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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV05–916–1 IFR]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the handling requirements for California nectarines and peaches by modifying the grade, size, maturity, and pack requirements for fresh shipments of these fruits, beginning with 2005 season shipments. This rule also authorizes continued shipments of ''CA Utility'' quality nectarines and peaches, and revises weight-count standards for fruit in volume-filled containers. The marketing orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committees (committees). This rule will enable handlers to continue to ship fresh nectarines and peaches in a manner that meets consumer needs, increases returns to producers and handlers, and reflects current industry practices.

DATES: Effective April 1, 2005. Comments received by May 31, 2005, will be considered prior to issuance of any final rule.

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

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

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement Nos. 124 and 85, and Marketing Order Nos. 916 and 917 (7 CFR parts 916 and 917) regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the ''orders.'' The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

Under the orders, grade, size, maturity, pack and container requirements are established for fresh shipments of California nectarines and peaches. Such requirements are in effect on a continuing basis. The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC), which are responsible for local administration of the orders, met on December 7, 2004, and unanimously recommended that these handling requirements be revised for the 2005 season, which begins about the first or second week of April. The changes: (1) Revise varietal maturity, quality, and size requirements to better reflect current industry practices; (2) authorize continued shipments of ''CA Utility'' quality fruit during the 2005 season; and (3) adjust weight-count standards for fruit packed in volume-filled containers.

The committees meet prior to and during each season to review the rules and regulations effective on a continuing basis for California nectarines and peaches under the orders. Committee meetings are open to the public and interested persons are encouraged to express their views at these meetings. The committees held such meetings on December 7, 2004. USDA reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

No official crop estimate was available at the time of the committees' meetings because the nectarine and

peach trees were dormant. The committees will recommend a crop estimate at their meetings in early spring. However, preliminary estimates indicate that the 2005 crop will be slightly larger than the 2004 crop, which totaled approximately 19,904,500 containers of nectarines and 20,518,400 containers of peaches.

Grade and Quality Requirements

Sections 916.52 and 917.41 of the orders authorize the establishment of grade and quality requirements for nectarines and peaches, respectively. Prior to the 1996 season, § 916.356 required nectarines to meet a modified U.S. No. 1 grade. Specifically, nectarines were required to meet U.S. No. 1 grade requirements, except for a slightly tighter requirement for scarring and a more liberal allowance for misshapen fruit. Prior to the 1996 season, § 917.459 required peaches to meet the requirements of a U.S. No. 1 grade, except for a more liberal allowance for open sutures that were not ''serious damage.''

This rule revises §§ 916.350, 916.356, 917.442, and 917.459 to permit continued shipments of nectarines and peaches meeting ''CA Utility'' quality requirements during the 2005 season. (''CA Utility'' fruit is lower in quality than that meeting the modified U.S. No. 1 grade requirements.) Shipments of nectarines and peaches meeting ''CA Utility'' quality requirements have been permitted each season since 1996.

Studies conducted by the NAC and PCC in 1996 indicated that some consumers, retailers, and foreign importers found the lower-quality fruit acceptable in some markets. When shipments of ''CA Utility'' nectarines were first permitted in 1996, they represented 1.1 percent of all nectarine shipments, or approximately 210,000 containers. Shipments of ''CA Utility'' nectarines reached a high of 6 percent (1,408,362 containers) during the 2003 season.

Shipments of ''CA Utility'' peaches totaled 1.9 percent of all peach shipments, or approximately 366,000 containers, during the 1996 season. Shipments of ''CA Utility'' peaches reached a high of 5.6 percent of all peach shipments (1,231,000 containers) during the 2002 season.

Handlers have commented that the availability of the ''CA Utility'' quality option lends flexibility to their packing operations. They have noted that they now have the opportunity to remove marginal nectarines and peaches from their U.S. No. 1 containers and place this fruit in containers of ''CA Utility.'' This flexibility, the handlers note, results in better quality U.S. No. 1 packs without sacrificing fruit.

The Tree Fruit Quality Subcommittee met on November 30, 2004, and recommended unanimously to the NAC and PCC to continue shipments of ''CA Utility'' quality nectarines and peaches. Subsequently, the NAC and PCC voted unanimously at their December 7, 2004, meetings to authorize continued shipments of ''CA Utility'' quality fruit during the 2005 season.

Accordingly, based upon the recommendations, paragraph (d) of §§ 916.350 and 917.442, and paragraph (a)(1) of §§ 916.356 and 917.459 are revised to permit shipments of nectarines and peaches meeting ''CA Utility'' quality requirements during the 2005 season, on the same basis as shipments since the 2000 season.

Maturity Requirements

In §§ 916.52 and 917.41, authority is also provided to establish maturity requirements for nectarines and peaches, respectively. The minimum maturity level currently specified for nectarines and peaches is ''mature'' as defined in the standards. For most varieties, ''well-matured'' determinations for nectarines and peaches are made using maturity guides (*e.g.*, color chips, along with other maturity tests as applied by the inspection service). These maturity guides are reviewed each year by the Shipping Point Inspection Service (SPI) to determine whether they need to be changed, based upon the most-recent information available on the individual characteristics of each nectarine and peach variety.

These maturity guides established under the handling regulations of the California tree fruit marketing orders have been codified in the Code of Federal Regulations as Table 1 in §§ 916.356 and 917.459, for nectarines and peaches, respectively.

The requirements in the 2005 handling regulations are the same as those that appeared in the 2004 handling regulations with a few exceptions. Those exceptions are explained in this rule.

Nectarines: Requirements for ''well-matured'' nectarines are specified in § 916.356 of the order's rules and regulations. This rule revises Table 1 of paragraph (a)(1)(iv) of § 916.356 to add maturity guides for eleven varieties of nectarines. Specifically, SPI recommended adding maturity guides for the Crimson Baby variety to be regulated at the G maturity guide; for the Alta Red, Grand Candy, Kay Glo, Kay Sweet, Red Roy and Shay Sweet varieties at the J maturity guide; and for the August Fire, Candy Gold, Prince Jim I and Sugar Queen varieties to be regulated at the L maturity guide.

The NAC recommended these maturity guide requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well-matured'' level of maturity for nectarine varieties in production.

Peaches: Requirements for ''well-matured'' peaches are specified in § 917.459 of the order's rules and regulations. This rule revises Table 1 of paragraph (a)(1)(iv) of § 917.459 to add maturity guides for six peach varieties. Specifically, SPI recommended adding maturity guides for the Island Princess variety to be regulated at the H maturity guide; the Bev's Red variety to be regulated at the I maturity guide; and the Prima Peach IV, Spring Gem, Sweet Amber, and Zee Diamond varieties to be regulated at the J maturity guide.

The NAC also recommended adding the Burpeachtwo (Henry II®) variety to the table for regulation at the J maturity guide, but that variety had already been added to the table for regulation at the J maturity guide in 2004 (7 July 2004, 69 FR 41120). Therefore, only six varieties are being added at this time. Table 1 of paragraph (a)(1)(iv) of § 917.459 will be revised to reflect these recommendations.

The NAC and PCC recommended these maturity guide requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well-matured'' level of maturity for nectarine and peach varieties in production.

Size Requirements

Both orders provide authority (in §§ 916.52 and 917.41) to establish size requirements. Size regulations encourage producers to leave fruit on the tree longer, which improves both size and maturity of the fruit. Acceptable fruit size provides greater consumer satisfaction and promotes repeat purchases, and, therefore, increases returns to producers and handlers. In addition, increased fruit size results in increased numbers of packed containers of nectarines and peaches per acre, also a benefit to producers and handlers.

Varieties recommended for specific size regulations have been reviewed and such recommendations are based on the specific characteristics of each variety. The NAC and PCC conduct studies each season on the range of sizes attained by the regulated varieties and those

varieties with the potential to become regulated, and determine whether revisions to the size requirements are appropriate.

Nectarines: Section 916.356 of the order's rules and regulations specifies minimum size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule revises § 916.356 to establish variety-specific minimum size requirements for nine varieties of nectarines that were produced in commercially significant quantities of more than 10,000 containers for the first time during the 2004 season. This rule also removes the variety-specific minimum size requirements for fifteen varieties of nectarines whose shipments fell below 5,000 containers during the 2004 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the La Pinta variety of nectarines, recommended for regulation at a minimum size 80. Studies of the size ranges attained by the La Pinta variety revealed that 100 percent of the containers met the minimum size of 80 during the 2001, 2002, and 2003 seasons. Sizes ranged from size 30 to size 80, with 4.9 percent of the fruit in the 30 sizes, 34.3 percent of the packages in the 40 sizes, 41.1 percent in the 50 sizes, 19.5 percent in the 60 sizes, 0.2 percent in the 70 sizes and 0 percent in the size 80, for the 2003 season. However, the fruit sized down to the 80 sizes during the two previous seasons, and setting the minimum size at size 70 would not be appropriate at this time.

A review of other varieties with the same harvesting period indicated that the La Pinta variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to handle the variety confirm this information regarding minimum size and harvesting period, as well. Thus, the recommendation to place the La Pinta variety in the variety-specific minimum size regulation at a minimum size 80 is appropriate. This recommendation results from size studies conducted over a three-year period.

Historical data such as this provides the NAC with the information necessary to recommend the appropriate sizes at which to regulate various nectarine varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both NAC and subcommittee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, the introductory text of paragraph (a)(3) of § 916.356 is revised to include the Red Jewel and Zee Fire varieties; the introductory text of paragraph (a)(4) of § 916.356 is revised to include the Diamond Pearl and Kay Fire varieties; and the introductory text of paragraph (a)(6) of § 916.356 is revised to include the Burnectfour (Summer Flare ® 35), Burnectseven (Summer Flare ® 28), Honey Dew, La Pinta and Mike's Red nectarine varieties.

This rule also revises the introductory text of paragraphs (a)(3), (a)(4), (a)(5) and (a)(6) of § 916.356 to remove fifteen varieties from the variety-specific minimum size requirements specified in these paragraphs because less than 5,000 containers of each of these varieties were produced during the 2004 season. Specifically, the introductory text of paragraph (a)(3) of § 916.356 is revised to remove the May Kist nectarine variety; the introductory text of paragraph (a)(4) of § 916.356 is revised to remove the Sparkling May and White Sun nectarine varieties; the introductory text of paragraph (a)(5) is revised to remove the Red May nectarine variety; and the introductory text of paragraph (a)(6) of § 916.356 is revised to remove the Candy Sweet, Flame Glo, Grand Diamond, June Lion, King Jim, Ruby Bright, Scarlet Red, Summer Jewel, Sunny Red, Sweet White and White September nectarine varieties.

Nectarine varieties removed from the nectarine variety-specific minimum size requirements become subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356.

Peaches: Section 917.459 of the order's rules and regulations specifies minimum size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule revises § 917.459 to establish variety-specific minimum size requirements for thirteen peach varieties that were produced in commercially significant quantities of more than 10,000 containers for the first time during the 2004 season. This rule also removes the variety-specific minimum size requirements for ten varieties of peaches whose shipments fell below 5,000 containers during the 2004 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the Ivory Queen variety of peaches, which was recommended for regulation at a minimum size 80. Studies of the size ranges attained by the Ivory Queen variety revealed that 100 percent of the containers met the minimum size of 80 during the 2002 and 2003 seasons. The sizes ranged from size 30 to size 80, with 0.3 percent of the containers meeting the size 30, 36.1 percent meeting the size 40, 47.7 percent meeting the size 50, 13.1 percent meeting the size 60, 2.2 percent meeting the size 70 and 0.5 percent meeting the size 80 in the 2003 season.

A review of other varieties with the same harvesting period indicated that the Ivory Queen variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to pack the variety confirm this information regarding minimum size and the harvesting period, as well. Thus, the recommendation to place the Ivory Queen variety in the variety-specific minimum size regulation at a minimum size 80 is appropriate. Although most other size recommendations for peaches result from size studies conducted over a three-year period, data on the Ivory Queen variety for earlier years is not available because the plantings of this variety did not bear fruit before 2002. Unusually large plantings of the Ivory Queen variety led to the rapid production of over 10,000 containers in just two years, and indicated inclusion in the variety-specific minimum size requirements.

Historical data such as this provides the PCC with the information necessary to recommend the appropriate sizes at which to regulate various peach varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both PCC and subcommittee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, the introductory text of paragraph (a)(2) of § 917.459 is revised to include the April Snow and Sugar Snow peach varieties; the introductory text of paragraph (a)(5) of § 917.459 is revised to include the Ivory Queen peach variety; and the introductory text of paragraph (a)(6) of § 917.459 is revised to include the Autumn Rich, Cherry Red, Crimson Queen, Early O'Henry, Henry III, Henry IV, Last Tango, Ruby Queen, Sierra Rich and 244LE379 peach varieties.

This rule also revises the introductory text of paragraph (a)(5) of § 917.459 to remove the Redtop, Sugar May and 172LE White Peach (Crimson Snow/Sunny Snow) peach varieties; and revises the introductory paragraph (a)(6)

of § 917.459 to remove the Autumn Fire, Fairtime, June Pride, Late September Snow, Queen Lady, Ruby Gold and Sugar Red peach varieties from the variety-specific minimum size requirements specified in the section because less than 5,000 containers of each of these varieties was produced during the 2004 season.

Peach varieties removed from the peach variety-specific minimum size requirements become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

The NAC and PCC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine and peach varieties, and the consumer acceptance levels for various fruit sizes. This rule is designed to establish minimum size requirements for fresh nectarines and peaches consistent with expected crop and market conditions.

Weight-Count Standards

Under the provisions of §§ 916.52 and 917.41 of the orders, the NAC and PCC, respectively, are also authorized to establish weight-count standards for packed containers of fruit. These standards define a maximum number of peaches in a 16-pound sample when such fruit, which may be packed in tray-packed containers, is converted to volume-filled containers. In §§ 916.350 and 917.442 of the orders' rules and regulations, weight-count standards are established for all varieties of nectarines and peaches (except the Peento type peaches), in TABLES 1 and 2 of paragraph (a)(5)(iv).

Weight-count standards differ for fruit packed early in the season and that packed later. Earlier fruit tends to be less dense than later fruit. While the earlier fruit sizes are adequate to fill the tray cavities in tray-packed containers, more pieces of fruit are required to meet the 16-pound sample standard for volume-filled fruit. The NAC and PCC routinely conduct tests to determine the optimum weight-count standards for early, mid-season and late-season fruit. Occasionally, adjustments are made to the weight-count standards to ensure equivalence between the pack styles and permit handlers to more easily convert tray-packed fruit to volume-filled containers.

Weight-count standards have also differed between nectarine and peaches historically because of the difference in shape between the two commodities. However, continued breeding of the two fruits has resulted in more uniformity of shape and size between the two. In response to consumer needs, handlers have sought a more generic sizing system to apply to both nectarines and peaches.

Finally, the industry has recently adopted a new packing container with dimensions different from those previously used. Conforming changes to the trays used to pack the fruit into the new containers resulted in reductions in cavity sizes in some cases to accommodate the same fruit counts as in the old containers. This led to a wider discrepancy between the sizes of fruit packed in both pack styles throughout the season.

