning and to educate adults about how to avoid and handle these emergencies.

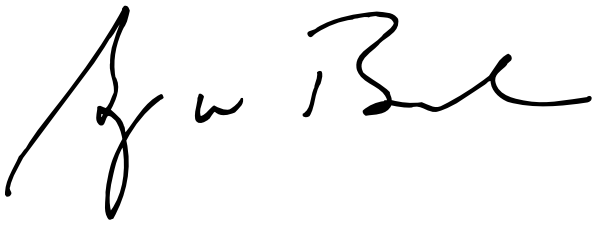
Since the first National Poison Prevention Week in 1962, our Nation has taken important steps to protect children from consuming inappropriate medicines or household chemicals by heightening awareness, supporting poison control centers, and improving packaging. In December, I signed the Poison Control Center Enhancement and Awareness Act Amendments of 2003 to provide assistance for poison prevention programs and to stabilize the funding of regional poison control centers. This measure supports those who are working to reduce poisonings in America and to improve the safety and health of all Americans.

The Consumer Product Safety Commission requires child-resistant packaging for certain toxic medicines and chemicals. Because packaging is never completely child-proof, adults should also lock medicines and chemicals out of the reach of children.

To encourage Americans to learn more about the dangers of accidental poisonings and to take appropriate preventive measures, the Congress, by joint resolution approved September 26, 1961, as amended (75 Stat. 681), has authorized and requested the President to issue a proclamation designating the third week of March each year as ''National Poison Prevention Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim March 21 through March 27, 2004, as National Poison Prevention Week. I call upon all Americans to observe this week by participating in appropriate activities and by learning how to prevent poisonings among children.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of March, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-eighth.



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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Acquisition regulations:
- Buy-to-budget acquisition of end items; published 3-23-04
- Multiyear contracting authority revisions; published 3-23-04
- Task and delivery order contracts; contract period; published 3-23-04

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Food and Drug Administration**

Administrative practice and procedures:
- Center for Drug Evaluation and Research's Central Document Room; address change; published 3-23-04

## COMMENTS DUE NEXT WEEK

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**Agricultural Marketing Service**

Milk marketing orders:
- Western; comments due by 4-1-04; published 10-31-03 [FR 03-27414]

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Endangered Species Act:
- Joint counterpart consultation regulations; comments due by 3-30-04; published 1-30-04 [FR 04-01963]

Fishery conservation and management:
- Northeastern United States fisheries—
  - Atlantic sea scallop; comments due by 3-29-04; published 2-26-04 [FR 04-04019]
- Northeastern United States fisheries—
  - Spiny dogfish; comments due by 4-2-04; published 3-18-04 [FR 04-06129]

**COMMODITY FUTURES TRADING COMMISSION**

Consumer financial information privacy:
- Gramm-Leach-Bliley Act—
  - Privacy notices, alternative forms; interagency consideration; comments due by 3-29-04; published 12-30-03 [FR 03-31992]

**CONSUMER PRODUCT SAFETY COMMISSION**

Regulatory Review Program; systematic review of Commission regulations; pilot project; comments due by 3-29-04; published 1-28-04 [FR 04-01744]

**COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA**

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

**DEFENSE DEPARTMENT**

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- Electronic representations and certifications; comments due by 3-29-04; published 1-27-04 [FR 04-01512]
- Training and education cost principle; comments due by 3-29-04; published 1-29-04 [FR 04-01876]
- Transportation; standard industry practices; comments due by 3-29-04; published 1-27-04 [FR 04-01507]

Military justice:
- Criminal jurisdiction over civilians employed by or accompanying the Armed Forces outside the United States, certain and former service members; comments due by 4-2-04; published 2-2-04 [FR 04-01868]

**ENERGY DEPARTMENT**

**Federal Energy Regulatory Commission**

Electric rate and corporate regulation filings:
- Virginia Electric & Power Co. et al.; Open for comments until further notice; published 10-1-03 [FR 03-24818]

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- Texas; comments due by 4-1-04; published 3-2-04 [FR 04-04625]

Environmental statements; availability, etc.:
- Coastal nonpoint pollution control program—
  - Minnesota and Texas; Open for comments until further notice; published 10-16-03 [FR 03-26087]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
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- Lactic acid, n-butyl ester, etc.; comments due by 3-29-04; published 1-28-04 [FR 04-01447]

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  - Enhanced 911 requirements; expansion; comments due by 3-29-04; published 2-11-04 [FR 04-02125]

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- California; comments due by 4-1-04; published 2-24-04 [FR 04-03963]
- Nevada and Arizona; comments due by 4-1-04; published 2-24-04 [FR 04-03966]

**FEDERAL DEPOSIT INSURANCE CORPORATION**

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- Gramm-Leach-Bliley Act—
  - Privacy notices, alternative forms; interagency consideration; comments due by 3-29-04; published 12-30-03 [FR 03-31992]

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- Gramm-Leach-Bliley Act—
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**NATIONAL CREDIT UNION ADMINISTRATION**
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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

**H.R. 506/P.L. 108–208**
Galisteo Basin Archaeological Sites Protection Act (Mar. 19, 2004; 118 Stat. 558)

**H.R. 2059/P.L. 108–209**

Fort Bayard National Historic Landmark Act (Mar. 19, 2004; 118 Stat. 562)

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