In an effort to provide a more generic sizing of the two commodities, to smooth the transition from early-season to mid-season and late-season fruit sizes, and to standardize the conversion from tray-packing to volume-filling fruit, the committees' staff conducted weight-count surveys during the 2004 packing season. With the data collected, they were able to determine the most optimum weight-counts for containers of volume-filled nectarines and peaches of various fruit sizes throughout the season, given the new containers and trays. The committees' staff prepared new weight-count tables, which were reviewed by the Size Nomenclature Review Group at their meetings on September 3 and September 21, 2004, and by the Tree Fruit Quality Subcommittee at their meetings on September 13, November 9, and November 30, 2004. At their meetings on December 7, 2004, both the NAC and PCC unanimously recommended revision of the weight-count standards tables in the orders' rules and regulations to reflect the staff's findings.

Nectarines: This rule revises Tables 1 and 2 of paragraph (a)(5)(iv) of § 916.350. Such revisions require conforming modifications to the text of § 916.356, paragraphs (a)(4)(ii), (a)(6)(ii), (a)(8)(ii), and (a)(9)(ii) by increasing the maximum number of nectarines in a 16-pound sample for the sizes regulated in those paragraphs.

Peaches: Similarly, this rule revises Tables 1 and 2 of paragraph (a)(5)(iv) of § 917.442 to reflect the staff's study findings. Additionally, two new weight-count standards for peaches are added to the tables. These two new standards are for large sizes previously without weight-count assignments, and were determined from the data collected.

Such revisions require conforming modifications to the text of § 917.459, paragraph (a)(5)(iii), increasing the maximum number of peaches in a 16-pound sample for the size regulated in that paragraph.

This rule reflects the committees' and USDA's appraisal of the need to revise the handling requirements for California nectarines and peaches, as specified. USDA believes that this rule will have a beneficial impact on producers, handlers, and consumers of fresh California nectarines and peaches.

This rule establishes handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season will meet acceptable handling requirements established under each of these orders. The changes: (1) Revise varietal maturity, quality, and size requirements to better reflect current industry practices; (2) authorize continued shipments of ''CA Utility'' quality fruit during the 2005 season; and (3) adjust weight-count standards for fruit packed in volume-filled containers. This rule will also help the California nectarine and peach industries to provide fruit desired by consumers. This rule was unanimously recommended by the committees at their meetings on December 7, 2004, and is designed to establish and maintain orderly marketing conditions for these fruits in the interests of producers, handlers, and consumers.

Initial Regulatory Flexibility Analysis

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

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

Industry Information

There are approximately 207 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,500 producers of these fruits in California. Small agricultural service firms, which include handlers, are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than $5,000,000. Small agricultural producers are defined by

the Small Business Administration as those having annual receipts of less than $750,000. A majority of these handlers and producers may be classified as small entities.

The committees' staff has estimated that there are fewer than 26 handlers in the industry who could be defined as other than small entities. For the 2004 season, the committees' staff estimated that the average handler price received was $8.00 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 625,000 containers to have annual receipts of $5,000,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2004 season, the committees' staff estimates that small handlers represent approximately 87 percent of all the handlers within the industry.

The committees' staff has also estimated that fewer than 20 percent of the producers in the industry could be defined as other than small entities. For the 2004 season, the committees estimated the average producer price received was $5.00 per container or container equivalent for nectarines and peaches. A producer would have to produce at least 150,000 containers of nectarines and peaches to have annual receipts of $750,000. Given data maintained by the committees' staff and the average producer price received during the 2004 season, the committees' staff estimates that small producers represent more than 80 percent of the producers within the industry.

With an average producer price of $5.00 per container or container equivalent, and a combined packout of nectarines and peaches of approximately 40,422,900 containers, the value of the 2004 packout is estimated to be $202,114,500. Dividing this total estimated grower revenue figure by the estimated number of producers (1,500) yields an estimate of average revenue per producer of about $134,743 from the sales of peaches and nectarines.

Regulatory Revisions

Under §§ 916.52 and 917.41 of the orders, grade, size, maturity, container and pack requirements are established for fresh shipments of California nectarines and peaches, respectively. Such requirements are in effect on a continuing basis. The NAC and PCC met on December 7, 2004, and unanimously recommended that these handling requirements be revised for the 2005 season. These recommendations had been presented to the committees by various subcommittees, each charged with review and discussion of the changes. The changes: (1) Authorize shipments of ''CA Utility'' quality fruit to continue during the 2005 season; (2) adjust weight-count standards for fruit in volume filled containers; and (3) revise varietal maturity, quality, and size requirements to reflect changes in production and marketing practices.

Grade and Quality Requirements—Discussions and Alternatives

In 1996, §§ 916.350 and 917.442 were revised to permit shipments of ''CA Utility'' quality nectarines and peaches as an experiment during the 1996 season only. Such shipments have subsequently been permitted each season. Since 1996, shipments of ''CA Utility'' have ranged from 1 to 5 percent of total nectarine and peach shipments. This rule authorizes continued shipments of ''CA Utility'' quality nectarines and peaches during the 2005 season.

The Tree Fruit Quality Subcommittee met on November 30, 2004, and unanimously agreed that the ''CA Utility'' quality requirements that are currently in place should be continued. The NAC and PCC also unanimously recommended such continuation at their meetings on December 7, 2004, and have done so continuously since such shipments were first authorized in 1996.

Minimum Maturity and Size Levels—Discussions and Alternatives

Sections 916.356 and 917.459 establish minimum maturity levels. This rule makes annual adjustments to the maturity requirements for several varieties of nectarines and peaches. Maturity requirements are based on maturity measurements generally using maturity guides (*e.g.*, color chips), as recommended by Shipping Point Inspection. Such maturity guides are reviewed annually by SPI to determine the appropriate guide for each nectarine and peach variety. These annual adjustments reflect refinements in measurements of the maturity characteristics of nectarines and peaches as experienced over previous seasons' inspections. Adjustments in the guides utilized ensure that fruit has met an acceptable level of maturity, ensuring consumer satisfaction while benefiting nectarine and peach producers and handlers.

Currently, in § 916.356 of the nectarine order's rules and regulations, and in § 917.459 of the peach order's rules and regulations, minimum sizes for various varieties of nectarines and peaches, respectively, are established. This rule makes adjustments to the minimum sizes authorized for various varieties of nectarines and peaches for the 2005 season. Minimum size regulations are put in place to encourage producers to leave fruit on the trees for a longer period of time. This increased growing time not only improves maturity, but also increases fruit size. Increased fruit size increases the number of packed containers per acre, and coupled with heightened maturity levels, also provides greater consumer satisfaction, fostering repeat purchases. Such improved consumer satisfaction and repeat purchases benefit both producers and handlers alike.

Annual adjustments to minimum sizes of nectarines and peaches, such as these, are recommended by the NAC and PCC based upon historical data, producer and handler information regarding sizes attained by different varieties, and trends in consumer purchases.

An alternative to such action would include not establishing minimum size regulations for these new varieties. Such an action would ultimately increase the amount of less acceptable fruit being marketed to consumers, and would be contrary to the long-term interests of producers, handlers, and consumers. For these reasons, this alternative was not recommended.

Weight-Count Standards—Discussions and Alternatives

Sections 916.350 and 917.442 also establish weight-count standards for fruit packed in volume-filled containers. These standards define a maximum number of peaches in a 16-pound sample when such fruit, which may be packed in tray-packed containers, is converted to volume-filled containers.

Industry-wide adoption of a new container led to the reconfiguration of the trays commonly used in packing tray-packed containers. Some of the tray cavity sizes were modified to conform to the dimensions of the new container. These modifications resulted in slightly smaller fruit being packed into some sizes, which led to an unacceptable discrepancy between the sizes of fruit packed in volume-filled containers and that in tray-packed containers.

Additionally, the difference in density between early-season and mid-season to late-season fruit causes an abrupt change in sizes during the seasonal transition. Handlers have reported that marketing through that period is difficult because of the discrepancy between sizes of earlier fruit and later fruit, and have sought a modified sizing method that would smooth that transition.

Finally, continuous breeding has led to an increasing similarity of fruit shapes between nectarines and peaches. The committees desire to develop a more uniform sizing system.

The Size Nomenclature Review Group met several times during 2003 and 2004 to discuss revision of the weight-count standards. Although the group considered the transition to a per pound sizing system similar to that used by the plum industry, they felt that the nectarine and peach industries would be better served by adjusting the weight-count standards already in place. The Size Nomenclature Review Group also believed that they could recommend modifications to the standards that would smooth the marketing transition between varieties packed in the early season and those packed in the mid-season to late-season.

The committee staff was directed to collect data during the 2004 season from which revision recommendations could be made. Extensive sampling of both nectarines and peaches of various sizes provided the information needed for the committee to make recommendations regarding revisions to the weight-count standards. The Tree Fruit Quality Subcommittee voted unanimously to recommend the adjustments to the NAC and PCC at their meeting on November 9, 2004. The NAC and PCC unanimously recommended the changes to the regulations at their meeting on December 7, 2004.

The committees discussed various alternatives to this action, including leaving the weight-count standards unchanged or adopting a per-pound fruit sizing system similar to that used in the plum industry. However, the committees believe that failure to make changes would not take into account differences between the various pack styles. Also, the data collected did not support adoption of a per-pound fruit sizing system at this time. The committees believe that the recommended changes to the weight-count standards will provide for better uniformity of sizes between fruit packed in volume-filled containers and fruit packed in tray-packed containers, will smooth the transition from early-season to mid-season and late-season fruit for marketers, and will more closely align fruit sizes between nectarines and peaches.

The committees make recommendations regarding the revisions in handling requirements after considering all available information, including recommendations by various subcommittees, comments of persons at subcommittee meetings, and comments received by committee staff. Such subcommittees include the Tree Fruit Quality Subcommittee, the Size Nomenclature Review Group, the Marketing Order Amendment Task Force, and the Executive Committee.

At the meetings, the impact of and alternatives to these recommendations are deliberated. These subcommittees, like the committees themselves, frequently consist of individual producers and handlers with many years of experience in the industry who are familiar with industry practices and trends. Like all committee meetings, subcommittee meetings are open to the public and comments are widely solicited. In the case of the Tree Fruit Quality Subcommittee, many growers and handlers who are affected by the issues discussed by the subcommittee attend and actively participate in the public deliberations, or call and/or write in their concerns and comments to the staff for presentation at the meetings. In addition, minutes of all subcommittee meetings are distributed to committee members and others who have requested them, and are also available on the committees' website, thereby increasing the availability of information within the industry.

Each of the recommended handling requirement changes for the 2005 season is expected to generate financial benefits for producers and handlers through increased fruit sales, compared to the situation that would exist if the changes were not adopted. Both large and small entities are expected to benefit from the changes, and the costs of compliance are not expected to be substantially different between large and small entities.

This rule does not impose any additional reporting and recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. However, as previously stated, nectarines and peaches under the orders have to meet certain requirements set forth in the standards issued under the Agricultural Marketing Act of 1946 (7 CFR 1621 *et seq.*). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

In addition, the committees' meetings are widely publicized throughout the nectarine and peach industry and all interested parties are encouraged to attend and participate in committee deliberations on all issues. These meetings are held annually in the fall, winter and spring. Like all committee meetings, the December 7, 2004, meetings were public meetings, and all entities, large and small, were encouraged to express views on these issues. These regulations were also reviewed and thoroughly discussed at subcommittee meetings held on August 26, September 13, November 9 and November 30, 2004. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

This rule invites comments on changes to the handling requirements currently prescribed under the marketing orders for California fresh nectarines and peaches. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) California nectarine and peach producers and handlers should be apprised of this rule as soon as possible, since shipments of these fruits are expected to begin in early April; (2) this rule relaxes grade requirements for nectarines and peaches; (3) appropriate subcommittees met and made recommendations to the committees, the committees met and unanimously recommended these changes at public meetings, and interested persons had opportunities to provide input at all those meetings; and (4) the rule provides a 60-day comment period, and any written comments timely received will be considered prior to any finalization of this interim final rule.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR parts 916 and 917 are amended as follows:

PART 916—NECTARINES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 916.350 is amended by:
■ A. Revising Tables 1 and 2 in paragraph (a)(5)(iv); and
■ B. Revising paragraph (d) to read as follows:

§ 916.350 California nectarine container and pack regulation.

(a) * * *
(5) * * *
(iv) * * *

TABLE 1.—WEIGHT COUNT STANDARDS FOR ALL VARIETIES OF NECTARINES PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS

Column A— Tray pack size designation	Column B— Maximum number of nectarines in a 16-pound sample applicable to varieties specified in paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(ii), (a)(5)(ii), (a)(7)(ii), and (a)(8)(ii) of § 916.356
108	100
96	90
88	84
84	78
80	75
72	68
70	63
64	57
60	53
56	48
54	45
50	42
48	41
44	36

TABLE 1.—WEIGHT COUNT STANDARDS FOR ALL VARIETIES OF NECTARINES PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS—Continued

Column A— Tray pack size designation	Column B— Maximum number of nectarines in a 16-pound sample applicable to varieties specified in paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(ii), (a)(5)(ii), (a)(7)(ii), and (a)(8)(ii) of § 916.356
42	34
40	32
36	29
34	27
32	25
30	23

TABLE 2.—WEIGHT-COUNT STANDARDS FOR ALL VARIETIES OF NECTARINES PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS

Column A— Tray pack size designation	Column B— Maximum Number of nectarines in a 16-pound sample applicable to varieties specified in paragraphs (a)(6)(ii) and (a)(9)(ii) of § 916.356
108	92
96	87
88	80
84	76
80	72
72	65
70	62
64	56
60	53
56	47
54	45
50	42
48	41
44	36
42	34
40	32
36	29
34	27
32	25
30	23

* * * * *

(d) During the period April 1 through October 31, 2005, each container or package when packed with nectarines meeting the ''CA Utility'' quality requirements, shall bear the words ''CA Utility,'' along with all other required container markings, in letters at least ⅜ inch in height on the visible display panel. Consumer bags or packages must also be clearly marked on the consumer bags or packages as ''CA Utility,'' along with all other required markings, in letters at least ⅜ inch in height.

■ 3. Section 916.356 is amended by:
■ A. Revising the introductory text of paragraph (a)(1);
■ B. Revising Table 1; and
■ C. Revising the introductory text of paragraphs (a)(3), (a)(4), (a)(5), and (a)(6); and
■ D. Revising paragraphs (a)(4)(ii), (a)(6)(ii), (a)(8)(ii), and (a)(9)(ii) to read as follows:

§ 916.356 California nectarine grade and size regulation.

(a) * * *

(1) Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided,* That nectarines 2 inches in diameter or smaller, shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle 3/8 inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle 1/2 inch in diameter: *Provided further,* That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen: *Provided further,* That all varieties of nectarines which fail to meet the U.S. No. 1 grade only on account of lack of blush or red color due to varietal characteristics shall be considered as meeting the requirements of this subpart: *Provided further,* That during the period April 1 through October 31, 2005, any handler may handle nectarines if such nectarines meet ''CA Utility'' quality requirements. The term ''CA Utility'' means that not more than 40 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade, except that when more than 30 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Nectarines; and that such nectarines are mature and are:

* * * * *

(iv) * * *

TABLE 1

Column A variety	Column B maturity guide
Alshir Red	J
Alta Red	J
April Glo	H
August Fire	L
August Glo	L
August Lion	J
August Red	J
Aurelio Grand	F
Autumn Delight	L
Big Jim	J
Candy Gold	L
Crimson Baby	G
Diamond Bright	J
Diamond Jewel	L
Diamond Ray	L
Earliglo	I
Early Diamond	J
Early Red Jim	J
Early Sungrand	H
Emelia	J
Fairlane	L
Fantasia	J
Firebrite	H
Fire Sweet	J
Flame Glo	L
Flamekist	L
Flaming Red	K
Flavortop	J
Gee Sweet	L
Grand Candy	J
Grand Diamond	L
Grand Sweet	J
Gran Sun	L
Honey Blaze	J
Honey Dew	B*
Honey Fire	L
Honey Kist	I
Honey Royale	J
July Red	L
June Brite	I
June Candy	K
Juneglo	H
Kay Diamond	L
Kay Glo	J
Kay Sweet	J
King Jim	L
Kism Grand	J
Late Le Grand	L
Late Red Jim	J
Mango	B*
May Diamond	I
May Fire	H
Mayglo	H
May Grand	H
May Kist	H
Mid Glo	L
Moon Grand	L
Niagra Grand	H
P–R Red	L
Prince Jim	L
Prince Jim I	L
Prima Diamond XIII	L
Red Delight	I
Red Diamond	L
Red Fred	J
Red Free	L
Red Glen	J
Red Glo	I
Red Jewel	L
Red Jim	L

TABLE 1—Continued

Column A variety	Column B maturity guide
Red May	J
Red Roy	J
Regal Red	K
Rio Red	L
Rose Diamond	J
Royal Giant	I
Royal Glo	I
Ruby Diamond	L
Ruby Grand	J
Ruby Sun	J
Ruby Sweet	J
Scarlet Red	K
September Free	J
September Grand	L
September Red	L
Shay Sweet	J
Sheri Red	J
Sparkling June	L
Sparkling May	J
Sparkling Red	L
Spring Bright	L
Spring Diamond	L
Spring Ray	L
Spring Red	H
Spring Sweet	J
Star Brite	J
Sugar Queen	L
Summer Beaut	H
Summer Blush	J
Summer Bright	J
Summer Diamond	L
Summer Fire	L
Summer Grand	L
Summer Lion	L
Summer Red	L
Sunburst	J
Sun Diamond	I
Sunecteight (Super Star)	G
Sun Grand	G
Sunny Red	J
Tom Grand	L
Zee Glo	J
Zee Grand	I

* * * * *

(3) Any package or container of Mayglo variety of nectarines on or after May 6 of each year, or Crimson Baby, Earliglo, Early Diamond, Red Jewel or Zee Fire variety nectarines unless:

* * * * *

(4) Any package or container of Arctic Rose, Arctic Star, Diamond Bright, Diamond Pearl, Juneglo, June Pearl, Kay Fire, Kay Glo, Kay Sweet, May Diamond, Prima Diamond IV, Prima Diamond VI, Prima Diamond XIII, Prince Jim, Prince Jim 1, Red Delight, Red Roy, Rose Diamond, Royal Glo, Spring Ray, or Zee Grand variety nectarines unless:

(i) * * *

(ii) Such nectarines, when packed other than as specified in paragraph (a)(4)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 84 nectarines.

(5) Any package or container of Mango variety nectarines unless:

* * * * *

(6) Any package or container of Alta Red, Arctic Blaze, Arctic Gold, Arctic Ice, Arctic Jay, Arctic Mist, Arctic Pride, Arctic Queen, Arctic Snow (White Jewel), Arctic Sweet, August Fire, August Glo, August Lion, August Pearl, August Red, August Snow, Big Jim, Bright Pearl, Bright Sweet, Burnectfour (Summer Flare® 35), Burnectseven (Summer Flare® 28), Candy Gold, Diamond Ray, Early Red Jim, Emelia, Fire Pearl, Fire Sweet, Flaming Red, Grand Pearl, Grand Sweet, Honey Blaze, Honey Dew, Honey Fire, Honey Kist, Honey Royale, July Pearl, July Red, Kay Pearl, La Pinta, Late Red Jim, Mike's Red, P–R Red, Prima Diamond IX, Prima Diamond XVIII, Prima Diamond XIX, Prima Diamond XXIV, Prima Diamond XXVIII, Red Diamond, Red Glen, Red Jim, Red Pearl, Regal Pearl, Regal Red, Royal Giant, Ruby Diamond, Ruby Pearl, Ruby Sweet, September Bright (26P–490), September Free, September Red, Sparkling June, Sparkling Red, Spring Bright, Spring Sweet, Summer Blush, Summer Bright, Summer Diamond, Summer Fire, Summer Grand, Summer Lion, Summer Red, Sunburst, Sun Valley Sweet, Terra White, or Zee Glo variety nectarines unless:

(i) * * *

(ii) Such nectarines, when packed other than as specified in paragraph (a)(6)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 72 nectarines or if the nectarines are ''well matured'' not more than 76 nectarines.

* * * * *

(8) * * *

(i) * * *

(ii) Such nectarines, when packed other than as specified in paragraph (a)(8)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 84 nectarines.

(9) * * *

(i) * * *

(ii) Such nectarines, when packed other than as specified in paragraph (a)(9)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 72 nectarines or if the nectarines are ''well matured'' not more than 76 nectarines.

* * * * *

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

■ 4. Section 917.442 is amended by:

■ A. Revising Tables 1 and 2 of paragraph (a)(5)(iv) and

■ B. Revising paragraph (d) to read as follows:

§ 917.442 California peach container and pack regulation.

(a) * * *

(5) * * *

(iv) * * *

TABLE 1.—WEIGHT-COUNT STANDARDS FOR ALL VARIETIES OF PEACHES (EXCEPT PEENTO TYPE PEACHES) PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS

Column A— Tray pack size designation	Column B— Maximum number of peaches in a 16-pound sample applicable to varieties specified in paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(ii), (a)(5)(ii), and (b)(3) of § 917.459
96	96
88	92
84	83
80	77
72	69
70	65
64	58
60	53
56	48
54	46
50	43
48	41
44	37
42	34
40	32
36	29
34	28
32	25
30	23
28	21
26	20

TABLE 2.—WEIGHT-COUNT STANDARDS FOR ALL VARIETIES OF PEACHES (EXCEPT PEENTO TYPE PEACHES) PACKED IN LOOSE-FILLED OR TIGHT FILLED CONTAINERS

Column A— Tray pack size designation	Column B— Maximum number of peaches in a 16-pound sample applicable to varieties specified in paragraphs (a)(6)(ii) and (c)(3) of § 917.459
96	96
88	83
84	79
80	73
72	66
70	62
64	56
60	52
56	47
54	46
50	42
48	41
44	37
42	34
40	32
36	29
34	28
32	25
30	23
28	21
26	20

* * * * *

(d) During the period April 1 through November 23, 2005, each container or package when packed with peaches meeting ''CA Utility'' quality requirements, shall bear the words ''CA Utility,'' along with all other required container markings, in letters at least ⅜ inch in height on the visible display panel. Consumer bags or packages must also be clearly marked on the consumer bags or packages as ''CA Utility,'' along with all other required markings, in letters at least ⅜ inch in height.

■ 5. Section 917.459 is amended by:

■ A. Revising the introductory text of paragraph (a)(1);

■ B. Revising Table 1;

■ C. Revising the introductory text of paragraphs (a)(2), (a)(5), and (a)(6); and

■ D. Revising paragraphs (a)(5)(iii) and (a)(6)(iii) to read as follows:

§ 917.459 California peach grade and size regulation.

(a) * * *

(1) Any lot or package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade: *Provided,* That an additional 25 percent tolerance shall be permitted for fruit with open sutures which are damaged, but not seriously damaged: *Provided further,* That peaches of the Peento type shall be permitted blossom end cracking that is well healed and does not exceed the aggregate area of a circle ⅜ inch in diameter, and/or does not exceed a depth that exposes the pit: *Provided further,* That during the period April 1 through November 23, 2005, any handler may handle peaches if such peaches meet ''CA Utility'' quality requirements. The term ''CA Utility'' means that not more than 40 percent of the peaches in any container meet or exceed the requirement of the U.S. No. 1 grade, except that when more than 30 percent of the peaches in any container meet or exceed the requirements of the U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Peaches; and that such peaches are mature and are:

* * * * *

(iv) * * *

TABLE 1

Column A Variety	Column B Maturity guide
Angelus	I
August Lady	L
Autumn Flame	J
Autumn Gem	I
Autumn Lady	H
Autumn Red	J
Autumn Rose	H
Bev's Red	I
Blum's Beauty	G
Brittney Lane	J
Burpeachone (Spring Flame® 21)	J
Burpeachthree (September Flame®).	I
Burpeachtwo (Henry II®)	J
Cal Red	I
Candy Red	J
Carnival	I
Cassie	H
Coronet	E
Crimson Lady	J
Crown Princess	J
Country Sweet	J
David Sun	I
Diamond Princess	J
Earlirich	H
Earlitreat	H
Early Delight	H
Early Elegant Lady	L
Early May Crest	H
Early O'Henry	I
Early Top	G
Elberta	B
Elegant Lady	L
Fairtime	G
Fancy Lady	J
Fay Elberta	C
Fire Red	I
First Lady	D
Flamecrest	I

TABLE 1—Continued

Column A Variety	Column B Maturity guide
Flavorcrest	G
Flavor Queen	H
Flavor Red	G
Franciscan	G
Goldcrest	H
Golden Princess	L
Honey Red	G
Island Princess	H
Joanna Sweet	J
John Henry	J
July Elberta	C
June Lady	G
June Pride	J
Kaweah	L
Kern Sun	H
Kingscrest	H
Kings Lady	I
Kings Red	I
Lacey	I
Lady Sue	L
Late Ito Red	L
Madonna Sun	J
Magenta Queen	J
May Crest	G
May Sun	I
May Sweet	I
Merrill Gem	G
Merrill Gemfree	G
Morning Lord	J
O'Henry	I
Pacifica	G
Pretty Lady	J
Prima Gattie 8	L
Prima Gattie 10	J
Prima Peach IV	J
Prima Peach 23	J
Queencrest	G
Ray Crest	G
Red Dancer (Red Boy)	I
Redhaven	G
Red Lady	G
Redtop	G
Regina	G
Rich Lady	J
Rich May	H
Rich Mike	H
Rio Oso Gem	I
Royal Lady	J
Royal May	G
Ruby May	H
Ryan Sun	I
September Sun	I
Shelly	J
Sierra Gem	J
Sierra Lady	I
Sparkle	I
Sprague Last Chance	L
Springcrest	G
Spring Delight	G
Spring Gem	J
Spring Lady	H
Springtreat	I
Summer Kist	J
Summer Lady	L
Summerset	I
Summer Zee	L
Suncrest	G
Supechfour (Amber Crest)	G
Super Rich	H
Sweet Amber	J

TABLE 1—Continued

Column A Variety	Column B Maturity guide
Sweet Dream	J
Sweet Gem	J
Sweet Mick	J
Sweet Scarlet	J
Sweet September	I
Topcrest	H
Tra Zee	J
Vista	J
Willie Red	G
Zee Diamond	J
Zee Lady	L

* * * * *

(2) Any package or container of April Snow, Earlitreat, Sugar Snow, or Supeachsix (91002) variety peaches unless:

* * * * *

(5) Any package or container of Babcock, Bev's Red, Brittney Lane, Burpeachone (Spring Flame® 21), Burpeachfourteen (Spring Flame® 20), Crimson Lady, Crown Princess, David Sun, Early May Crest, Flavorcrest, Ivory Queen, June Lady, Magenta Queen, May Crest, May Sun, May Sweet, Prima Peach IV, Queencrest, Rich May, Scarlet Queen, Snow Brite, Snow Prince, Springcrest, Spring Lady, Spring Snow, Springtreat (60EF32), Sugar Time (214LC68), Sunlit Snow (172LE81), Supecheight, Sweet Scarlet, Zee Diamond, or 012–094 variety peaches unless:

* * * * *

(iii) Such peaches in any container when packed other than as specified in paragraph (a)(5)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 77 peaches except for Peento type peaches.

(6) Any package or container of August Lady, Autumn Flame, Autumn Red, Autumn Rich, Autumn Rose, Autumn Ruby, Autumn Snow, Burpeachtwo (Henry II®), Burpeachthree (September Flame®), Burpeachfour (August Fame®), Burpeachfive (July Flame®), Burpeachsix (June Flame®), Burpeachseven (Summer Flame® 29), Cherry Red, Coral Princess, Country Sweet, Crimson Queen, Diamond Princess, Earlirich, Early Elegant Lady, Early O'Henry, Elegant Lady, Fancy Lady, Fay Elberta, Full Moon, Gypsy Red, Henry III, Henry IV, Ice Princess, Ivory Princess, Jillie White, Joanna Sweet, John Henry, Jupiter, Kaweah, Klondike, Last Tango, Late Ito Red, Magenta Gold, O'Henry, Pink Giant, Pink Moon, Pretty Lady, Prima Gattie 8, Prima Peach 13, Prima Peach XV, Prima Peach 20, Prima Peach 23, Prima Peach XXVII, Princess Gayle, Red Giant, Rich Lady, Royal Lady, Ruby Queen, Ryan Sun, Saturn (Donut), Scarlet Snow, September Snow, September Sun, Sierra Gem, Sierra Rich, Snow Beauty, Snow Blaze, Snow Fall, Snow Gem, Snow Giant, Snow Jewel, Snow King, Snow Princess, Sprague Last Chance, Spring Gem, Sugar Crisp, Sugar Giant, Sugar Lady, Summer Dragon, Summer Lady, Summer Sweet, Summer Zee, Supechfour (Amber Crest), Sweet Blaze, Sweet Dream, Sweet Kay, Sweet September, Tra Zee, Vista, White Lady, Zee Lady, 24–SB, or 244LE379 variety peaches unless:

* * * * *

(iii) Such peaches in any container when packed other than as specified in paragraphs (a)(6)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 66 peaches, or if the peaches are ''well matured,'' not more than 73 peaches, except for Peento type peaches.

* * * * *

Dated: March 28, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–6418 Filed 3–29–05; 9:00 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1439

RIN 0560–AH25

2003 and 2004 Livestock Assistance Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the terms and conditions of the 2003/2004 Livestock Assistance Program (LAP) as provided for by the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005. Under LAP, assistance will be available to livestock producers for either 2003 or 2004 grazing losses in a county that was designated as a primary disaster county by the President or the Secretary of Agriculture after January 1, 2003, for certain losses occurring through December 31, 2004. Assistance will be made available in the same manner as was provided under the 2002 LAP.

DATES: *Effective Date:* March 30, 2005.

FOR FURTHER INFORMATION CONTACT: Dolores Painter, Emergency Preparedness and Program Branch, Production, Emergencies, and Compliance Division, Farm Service Agency (FSA), United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW., Washington, DC 20250–0517; telephone (202) 720–6602; e-mail *Dolores.Painter@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

Section 101 of Division B of the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act (Pub. L. 108–324, 118 Stat. 1220, October 13, 2004) (the 2004 Act), requires the Secretary of Agriculture to use such sums as are necessary from funds of the Commodity Credit Corporation to make and administer payments to livestock producers for either 2003 or 2004 grazing losses in a county that has received an emergency designation as a primary county by the President or the Secretary after January 1, 2003, for losses occurring through December 31, 2004. The designated county must have suffered a 40 percent or greater grazing loss for 3 consecutive months during the selected calendar year as a result of damage due to a natural disaster. The eligible producer must elect whether they want payments for 2003 or 2004, but payments may not be received for both years.

By statute, assistance shall be made available in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. L. 106–387; 114 Stat. 1549A–51, October 6, 2000), (*see* 66 FR 15542, March 21, 2001, for losses occurring in calendar year 2000 (the 2000 program)). However, by statute, for the 2003/2004 LAP eligibility and payment amounts, a producer may not be penalized for actions (recognizing disaster conditions) that reduced the average number of livestock the producer owned for grazing in an eligible county during the production year for which assistance is being provided. Also, this rule includes elk, bison, and reindeer as eligible livestock for LAP, as authorized by section 785 of Division A of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005, of the Consolidated Appropriations Act, 2005 (Pub. L. 108–447, December 8, 2004).

As with the 2000 program, other limitations on the 2003/2004 LAP include the following:

- Producers in counties contiguous to an approved county are not eligible.
- Producers in an approved county must have suffered at least a 40-percent loss of normal grazing for their eligible livestock for a minimum of 3 consecutive months.
- Losses will be calculated for up to 80 percent of the total grazing available.
- A producer's loss may not exceed the county maximum set by the local FSA county committee.
- Maximum assistance shall not exceed 50 percent of the calculated loss.
- Payments will be made according to a formula developed by CCC.
- Payments will be subject to a $2.5 million gross revenue limitation and $40,000 per person payment limitation.

Cost/Benefit Assessment

The 2003/2004 LAP is intended to relieve financial stress to eligible livestock producers when natural disasters cause significant losses in livestock feed production. As of January 18, 2005, a total of 944 counties in 34 states had been designated as primary natural disaster areas by the Secretary of Agriculture due to production losses from all causes during 2004.

The 2004 Act provided no limit for total 2003/2004 LAP outlays. FSA estimates the 2003/2004 LAP will make payments totaling approximately $500 million. Actual outlays could range from around $475 million to $584 million. If total FSA payments to farmers and ranchers for all programs for fiscal 2005 reach $20 billion, as expected, 2003/2004 LAP expenditures would represent about 2.5 percent of program payments made.

Based on the most recent data, estimated expenditures represent about 0.7 percent of the value of all cattle and calves in the United States and about 1.22 percent of the gross receipts from the sale of cattle and calves.

Payments under the 2003/2004 LAP should provide significant benefits to producers who actually suffered losses in 2003 and 2004 and for those communities where livestock operations predominately depend on grazing. These would include regions characterized by cow-calf and stocker operations. For example, FSA estimates that over 37 percent of 2003/2004 LAP payments, approximately $190 million, will be paid to producers in the states of Montana, North Dakota, South Dakota, and Wyoming. Nearly all cattle sold in these states are raised on pasture and the total sales of cattle and calves in these states was nearly $4.0 billion in 2002. Thus, estimated 2003/2004 LAP disbursements to these states would total nearly 5 percent of total livestock sales in these states.

Impacts of 2003/2004 LAP disbursements on U.S. feed grain markets are not likely to be measurable. While the 2003/2004 LAP payments compensate for past losses, it is possible that some of the payments will be used to purchase supplemental feed grains in the near future. However, estimated expenditures are only about 2 percent of the total $23.6 billion value of the 11.8 billion bushel U.S. corn crop, assuming an average price of $2.00 per bushel.

In conclusion, payments under the 2003/2004 LAP are not expected to significantly affect national U.S. agricultural markets, but are expected to provide significant benefits to producers in specific regions who suffered losses from drought in 2003 and 2004.

Notice and Comment

Section 101(g) of Division B of the 2004 Act requires that these regulations be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notice and comment rulemaking and public participation in rulemaking. These regulations are thus issued as final.

Executive Order 12866

This rule has been determined to be economically significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). A cost/benefit assessment was prepared and is summarized in the Preamble.

Federal Assistance Programs

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies are: 10.066, Livestock Assistance Program.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because neither the Secretary of Agriculture nor CCC are required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

Environmental Review

Due to the weather-related disasters requiring the Agency to provide rapid relief, sufficient time was not available to complete an environmental review prior to implementing this program. Therefore, an environmental assessment is being completed to consider the potential impacts of this proposed action on the human environment consistent with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA's regulations for compliance with NEPA at 7 CFR part 799. A copy of the draft environmental assessment will be available after completion for review upon request.

Executive Order 12778

The final rule has been reviewed in accordance with Executive Order 12778. This final rule preempts State laws that are inconsistent with its provisions, but the rule is not retroactive. Before any judicial action may be brought concerning this rule, all administrative remedies must be exhausted.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. *See* the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because neither the Secretary of Agriculture nor CCC are required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule. Also, the rule imposes no mandates as defined in UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996

Section 101(g) of the 2004 Act requires that the Secretary use the authority in section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121 (SBREFA), which allows an agency to forgo SBREFA's usual 60-day Congressional Review delay of the effective date of a major regulation if the agency finds that there is a good cause to do so. Accordingly, this rule is effective upon the date of filing for public inspection by the Office of the Federal Register.

Paperwork Reduction Act

Section 101(g) of Division B of the 2004 Act requires that these regulations be promulgated and the activities under this rule be administered without regard to the Paperwork Reduction Act. This means that the information to be collected from the public to implement these provisions and the burden in time and money the collection of the information would have on the public does not have to be approved by the Office of Management and Budget or be subject to the normal requirement for a 60-day public comment period.

Government Paperwork Elimination Act

CCC is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general, and the FSA in particular, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required to be utilized by a person subject to this rule are implemented in a way that would allow the public to conduct business with CCC electronically. Accordingly, at this time, forms required to be submitted under this rule may be submitted to CCC in person, by mail, FAX, or electronically.

Executive Order 12612

This rule has no Federalism implications warranting a Federalism Assessment. This rule will not affect States, or their political subdivisions, or the distribution of power and responsibilities among levels of government.

List of Subjects in 7 CFR 1439

Agricultural commodities, Disaster assistance, Indian tribes, Livestock, Livestock feed.

■ Accordingly, 7 CFR part 1439 is amended as follows:

PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

■ 1. The authority citation for part 1439 is revised to read as follows:

Authority: 7 U.S.C. 1427a; 15 U.S.C. 714 et seq.; Sec 1103 Pub. L. 105–277, 112 Stat. 2681–42–44; Pub. L. 106–31, 113 Stat. 57; Pub. L. 106–78, 113 Stat. 1135; Pub. L. 106–113, 113 Stat. 1501; Sec. 257 Pub. L. 106–224, 114. Stat. 358; Sec's. 802, 806, & 813 Pub. L. 106–387, 114 Stat. 1549; Pub. L. 108–7, 117 Stat. 11; Sec 101 of Division B, Pub. L. 108–324, 118 Stat. 1220; Sec. 785 of Division A, Pub. L. 108–447, 118 Stat. 2809.

Subpart B—Livestock Assistance Program

■ 3. Revise Subpart B to read as follows:

Subpart B—2003–2004 Livestock Assistance Program

Sec.

1439.100 Administration.
1439.101 Applicability.
1439.102 Definitions.
1439.103 Eligible loss.
1439.104 Application process.
1439.105 County committee determinations of general applicability.
1439.106 Livestock producer eligibility.
1439.107 Calculation of assistance.
1439.108 Availability of funds.
1439.109 Additional limitations on payments.
1439.110 Appeals.
1439.111 Refunds to CCC; joint and several liability.
1439.112 Miscellaneous.

§ 1439.100 Administration.

(a) The regulations in this subpart provide for what will be referred to as the 2003/2004 Livestock Assistance Program (LAP) which will be administered under the general supervision and direction of the Executive Vice President, Commodity Credit Corporation (CCC), and the Deputy Administrator for Farm Programs, Farm Service Agency (FSA). In the field, the regulations in this part will be administered by FSA State and county committees.

(b) The FSA State executive directors, county executive directors, and State and county committees do not have the authority to modify or waive any of the provisions in this part unless specifically authorized by the Deputy Administrator.

(c) The FSA State committee may take any action authorized or required by this part to be taken by the FSA county committee that has not been taken by such committee, such as:

(1) Correct or require a FSA county committee to correct any action taken by such committee that is not in accordance with this part; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this part.

(d) No delegation herein to an FSA State or county committee shall preclude the Executive Vice President, CCC, or a designee, or the Deputy Administrator from determining any question arising under this part or from reversing or modifying any determination made by an FSA State or county committee.

(e) Data furnished by the applicants will be used to determine eligibility for program benefits. Although

participation in the 2003/2004 LAP is voluntary, program benefits will not be provided unless the participant furnishes all requested data.

§ 1439.101 Applicability.

(a) Subject to the availability of funds, this subpart sets forth the terms and conditions applicable to the 2003/2004 LAP authorized by Public Law 108–324. Program regulations for prior livestock assistance programs can be found at 7 CFR 1439 as it was published on January 1, 2001, January 1, 2002, and January 1, 2004. Benefits will be provided to eligible livestock producers in the United States under this subpart in declared disaster counties that were subsequently approved for relief under this part by the Deputy Administrator.

(b) Unless otherwise determined by the Deputy Administrator, a livestock producer is not eligible to receive payments for the same loss under both this subpart and another Federal program.

§ 1439.102 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering this subpart. The definitions in § 1439.3 shall also be applicable, except where those definitions conflict with the definitions set forth in this subpart, in which case the definitions in this section will apply.

Application means the Livestock Assistance Program Application. The Application is available at FSA county offices.

Disaster county means a county included in the geographic area covered by a qualifying natural disaster declaration approved in calendar year 2003 or calendar year 2004, with respect to losses which occurred no earlier than January 1, 2003, and no later than December 31, 2004. The eligible disaster county is only the primary county where the disaster occurred and does not include a contiguous county which is not itself a disaster county.

Livestock means beef and dairy cattle, elk, reindeer, bison and beefalo (when maintained on the same basis as beef cattle), sheep, goats, swine, and equine animals where such equine animals are used commercially for human food or kept for the production of food or fiber on the owner's farm.

Production year means calendar year.

Qualifying natural disaster declaration means:

(1) A natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(2) A major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

§ 1439.103 Eligible loss.

(a) To be eligible for 2003/2004 LAP, for losses during the 2003 or 2004 calendar years, a producer must have owned or leased grazing land within the physical boundary of a disaster county that was approved as a primary county under a Secretarial disaster designation or Presidential disaster declaration in 2003 or 2004, or approved as a primary county after December 31, 2004, for qualifying losses that occurred prior to January 1, 2005 (That is, losses in 2003 and 2004).

(b) To be eligible for benefits under this subpart, a livestock producer in an eligible county must have suffered a loss of grazing production in an eligible county equivalent to at least a 40-percent loss of normal carrying capacity for a minimum of 3 consecutive months during the 2003 or 2004 production year as defined in § 1439.102.

(c)(1) Producers in counties contiguous to an eligible county that were not designated as a disaster county in their own right will not receive benefits under this subpart.

(2) Grazing losses must have occurred on native and improved pasture with permanent vegetative cover and other crops planted specifically for the sole purpose of providing grazing for livestock, but such losses do not include losses on, or with respect to, land seeded to small grain forage crops.

(d) The percentage of loss eligible for compensation shall not exceed the maximum percentage of grazing loss for the county as determined by the FSA county committee and not be greater than 80 percent; and

(e) The FSA county committee shall determine the producer's grazing loss and shall consider the amount of available grazing production during the LAP normal grazing period, whether more than the normal acreage of grazing land was required to support livestock during the LAP normal grazing period, and whether supplemental feeding of livestock began earlier or later than normal. The FSA county committee shall request the producer to provide proof of loss of grazing production if the FSA county committee determines the producer's certified loss exceeds other similarly situated livestock producers.

(f) The percentage of loss claimed by a livestock producer shall not exceed the maximum allowable percentage of grazing loss for the county as determined by the FSA county committee in accordance with § 1439.105(a). Livestock producers will not receive benefits under this subpart for any portion of their loss that exceeds 80 percent of normal carrying capacity.

§ 1439.104 Application process.

(a) Livestock producers must submit a completed application prior to the close of business on the date established and announced by the Deputy Administrator. The application and any other supporting documentation shall be submitted to the FSA county office with administrative authority over a producer's eligible grazing land or to the FSA county office that maintains the farm records for the livestock producer. A producer may submit an application for both 2003 and 2004 losses, as applicable; however, LAP assistance to the producer under this subpart shall be provided only for one of the years 2003 or 2004.

(b) A producer shall specify each type of pasture and percentage of loss suffered by each type within the approved county on the application. In establishing the percentage of grazing loss, producers shall consider the amount of available grazing production during the LAP normal grazing period, whether more than the normal acreage of grazing land was required to support livestock during the LAP normal grazing period, and whether supplemental feeding of livestock began earlier or later than normal.

(c) Livestock producers shall certify as to the accuracy of all the information contained in the application, and provide any other information that CCC determines to be necessary to determine the livestock producer's eligibility.

§ 1439.105 County committee determinations of general applicability.

(a) FSA county committees shall determine whether due to natural disasters their county has suffered a 40-percent loss affecting pasture and normal grazing crops for at least 3 consecutive months during LAP crop year during calendar year 2003 for 2003 eligibility and during calendar year 2004 for 2004 eligibility. In making this determination, FSA county committees, using the best information available from sources including but not limited to: The Extension Service, the Natural Resources Conservation Service; the Drought Monitor; the Palmer Drought Index; and general knowledge of local rainfall data, pasture losses, grazing livestock movement out of county, abnormal supplemental feeding practices for livestock on pasture and liquidation of grazing livestock, shall determine the percentage of grazing

losses for pastures on a county-wide basis. The FSA county committee shall submit rainfall data, percentage of grazing losses for each general type of pasture, and the weighted average percentage of grazing loss for the county, to the FSA State committee for concurrence. The maximum grazing losses the FSA county committees shall submit is 80 percent. These determinations shall be subject to review by the Deputy Administrator. For purposes of this subpart, such counties are called ''eligible counties.''

(b) In each eligible county, the FSA county committee shall determine a LAP normal grazing period. The LAP normal grazing period shall be that period of time in a calendar year that begins with the date grazing of new growth pasture normally begins and ends on the date grazing without supplemental feeding normally ends in the county.

(c) For each eligible county, the FSA county committee shall determine normal carrying capacities for each type of grazing or pasture during the LAP normal grazing period. The normal carrying capacity for the LAP normal grazing period shall be the normal carrying capacity the county committee determines could be expected from pasture and normal grazing crops for livestock for the LAP normal grazing period if a natural disaster had not diminished the production of these grazing crops.

(d) For each eligible county, the FSA county committee shall determine the payment period for the county. The payment period for the county shall be the period of time during the county's LAP crop year where for 3 consecutive months, as applicable, during 2003 or 2004, the carrying capacity for grazing land or pasture was reduced by 40 percent or more from the normal carrying capacity.

(e) Conservation Reserve Program acres released for haying or grazing and seeded small grain forage crops shall not be used to calculate losses under this subpart.

§ 1439.106 Livestock producer eligibility.

(a) Only one livestock producer will be eligible for benefits under this subpart with respect to an individual animal.

(b) Only owners, cash or share lessees, or contractors of livestock who themselves provide the pasture or grazing land, including cash-leased pasture or grazing land, for the livestock may be considered as livestock producers eligible to apply for benefits under this subpart.

(c) An owner, or cash or share lessee, or contractor of livestock who uses another person to provide pasture or grazing land on a rate-of-gain basis is not considered to be a livestock producer eligible to apply for benefits under this subpart.

(d) An owner who pledges livestock as security for a loan shall be considered as the person eligible to apply for benefits under this subpart if all other requirements of this part are met. Livestock leased or being purchased under a contractual agreement that has been in effect at least 3 months and establishes an interest for the lessee in such livestock shall be considered as being owned by the lessee.

(e) Livestock must have been owned or leased by the producer for at least 3 months before becoming eligible for generating a payment.

(f) The following entities are not eligible for benefits under this subpart:

(1) State or local governments or subdivisions thereof; or

(2) Any individual or entity who is a foreign person as determined in accordance with the provisions of §§ 1400.501 and 1400.502 of this chapter.

(g) Livestock sold due to disaster conditions by an eligible producer shall be considered as eligible to generate assistance and may be included in making the calculations in § 1439.107(a).

§ 1439.107 Calculation of assistance.

(a) The gross value of LAP assistance determined with respect to a livestock producer for each type and weight class of livestock owned, leased, contracted, or sold according to § 1439.106 by such producer shall be the lesser of the amount calculated under paragraph (b) of this section (the total value of lost feed needs for eligible livestock) or calculated under paragraph (c) of this section (the total value of lost eligible pasture).

(b) The total value of lost feed needs shall be the amount obtained by multiplying:

(1) The number of days in the payment period the livestock are owned or, in the case of purchased livestock, meet the 3-month ownership requirement; by

(2) The number of pounds of corn-equivalent per day, as established by CCC, that is determined necessary to provide the energy requirements established for the weight class and type of livestock; by

(3) The 5-year national average market price for corn, ($0.0369642 per pound for 2003, or $0.0344642 for 2004); by

(4) The number of eligible animals of each type and weight range of livestock owned or leased by the person; by

(5) The percent of the producer's grazing loss during the relevant period as certified by the producer and approved by the FSA county committee in accordance with § 1439.105.

(c) The total value of lost eligible pasture shall be the amounts for each type of pasture calculated by:

(1) Dividing the number of acres of each pasture type by the carrying capacity established for the pasture; and multiplying:

(2) The result of paragraph (c)(1) of this section for each pasture type; by $0.5803379 for 2003 ($0.0369642 × 15.7) or $0.54108797 for 2004 ($0.0344642 × 15.7) by:

(3) The applicable number of days in the LAP payment period; by

(4) The percent of the producer's grazing loss during the relevant period as certified by the producer and approved by the FSA county committee in accordance with § 1439.105.

(d) The final payment shall not exceed 50 percent of the smaller amount calculated under paragraphs (b) or (c) of this section.

(e) If the livestock owner is eligible for the LAP program and the American Indian Livestock Feed Program (AILFP) with respect to the same natural disaster, the livestock owner may elect to receive payment only for the same year for both programs, either 2003 or 2004. Payments for both programs cannot be issued for different years to the same producer.

(f) Land seeded to small grain forage crops shall not be counted as grazing land under paragraph (c) of this section with respect to supporting eligible livestock.

(g) The number of equine animals that are used to calculate benefits under this subpart and in paragraph (a) of this section are limited to the number actually needed to produce food and fiber on the producer's farm or breed horses and mules used to produce food and fiber on the owner's farm, and shall not include animals that are used for recreational purposes or other non-covered purposes are running wild or uncontrolled on land owned or leased by the owner.

§ 1439.108 Availability of funds.

Subject to the availability of funds, the Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation to make and administer payments to livestock producers for 2003 or 2004 grazing losses. Such payment shall be made

after the imposition of applicable payment limitation provisions.

§ 1439.109 Additional limitations on payments.

(a) Sections 1439.10 and 1439.11 as in effect at the time of publication of this subpart shall apply to the 2003/2004 LAP and shall limit payments accordingly.

(b) Any person who received payments from section 32 of the Act of August 25, 1935, with respect to 2004 hurricane losses is not eligible for payments under this subpart.

§ 1439.110 Appeals.

Determinations made under this subpart are subject to reconsideration or appeal in accordance with parts 780 and 11 of this title.

§ 1439.111 Refunds to CCC; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment or assistance arising under this part, and if any refund of a payment to CCC shall otherwise become due in connection with this part, all payments made in regard to such matter shall be refunded to CCC, together with interest as determined in accordance with paragraph (b) of this section and late-payment charges as provided for in part 1403 of this chapter.

(b) All signatories on a LAP application with a financial interest in the operation or in an application for payment shall be jointly and severally liable for any refund including related charges that is determined to be due CCC for any reason under this part.

(c) Interest shall be applicable to refunds required of the livestock owner or other party receiving assistance or a payment if CCC determines that payments or other assistance were provided to the owner and the owner was not eligible for such assistance. Such interest shall be charged at the rate of interest that the United States Treasury charges CCC for funds, as of the date CCC made such benefits. Such interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date of repayment or the date interest increases in accordance with part 1403 of this chapter. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the livestock owner or other individual or entity receiving benefits.

(d) Interest otherwise determined due in accordance with paragraph (c) of this section may be waived with respect to refunds required of the owner or other program recipient because of unintentional action on the part of the owner or other individual or entity, as determined by CCC.

(e) Late-payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in part 1403 of this chapter.

(f) Individuals or entities who are a party to any program operated under this part must refund to CCC any excess payments made by CCC with respect to such program.

(g) In the event that any request for assistance or payment under this part was established as a result of erroneous information or a miscalculation, the assistance or payment shall be re-computed and any excess refunded with applicable interest.

§ 1439.112 Miscellaneous.

(a) Any remedies permitted CCC under this part shall be in addition to any other remedy, including, but not limited to criminal remedies, or actions for damages in favor of CCC, or the United States, as may be permitted by law.

(b) Absent a scheme or device to defeat the purpose of the program, CCC may waive a demand that could otherwise be made for refunds.

(c) Payments under this subpart are subject to provisions contained in Subpart A of this part including, but not limited to, provisions concerning misrepresentations, payment limitations, and refunds to CCC, liens, assignment of payments, and appeals, and maintenance of books and records. In addition, other parts of this chapter and of chapter VII of this title relating to payments in event of death, the handling of claims, and other matters may apply, as may other provisions of law and regulation.

(d) Any payments not earned that have been paid must be returned with interest subject to such other remedies as may be allowed by law.

(e) No interest will be paid or accrue on benefits under this subpart that are delayed or otherwise not timely issued unless otherwise mandated by law.

(f) Nothing in this subpart shall require a commitment of funds in excess of that determined to be appropriate by the Deputy Administrator or CCC.

(g) Payments under this subpart shall be made without regard to questions of title under State law and without regard to any claim or lien against the livestock, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government.

(h) Any producer entitled to any payment may assign any payments in accordance with regulations governing assignment of payment found at part 1404 of this chapter.

(i) In those instances in which, prior to the issuance of this regulation, a producer has signed a power of attorney for a person or entity indicating that such power shall extend to ''all above programs'', without limitation, such power will be considered to extend to this program unless by April 14, 2005, the person granting the power notifies the local FSA office for the control county that the grantee of the power is not authorized to handle transactions for this program for the grantor.

(j) Livestock producers or any other individual or entity seeking or receiving assistance under this part shall maintain and retain records that will permit verification of livestock and grazing for at least 3 years following the end of the calendar year in which payment was made, or for such additional period as CCC may request. An examination of such records by a duly authorized representative of the United States Government shall be permitted at any time during business hours.

(k) A person shall be ineligible to receive assistance under 2003/2004 LAP and be subject to such other remedies as may be allowed by law, if, with respect to the 2003/2004 LAP, it is determined by the FSA State or county committee or an official of FSA that such person has:

(1) Adopted any scheme or other device that tends to defeat the purpose of a program operated under this part;

(2) Made any fraudulent representation with respect to such program; or

(3) Misrepresented any fact affecting a program determination.

Signed in Washington, DC, March 25, 2005.

Thomas B. Hofeller,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 05–6336 Filed 3–30–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1003 and 1208

[Docket No. EOIR 140I]

RIN 1125–AA44

Background and Security Investigation in Proceedings Before Immigration Judges and the Board of Immigration Appeals

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Interim rule; extension of comment period.

SUMMARY: On January 31, 2005, the United States Department of Justice, Executive Office for Immigration Review, published an interim rule to implement regulations covering Background and Security Investigations in Proceedings Before Immigration Judges and the Board of Immigration Appeals. The EOIR is extending the comment period for an additional 30-day period.

DATES: Comments must be received on or before May 2, 2005.

ADDRESSES: Please submit written comment to MaryBeth Keller, General Counsel, Executive Office for Immigration Review (EOIR), 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041. To ensure proper handling, please reference RIN No. 1125–AA44 or EOIR Docket No. 140I on your correspondence. You may view an electronic version of this rule at *http://www.regulations.gov.* You may also comment via the Internet to EOIR at *eoir.regs@usdoj.gov* or by using the *http://www.regulations.gov* comment form for this regulations. When submitting comments electronically, you must include the RIN No. 1125–AA44 or EOIR Docket No. 140I in the subject box. Comments are available for public inspection at the above address by calling (703) 305–0470 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: MaryBeth Keller, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041, telephone (703) 305–1041.

SUPPLEMENTARY INFORMATION: On January 31, 2005, the Department of Justice (Department), Executive Office for Immigration Review (EOIR), published an interim rule that amends regulations governing removal and other proceedings before immigration judges and the Board of Immigration Appeals when a respondent has applied for particular forms of immigration relief allowing the alien to remain in the United States (including, but not limited to asylum, adjustment of status to that of a lawful permanent resident, cancellation of removal, and withholding of removal), in order to ensure that the necessary identity, law enforcement, and security investigations are promptly initiated and have been completed by the Department of Homeland Security prior to the granting of such relief. See 70 FR 4743.

It has come to the attention of the Department and EOIR that the Internet options for submitting e-mail comments to the interim rule during the original 60-day comment period originally provided with publication of the interim rule did not consistently function. Commenters seeking to submit e-mail comments via *http://www.regulations.gov* received an automatic message instructing the commenter to print out and submit written comments. Further, in several cases, comments e-mailed directly to EOIR at *eoir.regs@usdoj.gov* resulted in ''undeliverable'' return receipts being sent to the comment sender. EOIR has now resolved this technical problem with its regulations comment e-mail box.

Despite these difficulties with the electronic comment filing options, the ability to submit written comments to EOIR throughout this period of time via the United States mail was unaffected.

However, to ensure that the public has been provided an adequate opportunity to comment on the interim rule, EOIR is extending the public comment period by 30 days. The extension of the public comment period does not affect the effective date of the interim rule, which remains April 1, 2005. Commenters who submitted comments electronically prior to April 1, 2005, are encouraged to resubmit comments electronically or by mail.

■ Accordingly, EOIR is extending the comment period and will accept public comments until May 2, 2005.

Dated: March 28, 2005.

Kevin D. Rooney,

Director, Executive Office for Immigration Review.

[FR Doc. 05–6428 Filed 3–29–05; 8:45 am]

BILLING CODE 4410–30–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 335

RIN 3064–AC88

Securities of Nonmember Insured Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Interim final rule; request for comment.

SUMMARY: The FDIC is revising its securities disclosure regulations applicable to state nonmember banks with securities required to be registered under section 12 of the Securities Exchange Act of 1934 (Exchange Act). The interim final rule reflects amendments to the Securities Exchange Act of 1934 made by the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley Act), and accommodates certain operational changes within the FDIC. The rule also incorporates through cross reference changes in regulations adopted by the Securities Exchange Commission (SEC) into the provisions of the FDIC's securities regulations. Incorporation by reference will assure that the FDIC's regulations remain substantially similar to the SEC's regulations, as required by law.

DATES: These amendments are effective on May 31, 2005. Comments must be submitted on or before May 31, 2005.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web Site: *http://www.fdic.gov/regulations/laws/federal/propose.html*. Follow the instructions for submitting comments on the FDIC Web site.
- E-mail: *comments@FDIC.gov*. Include ''Part 335—Securities of Nonmember Insured Banks'' in the subject line of the message.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivery/Courier: Comments may be hand-delivered to the guard station located at the rear of the FDIC's 550 17th Street building (accessible from F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All submissions received must include the agency name and use the title ''Part 335—Securities of

Nonmember Insured Banks.'' The FDIC may post comments on its Internet site at: *http://www.fdic.gov/regulations/laws/federal/propose.html*. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Dennis Chapman, Senior Staff Accountant, Division of Supervision and Consumer Protection, (202) 898–8922; Mary Frank, Senior Financial Analyst, Division of Supervision and Consumer Protection, (202) 898–8903; or Mark G. Flanigan, Counsel, Legal Division, (202) 898–7426, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Section 12(i) of the Exchange Act, as amended (15 U.S.C. 781(i)), authorizes the FDIC to issue regulations applicable to the securities of state nonmember banks that are substantially similar to those of the SEC with respect to its powers, functions, and duties to administer and enforce sections 10A(m) (standards relating to audit committees), 12 (securities registration), 13 (periodic reporting), 14(a) (proxies and proxy solicitation), 14(c) (information statements), 14(d) (tender offers), 14(f) (arrangements for changes in directors), and 16 (beneficial ownership and reporting) of the Exchange Act, and sections 302 (corporate responsibility for financial reports), 303 (improper influence on conduct of audits), 304 (forfeiture of certain bonuses and profits), 306 (insider trades during blackout periods), 401(b) (disclosure of pro forma financial information), 404 (management assessment of internal controls), 406 (code of ethics for senior financial officers), and 407 (disclosure of audit committee financial expert) of the Sarbanes-Oxley Act (codified at 15 U.S.C. 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265), in regard to the depository institutions for which it is the primary federal regulator. These regulations must be substantially similar to the regulations of the SEC under the listed sections of the Exchange Act and the Sarbanes-Oxley Act, unless the FDIC publishes its reasons for deviating from the SEC's rules. The amendments to this part incorporate amendments to the Exchange Act, and changes to the SEC regulations, including the adoption of Regulation FD (Fair Disclosure).

In addition, certain changes to delegations of authority in part 335 result from FDIC's internal merger of the former Division of Supervision and the former Division of Compliance and Consumer Affairs into the Division of Supervision and Consumer Protection. The reorganization also created area offices in Memphis, Tennessee, and Boston, Massachusetts, in place of regional offices in those cities, and title changes for officials in the FDIC headquarters and other offices.

II. Section-by-Section Analysis

Part 335 will be amended throughout to reflect the addition of section 10A(m) to the Exchange Act and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act in addition to those sections that the FDIC is currently required to administer and enforce under section 12(i) of the Exchange Act.

Section 335.101(b) will be amended to clarify that part 335 generally incorporates through cross reference the regulations of the SEC as these regulations are routinely issued, revised, or updated from time to time by the SEC under sections 10A(m), 12, 13, 14, and 16 of the Exchange Act and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act, except as provided at section 335.801 of this part.

New section 335.121 (Listing standards relating to audit committees) will specifically incorporate by reference the SEC rule 10A–3 (17 CFR 240.10A–3), adopted pursuant to section 10(A)(m) of the Exchange Act and Section 301 of the Sarbanes-Oxley Act, which prohibits any national securities exchange and national securities association from listing the securities of an issuer that fails to comply with specific audit committee requirements including member independence, oversight, complaint procedures, engagement of counsel and other advisors, and funding.

Section 335.201 (Securities exempted from registration) and section 335.261 (Exemptions; terminations and definitions) will add SEC Rule 12h–5 (Exemption for subsidiary issuers of guaranteed securities and subsidiary guarantors) (17 CFR 240.12h–5).

Section 335.211 (Registration and reporting) will add SEC Rule 17 CFR 240.12b–37 (Satisfaction of filing requirements).

Section 335.221 (Forms for registration of securities and similar matters) adds new subparagraph (d) to adopt the requirements of SEC Regulation FD (Fair Disclosure) (17 CFR 243.100 through 243.103), which is designed to address problems of selective disclosure of material information by reporting entities.

Section 335.331 (Acquisition statements, acquisition of securities by issuers, and other matters) is amended to add SEC Rule 13k–1 (Foreign bank exemption from the insider lending prohibition under Section 13(k) of the Exchange Act) (17 CFR 240.13k–1) and to change the title.

Section 335.801 (Inapplicable SEC regulations; FDIC substituted regulations; additional information) is amended to add section 10A(m) of the Exchange Act and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act.

Section 335.901 (Delegation of authority to act on matters with respect to disclosure laws and regulations) is amended to reflect certain changes in the organizational structure of the FDIC and to shorten the title.

III. Request for Comments

The FDIC requests comments on all aspects of the rule changes. Commenters who suggest that the FDIC modify the requirements of the SEC's rules, regulations, and forms for state nonmember banks should support their request by demonstrating how such modification would satisfy the requirements of section 12(i) of the Exchange Act.

Comments are also welcome on the general organization of part 335.

IV. Regulatory Analysis and Procedure

a. Administrative Procedure Act

Public Comment Waiver and Effective Date. Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b) (APA), the FDIC finds good cause to issue this interim final rule without first seeking public comment. Section 553(b) of the APA does not apply to rules of agency organization, procedure, or practice, or when the agency for good cause finds that notice and public comment on the rules being promulgated are impractical or unnecessary. The Exchange Act requires that the FDIC issue regulations substantially similar to those of the SEC or publish its reasons for not doing so. Certain portions of 12 CFR 335 that are being amended are organizational; other portions result from amendments to section 12(i) of the Exchange Act or the adoption of regulations by the SEC that were published in proposed form by the SEC. For these reasons, the FDIC finds that providing notice and an opportunity for public comment on these rules is unnecessary.

Although notice and comment are not required, we are nonetheless interested in receiving any comments that may improve these rules. We therefore request comments on all aspects of this interim final rule. Following the comment period, the FDIC will consider

any comments, make any necessary changes, and finalize the amendments.

b. Paperwork Reduction Act

This rule contains no new collections of information as defined by the Paperwork Reduction Act.

c. Regulatory Flexibility Act

A regulatory flexibility analysis is required only when the agency must publish a notice of proposed rulemaking (5 U.S.C. 603, 604). Because the revisions to part 335 are published in interim final form without a notice of proposed rulemaking, no regulatory flexibility analysis is required.

d. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*) (SBREFA) provides generally for agencies to report rules to Congress and for Congress to review these rules. The reporting requirement is triggered in instances where the FDIC issues a final rule as defined by the Administrative Procedure Act (APA). Because the FDIC is issuing a final rule as defined by the APA, the FDIC will file the reports required by SBREFA.

List of Subjects in 12 CFR 335

Accounting, Banks, Banking, Confidential business information, Reporting and recordkeeping requirements, Securities.

■ The Board of Directors of the Federal Deposit Insurance Corporation hereby amends part 335 to title 12 of the Code of Federal Regulations as follows:

PART 335—SECURITIES OF NON MEMBER INSURED BANKS

■ 1. The authority citation for part 335 is revised to read as follows:

Authority: 12 U.S.C. 1819; 15 U.S.C. 78l(i), 78m, 78n, 78p, 78w, 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265.

■ 2. Section 335.101 is amended by revising paragraph (b) to read as follows:

§ 335.101 Scope of part, authority, and OMB control number.

(b) Part 335 generally incorporates through cross reference the regulations of the SEC as these regulations are issued, revised, or updated from time to time under sections 10A(m), 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 of the Exchange Act and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley Act), except as provided at § 335.801 of this part. References to the Commission in the regulations of the SEC are deemed to refer to the FDIC unless the context otherwise requires.

■ 3. Section 335.121 is added to read as follows:

§ 335.121 Listing standards related to audit committees.

The provisions of the applicable SEC regulation under section 10(A)(m) of the Exchange Act shall be followed as codified at 17 CFR 240.10A–3.

■ 4. Section 335.201 is revised to read as follows:

§ 335.201 Securities exempted from registration.

Persons subject to registration requirements under Exchange Act section 12 and subject to this part shall follow the applicable and currently effective SEC regulations relative to exemptions from registration issued under sections 3 and 12 of the Exchange Act as codified at 17 CFR 240.3a12–1 through 240.3a12–11, 240.12a–4 through 240.12a–9, and 240.12g–1 through 240.12h–5.

■ 5. Section 335.211 is revised to read as follows:

§ 335.211 Registration and reporting.

Persons with securities subject to registration under Exchange Act sections 12(b) and 12(g), required to report under Exchange Act section 13, and subject to this part shall follow the applicable and currently effective SEC regulations issued under section 12(b) of the Exchange Act as codified at 17 CFR 240.12b–1 through 240.12b–37.

■ 6. Section 335.221 is amended by adding a new paragraph (d) to read as follows:

§ 335.221 Forms for registration of securities and similar matters.

* * * * *

(d) The provisions of the applicable and currently effective SEC regulation FD shall be followed as codified at 17 CFR 243.100 through 243.103.

■ 7. Section 335.261 is revised to read as follows:

§ 335.261 Exemptions; terminations; and definitions.

The provisions of the applicable and currently effective SEC regulations under sections 12(g) and 12(h) of the Exchange Act shall be followed as codified at 17 CFR 240.12g–1 through 240.12h–5.

■ 8. Section 335.331 is revised to read as follows:

§ 335.331 Acquisition statements, acquisition of securities by issuers, and other matters.

The provisions of the applicable and currently effective SEC regulations under sections 13(d) and 13(e) of the Exchange Act shall be followed as codified at 17 CFR 240.13d–1 through 240.13e–102 and 240.13k–1.

■ 9. Section 335.801 is amended by revising paragraph (a) to read as follows:

§ 335.801 Inapplicable SEC regulations; FDIC substituted regulations; additional information.

(a) Filing fees. Filing fees will not be charged relative to any filings or submissions of materials made with the FDIC pursuant to the cross reference to regulations of the SEC issued under sections 10A(m), 12, 13, 14, and 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78), sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265), and this part.

* * * * *

■ 10. Section 335.901 is amended by revising the section heading and paragraph (a) as follows:

§ 335.901 Delegation of authority to act on matters with respect to disclosure laws and regulations.

(a) Except as provided in paragraph (b) of this section, authority is delegated to the Director, Division of Supervision and Consumer Protection (DSC), and where confirmed in writing by the director, to a deputy director or an associate director, or to the appropriate regional director or deputy regional director or area director, to act on disclosure matters under and pursuant to sections 10A(m), 12, 13, 14(a), 14(c), 14(d), 14(f) and 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78), sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265), and this part.

* * * * *

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, this 18th day of March, 2005.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 05–6175 Filed 3–30–05; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–58–AD; Amendment 39–14030; AD 2005–07–06]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF34–8C1 Series and CF34–8C5 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for General Electric Company (GE) CF34–8C1 series and CF34–8C5 series turbofan engines, with certain serial number (SN) master variable geometry (VG) actuators installed. That AD currently requires initial and repetitive reviews of the airplane Maintenance Data Computer (MDC) for master VG actuator fault messages, and if the MDC is inoperative, reviews of the Engine Indication and Crew Alerting System (EICAS) for fault messages. That AD also requires replacing actuators reported faulty by the Full Authority Digital Engine Control (FADEC). This ad requires those same actions, and expands the applicability to additional actuators by part number (P/N) and SN. This AD also prohibits installation of affected master VG actuators onto any CF34–8C1 and CF34–8C5 engine after the effective date of this AD. This AD results from the need to add to the list of affected parts, master VG actuators made by parts manufacturer approval (PMA). We are issuing this AD to prevent dual-channel electrical signal faults in the VG master actuator, which will cause an uncommanded reduction of thrust to idle with a subsequent loss of the ability to advance thrust above idle, and which will result in a multiengine loss of thrust if dual-channel faults occur on more than one engine simultaneously.

DATES: Effective April 15, 2005. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of April 15, 2005.

We must receive any comments on this AD by May 31, 2005.

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

- *By mail:* Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–NE–58–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- *By fax:* (781) 238–7055.
- *By e-mail: 9-ane-adcomment@faa.gov.*

You can get the service information referenced in this AD from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422.

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

FOR FURTHER INFORMATION CONTACT: Robert Grant, Aerospace Engineer, Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA; telephone (781) 238–7757; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On December 17, 2003, the FAA issued AD 2003–26–05, Amendment 39–13402 (69 FR 2, January 2, 2004). That AD requires initial and repetitive reviews of the airplane Maintenance Data Computer (MDC) for fault messages for the master VG actuator, and if the MDC is inoperative, reviews of the Engine Indication and Crew Alerting System (EICAS) for fault messages. That AD also requires replacing actuators reported faulty by the Full Authority Digital Engine Control (FADEC). That AD resulted from reports of nine master VG actuators with linear variable differential transformers (LVDTs) with single-channel electrical signal faults sent to the MDC and to the FADEC. One of those master VG actuators also experienced a failure of the second LVDT channel 17 days after the first single-channel fault report, resulting in the FADEC commanding the engine power to idle. The manufacturer's investigation revealed LVDT coil wire deformation and breakage, caused by thermal expansion of potting material. That condition, if not corrected, could result in dual-channel electrical signal faults in the VG master actuator, which will cause an uncommanded reduction of thrust to idle with a subsequent loss of the ability to advance thrust above idle, and which will result in a multiengine loss of thrust if dual-channel faults occur on more than one engine simultaneously.

Actions Since We Issued AD 2003–26–05

Since we issued AD 2003–26–05, we have become aware of a PMA holder, Arkwin Industries, Inc., that has master VG actuators in service with the same LVDTs installed. The same unsafe condition described previously for master VG actuators SN APM238AE, and SNs APM242AE and up is likely to exist or develop on these additional PMA master VG actuators. We also received an additional 45 reports of single-channel electrical signal faults. The PMA P/N and SNs of the additional master VG actuators are P/Ns 1211508–002, SN 238AE and SNs 241AE and up. These actuators also have GE P/N 4120T02P02 marked on them.

Relevant Service Information

We have reviewed and approved the technical contents of GE Alert Service Bulletin (ASB) No. CF34–8C–AL S/B 75–A0007, Revision 3, dated February 14, 2005, that describes procedures for:

- Initial and repetitive reviews of the airplane MDC for fault messages from the master VG actuator,
- Reviews of the EICAS for fault messages if the MDC is inoperative, and
- Replacing actuators reported faulty by the FADEC.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other CF34–8C1 series and CF34–8C5 series turbofan engines of the same type design. We are issuing this AD to prevent dual-channel electrical signal faults in the VG master actuator, which will cause an uncommanded reduction of thrust to idle with a subsequent loss of the ability to advance thrust above idle, and which will result in a multiengine loss of thrust if dual-channel faults occur on more than one engine simultaneously.

This AD requires:

- An initial review within 10 days after the effective date of the AD, of the airplane MDC for fault messages for the master VG actuator, and if the MDC is inoperative, a review of the EICAS for fault messages, and replacement of actuators reported faulty by the FADEC.
- The same reviews, repetitively, at intervals not to exceed 10 days, and replacement of actuators reported faulty by the FADEC either before further flight or within 10 days of the first fault occurrence, based on requirements defined in the service information described previously, for the actual fault reported.
- After the effective date of this AD, do not install any master VG actuator that has a part number and serial number listed in this AD onto any engine.

You must use the service information described previously to perform the actions required by this AD.

FAA's Determination of the Effective Date

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

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. 2003–NE–58–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it. If a person contacts us verbally, and that contact relates to a substantive part of this AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the AD in light of those comments.

Examining the AD Docket

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

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''AD Docket No. 2003–NE–58–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–13402, 69 FR 2, January 2, 2004, and by adding a new airworthiness directive, Amendment 39–14030, to read as follows:

2005–07–06 General Electric Company: Amendment 39–14030. Docket No. 2003–NE–58–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 15, 2005.

Affected ADs

(b) This AD supersedes AD 2003–26–05, Amendment 39–13402.

Applicability

(c) This AD applies to General Electric Company (GE) CF34–8C1 series and CF34–8C5 series turbofan engines, with master variable geometry (VG) actuators, GE part number 4120T02P02, serial number (SN) APM238AE, and SNs APM242AE and up; and Arkwin Industries, Inc. Parts Manufacturer Approval (PMA) part number 1211508–002, SN 238AE and SNs 242AE and up installed. The Arkwin PMA parts are also marked with PN 4120T02P02. These engines are installed on, but not limited to, Bombardier Inc. Model CL–600–2C10 (CRJ–700 & –701) and CL–600–2D24 (CRJ–900) airplanes.

Unsafe Condition

(d) This AD results from the need to add to the list of affected parts, master VG actuators made by parts PMA. We are issuing this AD to prevent dual-channel electrical signal faults in the VG master actuator, which will cause an uncommanded reduction of thrust to idle with a subsequent loss of the ability to advance thrust above idle, and which will result in a multiengine loss of thrust if dual-channel faults occur on more than one engine simultaneously.

Compliance

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

(f) After the effective date of this AD, do not install any master VG actuators specified in this AD onto any engine.

Initial Review

(g) Within 10 days after the effective date of this AD, initially review the Maintenance Data Computer (MDC) fault history, and if the MDC is inoperative, review the Engine Indication and Crew Alerting System (EICAS) for fault messages, and replace actuators with faults reported by the FADEC. Follow the review and replacement requirements of paragraph 3 of the Accomplishment Instructions of GE Alert Service Bulletin (ASB) No. CF34–8C–AL S/B 75–A0007, Revision 3, dated February 14, 2005.

Repetitive Review

(h) At intervals not to exceed 10 days, repetitively review the MDC fault history, and if the MDC is inoperative, review the EICAS for fault messages, and replace actuators with faults reported by the FADEC. Follow the review and replacement requirements of paragraph 3 of the Accomplishment Instructions of GE ASB No. CF34–8C–AL S/B 75–A0007, Revision 3, dated February 14, 2005.

Optional Terminating Action

(i) Replacing an affected master VG Actuator with a master VG actuator not specified in this AD is terminating action for

the repetitive inspections requirement specified in paragraph (h) of this AD for that actuator.

Credit for Actions Previously Completed

(j) Inspections completed before the effective date of this AD using GE ASB No. CF34–8C–AL S/B 75–A0007, Revision 1 dated November 7, 2003; or Revision 2 dated December 16, 2004; or Revision 3 dated February 14, 2005; are acceptable for compliance with the corresponding inspection in this AD.

Alternative Methods of Compliance

(k) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Special Flight Permits

(l) Under 39.23, we impose the following conditions and limitations on the issuance and use of Special Flight Permits for this AD:

(1) If both engines report FADEC fault 1 messages at the same time, whether intermittent or continuous, review the MDC for master VG actuator faults before further flight. If actuator faults are still present for both engines, then replace at least one master VG actuator before further flight.

(2) If a master VG actuator switches channels, replace the actuator before further flight.

Material Incorporated by Reference

(m) You must use GE Alert Service Bulletin No. CF34–8C–AL S/B 75–A0007, Revision 3, dated February 14, 2005, to perform the reviews and actuator dispositions required by this AD. The Director of the Federal Register approved the incorporation by reference of GE Alert Service Bulletin No. CF34–8C–AL S/B 75–A0007, Revision 3, dated February 14, 2005, under 5 U.S.C. 552(a) and 1 CFR part 51. You can get a copy from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. You may review copies at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA 01803–5299; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Related Information

(n) None.

Issued in Burlington, Massachusetts, on March 23, 2005.

Peter A. White,

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

[FR Doc. 05–6247 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18876; Directorate Identifier 2003–NM–254–AD; Amendment 39–14032; AD 2005–07–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200 and –200PF Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 757–200 and –200PF series airplanes. This AD requires repetitive inspections and audible tap tests of the upper and lower skins of the trailing edge wedges on certain slats, and related investigative and corrective actions if necessary. This AD also provides an optional terminating action for the repetitive inspections and audible tap tests. This AD is prompted by a report of damage to the No. 4 leading edge slat. We are issuing this AD to prevent delamination of the leading edge slats, possible loss of pieces of the trailing edge wedge assembly during flight, reduction of the reduced maneuver and stall margins, and consequent reduced controllability of the airplane.

DATES: This AD becomes effective May 5, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of May 5, 2005.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. You can examine this information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Docket: The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Washington, DC. This docket number is FAA–2004–18876; the directorate identifier for this docket is 2003–NM–254–AD.

FOR FURTHER INFORMATION CONTACT: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6450; fax (425) 914–6590.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR Part 39 with an AD for certain Boeing Model 757–200 and -200PF series airplanes. That action, published in the **Federal Register** on August 17, 2004 (69 FR 51015), proposed to require repetitive inspections and audible tap tests of the upper and lower skins of the trailing edge wedges on certain slats, and related investigative and corrective actions if necessary. The proposed AD also provided an optional terminating action for the repetitive inspections and audible tap tests.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been submitted on the proposed AD.

Supportive Comment

One commenter supports the proposed AD.

Request To Correct Typographical Error in Applicability

One commenter requests that the typographical error in paragraph (c), Applicability, of the proposed AD, be corrected. The Applicability in the proposed AD states that the AD applies to Boeing Model 737–200 and –200F series airplanes, as listed in Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003. The commenter states that the reference to Model 737–200 and –200F series airplanes should be corrected to avoid confusion between the referenced service bulletin and proposed AD.

We agree and the Applicability section of this AD has been corrected to reference ''Boeing Model 757–200 and –200PF series airplanes identified in Boeing Alert Service Bulletin 757–57A0063. * * *'' We discovered this error after the proposed AD was published. We find that our intent in the proposed AD was clear, as all other references throughout the proposed AD were correct, and the referenced service

bulletin applies to Boeing Model 757–200 and –200PF series airplanes. Thus, we find no reason to re-open the comment period.

Request To Clarify Applicability

The Air Transport Association (ATA) states that its member airlines concur with the intent of the proposed AD, but that the applicability of the proposed AD is unclear. The commenter notes that actions specified in the proposed AD overlap or duplicate the requirements of AD 90–23–06, amendment 39–6794. The commenter also states that several slat wedge configurations exist in in-service airplanes as a result of AD 91–22–51, amendment 39–8129, and several other service bulletins that address trailing edge wedges. The commenter contends that the applicability of the proposed AD is unclear with respect to these configurations, and recommends that we revise the proposed AD to clearly state the applicability with respect to the various configurations resulting from the aforementioned airworthiness directives and service bulletins.

We do not agree that the applicability of this AD requires revision. The applicability of this AD states that the AD applies to Boeing Model 757–200 and -200PF series airplanes, certificated in any category, identified in Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003. The effectivity in that service bulletin is all Boeing Model 757 series airplanes with line numbers 1 through 139 inclusive. This AD addresses line numbers 1 through 139 inclusive, regardless of configuration. Also, the airplane applicability for AD 91–22–51 has different line numbers from those in this AD. The applicability for that AD is Boeing Model 757 series airplanes, line numbers 140 through 335. We have not changed this AD regarding this issue.

Request To Give Credit for Actions Accomplished Previously

One commenter requests that the proposed AD be revised to indicate that actions accomplished previously in accordance with Boeing Service Bulletin 757–57A0038 or 757–57A0045 are acceptable for compliance with the requirements of the proposed AD. The commenter states that the actions described in those service bulletins have the same results as the actions described in Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003.

SERVICE BULLETINS WITH SIMILAR ACTIONS

Service Bulletin—	Dated—	Is cited in—	As the appropriate source of service information for—
Boeing Alert Service Bulletin 757–57A0063.	June 26, 2003	The proposed AD	Inspecting, repairing, and replacing trailing edge wedges.
Boeing Service Bulletin 757–57A0038, Revision 2.	October 10, 1990	AD 90–23–06, amendment 39–6794.	Inspecting, repairing, and replacing trailing edge wedges.
Boeing Service Bulletin 757–57A0045	October 16, 1991	AD 91–22–51, amendment 39–8129.	Repetitive detailed inspections of the trailing edge wedges of slats 1 through 4 and 7 through 10.

We agree that accomplishment of the actions specified in Boeing Service Bulletin 757–57A0038, Revision 5, dated July 16, 1992, or Revision 6, dated November 10, 1994, only, are acceptable for compliance with the requirements of this AD. We do not agree that accomplishment of the actions specified in Boeing Service Bulletin 757–57A0045 is acceptable for compliance with the requirements of this AD. As stated previously, the applicability of AD 91–22–51 is Boeing Model 757 series airplanes, line numbers 140 through 335 inclusive, and the applicability of this AD is line numbers 1 through 139 inclusive.

We have included a new paragraph (h) in this AD, and reidentified the subsequent paragraphs accordingly. Paragraph (h) specifies that accomplishment of the actions in the Accomplishment Instructions of Boeing Service Bulletin 757–57A0038, Revision 5 or Revision 6 only, in conjunction with the use of BMS 5–137 adhesive, is acceptable for compliance with the requirements of this AD.

Request To Revise Compliance Time for Repetitive Inspections and Tests

One commenter requests an extension of the compliance time from 18 months to 24 months for the repetitive detailed inspections and audible tap tests of the upper and lower skins of the trailing edge wedges. The commenter states that it performs maintenance checks (''C-checks'') on its fleet every 24 months. The commenter also states that a compliance time of 18 months would require special maintenance visits in addition to the normally scheduled ''C-checks,'' and the associated costs and downtime would be considerable. The commenter has reviewed its maintenance program, and the subject slats are currently inspected every 48 months. A review of the associated maintenance task cards did not reveal any discrepancies. The commenter notes that this change to the proposed AD would prevent operators from having to request approval of an AMOC for the proposed AD.

We do not agree with the commenter's request to extend the compliance time. In developing an appropriate compliance time for this AD, we considered the urgency associated with the subject unsafe condition, the manufacturer's recommended compliance time, and the practical aspect of accomplishing the required inspections within a period of time that corresponds to the normal scheduled maintenance program for most affected operators. However, according to the provisions of paragraph (k) of this AD, we may approve a request to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety.

Explanation of Additional Change to This AD

Since the publication of the proposed AD, Boeing has received a Delegation Option Authorization (DOA). We have revised this AD to delegate the authority to approve an AMOC for any repair required by this AD to the Authorized Representative for the Boeing DOA Organization rather than the Designated Engineering Representative.

Conclusion

We have carefully reviewed the available data, including the comments that have been submitted, and determined that air safety and the

public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD affects about 139 airplanes worldwide. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection test, per inspection cycle.	6 (1 work hour per slat, 6 slats per airplane.).	$65	None ..	$390, per inspection/test cycle.	97	$37,830, per inspection/test cycle

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2005–07–08 Boeing: Amendment 39–14032. Docket No. FAA–2004–18876; Directorate Identifier 2003–NM–254–AD.

Effective Date

(a) This AD becomes effective May 5, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 757–200 and –200PF series airplanes, certificated in any category, identified in Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003.

Unsafe Condition

(d) This AD was prompted by a report of damage to the No. 4 leading edge slat. We are issuing this AD to prevent delamination of the leading edge slats, possible loss of pieces of the trailing edge wedge assembly during flight, reduction of the reduced maneuver and stall margins, and consequent reduced controllability of the airplane.

Compliance

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

Repetitive Inspections and Tests

(f) Within 18 months after the effective date of this AD: Do a detailed inspection and an audible tap test of the upper and lower skins of the trailing edge wedges on slats No. 2 through No. 4 inclusive and No. 7 through No. 9 inclusive, for evidence of damage or cracking, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003. Repeat the detailed inspection and audible tap test thereafter at intervals not to exceed 18 months.

Note 1: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Related Investigative and Corrective Actions

(g) If any damage or cracking is found during any inspection or audible tap test required by paragraph (f) of this AD: Before further flight, do the related investigative action, if applicable, and replace the affected part with a new trailing edge wedge assembly or repair the affected part, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003. Accomplishing the replacement terminates the repetitive inspections and audible tap tests required by paragraph (f) of this AD for that wedge assembly only.

Actions Accomplished Previously

(h) Previous accomplishment of all of the actions specified in the Accomplishment Instructions of Boeing Service Bulletin 757–57A0038, Revision 5, dated July 16, 1992; or Revision 6, dated November 10, 1994; in conjunction with the use of BMS 5–137 adhesive; is acceptable for compliance with the inspection requirements of paragraph (f) of this AD.

Parts Installation

(i) As of the effective date of this AD, no trailing edge wedge assembly having a part number listed in the ''Existing Part Number'' column of the table in paragraph 2.C.3. of Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003, may be installed on any airplane unless it has been inspected, tested, and had any necessary corrective actions accomplished in accordance with this AD.

Optional Terminating Action

(j) Replacing all trailing edge wedge assemblies with new, improved wedge assemblies in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003, terminates the requirements of paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(l) You must use Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. For information on the availability of this material at the National Archives and Records Administration (NARA), call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC.

Issued in Renton, Washington, on March 22, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–6259 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18024; Directorate Identifier 2003–NE–39–AD; Amendment 39–14034; AD 2005–07–10]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce (1971) Limited, Bristol Engine Division Model Viper Mk.601–22 Turbojet Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for Rolls-Royce (1971) Limited, Bristol Engine Division (RR) model Viper Mk.601–22 turbojet engines. That AD currently requires reducing the life of certain 1st stage turbine rotor blades from 7,000 hours time-in-service (TIS) to 4,600 hours TIS, and provides a drawdown schedule for blades that have already exceeded the new reduced life limit. This AD requires the same actions but changes certain compliance times to be in agreement with RR Alert Service Bulletin (ASB) No. 72–A184, dated January 2001. This AD results from comments received on AD 2004–13–03, that the AD is unnecessarily more restrictive than the requirements in the associated RR ASB No. 72–A184. We are issuing this AD to prevent multiple failures of 1st stage turbine rotor blades that could result in a dual-engine shutdown.

DATES: This AD becomes effective May 5, 2005.

ADDRESSES: You can get the service information identified in this proposed AD from Rolls-Royce Limited, Bristol Engines Division, Technical Publications Department CLS–4, P.O. Box 3, Filton, Bristol, BS34 7QE England; telephone 117–979–1234, fax 117–979–7575.

You may examine the AD docket on the Internet at *http://dms.dot.gov* or in Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7178; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed airworthiness directive (AD). The proposed AD applies to Rolls-Royce (1971) Limited, Bristol Engine Division (RR) model Viper Mk.601–22 turbojet engines. We published the proposed AD in the **Federal Register** on October 29, 2004 (69 FR 63104). That action proposed to require reducing the life of certain 1st stage turbine rotor blades from 7,000 hours TIS to 4,600 hours TIS, provide a drawdown schedule for blades that have already exceeded the new reduced life limit, and change certain compliance times to be in agreement with RR ASB No. 72–A184, dated January 2001.

Examining the AD Docket

You may examine the docket that contains the AD, any comments received, and any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that 84 RR model Viper Mk.601–22 turbojet engines installed on airplanes of U.S. registry will be affected by this AD. We estimate that no additional labor cost will be incurred to replace 1st stage turbine rotor blades when done at time of engine overhaul. A replacement set 1st stage turbine rotor blades costs about $166,987. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $14,026,950.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–13684 69 FR 34563, June 22, 2004, and by adding a new airworthiness directive, Amendment 39–14034, to read as follows:

2005–07–10 Rolls-Royce (1971) Limited, Bristol Engine Division: Amendment 39–14034 Docket No. FAA–2004–18024; Directorate Identifier 2003–NE–39–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 5, 2005.

Affected ADs

(b) This AD supersedes AD 2004–13–03.

Applicability

(c) This AD applies to Rolls-Royce (1971) Limited, Bristol Engine Division (RR) Model Viper Mk.601–22 turbojet engines. These engines are installed on, but not limited to, Raytheon HS.125 Series 600 and BH.125 Series 600 airplanes.

Unsafe Condition

(d) This AD results from comments received on AD 2004–13–03, that the AD is unnecessarily more restrictive than the requirements in the associated RR Alert Service Bulletin (ASB) No. 72–A184. We are issuing this AD to prevent multiple failures of 1st stage turbine rotor blades that could result in a dual-engine shutdown.

Compliance

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

New Reduced Life Limit

(f) Change the RR Time Limits Manual life limit for the 1st stage turbine rotor blades, part numbers (P/Ns) V926000, V926293, and V926319, from 7,000 hours time-in-service (TIS) to 4,600 hours TIS.

(g) Limit the number of installed engines with 1st stage turbine rotor blades that exceed 4,600 hours TIS on the effective date of this AD as specified in the following Table 1:

TABLE 1.—INSTALLED ENGINES

On the effective date of this AD, if:	Then:
(1) Both engines installed on the airplane have 1st stage turbine rotor blades that exceed 5,800 hours TIS.	Replace the 1st stage turbine rotor blades in the engine that has the higher blade life within 50 hours TIS or 6 weeks after the effective date of this AD, whichever occurs first.
(2) One engine installed on the airplane has 1st stage turbine rotor blades that exceed 5,800 hours TIS, and the other engine has 1st stage turbine rotor blades that exceed 4,600 hours TIS.	Replace the 1st stage turbine rotor blades in the engine that has the higher blade life within 100 hours TIS or 4 months after the effective date of this AD, whichever occurs first.
(3) One engine installed on the airplane has 1st stage turbine rotor blades that exceed 5,800 hours TIS, and the other engine has 1st stage turbine rotor blades with fewer than 4,600 hours TIS.	Replace the 1st stage turbine rotor blades in the engine that has the higher blade life within 200 hours TIS or 6 months after the effective date of this AD, whichever occurs first.
(4) One engine installed on the airplane has 1st stage turbine rotor blades that exceed 4,600 hours TIS, but have fewer than 5,800 hours TIS, and the other engine has 1st stage turbine rotor blades with fewer than 4,600 hours TIS.	Replace the 1st stage turbine rotor blades in the engine that has the higher blade life at 5,800 hours TIS or 6 months after the effective date of this AD, whichever occurs later.

(h) No engine may operate with a blade life exceeding 5,800 hours TIS, applicable beginning 6 months from the effective date of this AD.

(i) No engine may operate with a blade life exceeding 4,600 hours TIS, applicable beginning 3 years from the effective date of this AD.

Installation of Engines After the Effective Date of This AD

(j) After the effective date of this AD, do not install any engine that has 1st stage turbine rotor blades, P/Ns V926000, V926293, or V926319, that exceed 4,600 hours TIS, except as allowed in Table 1 of this AD.

Alternative Methods of Compliance

(k) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(l) None.

Related Information

(m) Civil Aviation Authority airworthiness directive AD 004–01–2001, dated January 2001, also addresses the subject of this AD.

Issued in Burlington, Massachusetts, on March 25, 2005.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 05–6342 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20576; Airspace Docket No. 05–ACE–13]

Modification of Class E Airspace; Boonville, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by revising Class E airspace at Boonville, MO. A review of the Class E airspace area extending upward from 700 feet above ground level (AGL) at Boonville, MO revealed its legal description is not in proper format and it is not in compliance with established airspace criteria. This airspace area is enlarged and modified to conform to FAA Orders. The intended effect of this rule is to provide controlled airspace of appropriate dimensions to protect aircraft departing from and executing standard instrument approach procedures (SIAPs) to Jesse Viertel Memorial Airport. This rule also amends the Jesse Viertel Memorial Airport airport reference point (ARP) in the legal description to reflect current data. The area is modified and enlarged to conform to the criteria in FAA Orders.

DATES: This direct final rule is effective on 0901 UTC, July 7, 2005. Comments for inclusion in the Rules Docket must be received on or before May 5, 2005.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2005–20576/ Airspace Docket No. 05–ACE–13, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Boonville, MO. An examination of the Class E airspace area at Boonville, MO revealed its legal description is not in proper format and it does not comply with airspace requirements for diverse departures from Jesse Viertel Memorial Airport. Extensions to this airspace area and the Jesse Viertel Memorial Airport ARP are also incorrect. In order to comply with airspace requirements set forth in FAA Orders 7400.2E, Procedures for Handling Airspace Matters, and 8260.19C, Flight Procedures and Airspace, the city of Boonville is added to the airport line in the legal description, the Jesse Viertel Memorial Airport ARP is amended to reflect current data and Hallsville collocated VOR/tactical air navigational aid (VORTAC) is added. The airspace area is expanded from a 6.3-mile to a 6.9-mile radius of Jesse Viertel Memorial Airport. The north extension is defined in relation to the 013° bearing from the Viertel nondirectional radio beacon (NDB) versus the current 012° bearing, is decreased in width from 2.6 to 2.5 miles each side of center and is increased in length from 7 miles from the ARP to 7 miles from the NDB. The northeast extension is defined in relation to the Hallsville VORTAC 249° radial, is decreased in width from 3.5 to 2.4 miles each side of center and is decreased in length by .4 mile. These modifications provide controlled airspace of appropriate dimensions to protect aircraft departing from and executing SIAPs to Jesse Viertel Memorial Airport and bring the legal description of the Boonville, MO Class E airspace area into compliance with FAA Orders 7400.2E and 8260.19C. This area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

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

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, and arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–20576/Airspace Docket No. 05–ACE–13.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1)

is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority since it contains aircraft executing instrument approach procedures to Jesse Viertel Memorial Airport.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for part 17 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 7400.9M, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

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

* * * * *

ACE MO E5 Boonville, MO

Boonville, Jesse Viertel Memorial Airport, MO
Lat. 38°56″48′ N., long. 92°40″58′ W.)

Viertel NDB
Lat. 38°56″58′ N., long. 92°41″03′ W.)

Hallsville VORTAC
Lat. 39°06″49′ N., long. 92°07″42′ W.)

That airspace extending upward from 700 feet above the surface within a 6.9-miles radius of Jesse Viertel Memorial Airport and within 2.5 miles each side of the 013° bearing from the Viertel NDB extending from the 6.9-mile radius of the airport to 7 miles north of the NDB and within 2.4 miles each side of the Hallsville VORTAC 249° radial extending from the 6.9-mile radius of the airport to 19.4 miles southwest of the VORTAC.

* * * * *

Issued in Kansas City, MO, on March 22, 2005.

Rosalyn R. Ward,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–6388 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–13–M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulations No. 4]

RIN 0960–AG16

Nonpayment of Benefits When the Social Security Administration Receives Notice That an Insured Person Is Deported or Removed From the United States

AGENCY: Social Security Administration (SSA).

ACTION: Final rule.

SUMMARY: To implement part of the Social Security Protection Act of 2004 (SSPA), we are revising our regulations that prohibit payment of monthly benefits and the lump sum death payment under title II of the Social Security Act (the Act) when SSA receives notice that an insured person is deported or removed from the United States under certain provisions of the Immigration and Nationality Act (INA).

DATES: These regulations are effective March 31, 2005.

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html*. It is also available on the Internet site for SSA (*i.e.*, Social Security Online) at *http://policy.ssa.gov/pnpublic.nsf/LawsRegs*.

FOR FURTHER INFORMATION CONTACT: Richard Bresnick, Social Insurance Specialist, Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1758 or TTY (410) 966–5609. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 412 of the SSPA, Public Law 108–203, enacted on March 2, 2004, modifies the provisions of section 202(n) of the Act. Those provisions prohibit the payment of title II benefits to the insured person on a record (and, in some cases, to dependents or survivors otherwise entitled on that record) when SSA receives notice of the insured person's deportation or removal from the United States under the provisions of the INA. Section 412 was enacted, in part, to conform the Act to amendments to the INA enacted April 1, 1997, under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (the Immigration Reform Act), Public Law 104–208. The Immigration Reform Act changed the terminology, section references and function of many provisions of the INA that, in turn, affect section 202(n) of the Act.

The Immigration Reform Act combined into a single removal process the formerly separate legal processes for deporting and excluding aliens from the United States. Under this process, aliens are removed as either deportable or inadmissible. The Immigration Reform Act also changed the legal process applicable to illegal aliens; *i.e.*, those who are present in the United States (regardless of how long) without having been lawfully admitted. Although they may be apprehended in the United States, illegal aliens are no longer charged as deportable or subject to the deportation process as they had been before the Immigration Reform Act. Instead, they are charged as inadmissible and subject to removal under the process applied to aliens who are seeking entry into the United States. With this change, effective April 1, 1997, illegal aliens no longer met the specific conditions for nonpayment of their title II benefits under section 202(n) of the Act which, from the time of enactment in 1954, applied to deported aliens only.

Section 412 of the SSPA amends section 202(n) to coordinate with the amendments to the INA by:

- Replacing the terms ''deportation'' and ''deported,'' wherever they appear in the text of the statute, with ''removal'' and ''removed,'' respectively;
- Changing the reference to the INA citation that specifies the grounds for removal of an alien as deportable from section 241(a) to section 237(a);

• Adding to the statute provisions that prohibit payment of title II retirement or disability benefits to insured persons who are removed as inadmissible (under INA section 212(a)(6)(A)) on grounds of entering the United States illegally. (This change effectively maintains the scope and basic intent of section 202(n) of the Act, as originally enacted, by preventing illegal aliens, once considered deportable and now classified as inadmissible under the INA, from avoiding benefit suspension when they are removed from the United States.)

Section 412 includes the following additional changes to section 202(n) of the Act that are not related to the INA amendments:

• Specifies that the Secretary of Homeland Security (or the U.S. Attorney General) will provide the notice of deportation or removal required to apply the nonpayment provisions. (The Attorney General was the sole source of these notices to SSA prior to the creation of the Department of Homeland Security.); and

• Terminates the exception incorporated into section 202(n) of the Act, as originally enacted in 1954, that exempted aliens who were deported on grounds of smuggling other aliens into the United States (under INA section 241(a)(1)(E)) from nonpayment of their title II retirement or disability benefits. This exception ceases to apply to deportations (or removals on grounds of deportability) reported to SSA by the Secretary of Homeland Security or the U.S. Attorney General after March 2, 2004, the date of enactment of the SSPA.

Explanation of Changes

We are revising the regulations in 20 CFR 404.464 to make them easier for the public to understand and to reflect the changes to section 202(n) of the Act that were enacted under section 412 of the SSPA. This includes:

• Under § 404.464(a), adding to the reference to the Attorney General of the United States a reference to the Secretary of Homeland Security. These are the current sources of deportation and removal notices used to apply the provisions under section 202(n);

• Reorganizing § 404.464(a) to show the specific sections of the INA (prior to and after the 1997 amendments to the INA) under which deportation or removal must have occurred for nonpayment under section 202(n) to apply. These include:

(1) Section 241(a) of the INA in effect prior to April 1, 1997;

(2) Section 237(a) of the INA, as effective beginning April 1, 1997, applicable to aliens removed as deportable; and

(3) Section 212(a)(6)(A) of the INA, as effective beginning April 1, 1997, applicable to aliens removed as inadmissible on grounds of illegal entry into the United States. We have left intact the reference to section 241(a) of the INA in effect prior to April 1, 1997 (item (1) above) since SSA must continue to apply the deportation provisions of the Act, if warranted, to any future claims filed on the records of number holders who were reported to SSA in the past as having been deported under that section of the immigration law.

• Adding text to §§ 404.464(a)(1)(i)(B) and (a)(1)(ii)(B) to show that aliens who were deported under paragraph (1)(E) of INA section 241(a), in effect prior to April 1, 1997, or removed as deportable under paragraph (1)(E) of section 237(a) of the INA, as amended in 1997, are excepted from the nonpayment provisions only if notice of their deportation or removal was received by SSA from the Secretary of Homeland Security or the Attorney General before March 3, 2004. This is a reference to the amendments effective March 3, 2004 under section 412 of the SSPA that end the exemption granted under the original provisions of section 202(n) to aliens deported (or removed as deportable) on grounds of smuggling other aliens into the United States.

• Amending § 404.464(b) to improve its clarity and more accurately reflect certain language in section 202(n)(1)(B) of the Social Security Act. The relevant statutory language provides that an alien outside the United States during any part of a given month cannot receive a monthly survivor benefit for that month on the record of a deceased insured person in the event that the deceased (if still alive) could not have been paid a retirement or disability benefit for that month because of deportation or removal under section 202(n)(1)(A) of the Social Security Act (as implemented by § 404.464(a)(1)).

• Amending the text in § 404.464(c) pertaining to the lump sum death payment to conform with and refer to the amended provisions under § 404.464(a).

Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its prior notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest.

In the case of these final rules, we have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures because such procedures are unnecessary. Good cause exists because these regulations merely conform our rules to the self-implementing provisions in section 412 of the SSPA. Therefore, opportunity for prior comment is unnecessary, and we are issuing these regulations as final rules.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). These revisions conform our rules to the provision enacted in the SSPA. However, without these changes, our rules will conflict with current law and may mislead the public. Therefore, we find that it is in the interest of the public to make these rules effective upon publication.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules meet the requirements for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were subject to OMB review. We have also determined that these rules meet the plain language requirement of Executive Order 12866, as amended by Executive Order 13258.

Regulatory Flexibility Act

We certify that these rules will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These regulations impose no reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance; Reporting and recordkeeping requirements, Social Security.

Dated: January 7, 2005.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ For the reasons set out in the preamble, we are amending subpart E of part 404 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Subpart E—[Amended]

■ 1. The authority citation for subpart E of part 404 continues to read as follows:

Authority: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 216(1), 223(e), 224, 225, 702(a)(5), and 1129A of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 416(1), 423(e), 424a, 425, 902(a)(5), and 1320a–8a) and 48 U.S.C. 1801.

■ 2. Section 404.464 is revised to read as follows:

§ 404.464 How does deportation or removal from the United States affect the receipt of benefits?

(a) *Old-age or disability insurance benefits.* (1) You cannot receive an old-age or disability benefit for any month that occurs after the month we receive notice from the Secretary of Homeland Security or the Attorney General of the United States that you were:

(i) Deported under the provisions of section 241(a) of the Immigration and Nationality Act (INA) that were in effect before April 1, 1997, unless your deportation was under:

(A) Paragraph (1)(C) of that section; or

(B) Paragraph (1)(E) of that section and we received notice of your deportation under this paragraph before March 3, 2004;

(ii) Removed as deportable under the provisions of section 237(a) of the INA as in effect beginning April 1, 1997, unless your removal was under:

(A) Paragraph (1)(C) of that section; or

(B) Paragraph (1)(E) of that section and we received notice of your removal under this paragraph before March 3, 2004; or

(iii) Removed as inadmissible under the provisions of section 212(a)(6)(A) of the INA as in effect beginning April 1, 1997.

(2) Benefits that cannot be paid to you because of your deportation or removal under paragraph (a)(1) of this section may again be payable for any month subsequent to your deportation or removal that you are lawfully admitted to the United States for permanent residence. You are considered lawfully admitted for permanent residence as of the month you enter the United States with permission to reside here permanently.

(b) *Dependents or survivors benefits.* If an insured person on whose record you are entitled cannot be paid (or could not have been paid while still alive) an old-age or disability benefit for a month(s) because of his or her deportation or removal under paragraph (a)(1) of this section, you cannot be paid a dependent or survivor benefit on the insured person's record for that month(s) unless:

(1) You are a U.S citizen; or

(2) You were present in the United States for the entire month. (This means you were not absent from the United States for any period during the month, no matter how short.)

(c) *Lump sum death payment.* A lump sum death payment cannot be paid on the record of a person who died:

(1) In or after the month we receive from the Secretary of Homeland Security or the Attorney General of the United States notice of his or her deportation or removal under the provisions of the INA specified in paragraph (a)(1) of this section (excluding the exceptions under paragraphs (a)(1)(i)(A) and (B) and (ii)(A) and (B) of this section); and

(2) Before the month in which the deceased person was thereafter lawfully admitted to the United States for permanent residence.

[FR Doc. 05–6400 Filed 3–30–05; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–05–018]

RIN 1625–AA87

Security Zone; Cape Fear River, Eagle Island, North Carolina State Port Authority Terminal, Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone at the North Carolina State Port Authority (NCSPA), Wilmington to include the Cape Fear River and Eagle Island. Entry into or movement within the security zone will be prohibited without authorization from the COTP. This action is necessary to safeguard the vessels and the facility from sabotage, subversive acts, or other threats.

DATES: This rule is effective from April 1, 2005, until October 1, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–05–018 and are available for inspection or copying at the Marine Safety Office 721 Medical Center Drive, Suite 100, Wilmington, North Carolina 28401 between 7:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Charles A. Roskam II, Chief Port Operations (910) 772–2200 or toll free (877) 229–0770.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. The Coast Guard is promulgating this security zone regulation to protect NCSPA Wilmington and the surrounding vicinity from threats to national security. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice-and-comment rulemaking and advance publication are not required for this regulation.

Background and Purpose

Vessels frequenting the North Carolina State Port Authority (NCSPA) Wilmington facility serve as a vital link in the transportation of military munitions, explosives, equipment, and personnel in support of Department of Defense missions at home and abroad. This vital transportation link is potentially at risk to acts of terrorism, sabotage and other criminal acts. Munitions and explosives laden vessels also pose a unique threat to the safety and security of the NCSPA Wilmington, vessel crews, and others in the maritime and surrounding community should the vessels be subject to acts of terrorism or sabotage, or other criminal acts. The ability to control waterside access to vessels laden with munitions and explosives, as well as those used to transport military equipment and personnel, moored at the NCSPA Wilmington is critical to national defense and security, as well as to the safety and security of the NCSPA Wilmington, vessel crews, and others in the maritime and surrounding community. Therefore, the Coast Guard is establishing this security zone to safeguard human life, vessels and facilities from sabotage, terrorist acts or other criminal acts.

Discussion of Rule

The security zone is necessary to provide security for, and prevent acts of terrorism against vessels loading or offloading at the NCSPA Wilmington facility during a military operation. It

will include an area from 800 yards south of the Cape Fear River Bridge encompassing the southern end of Eagle Island, the Cape Fear River, and the grounds of the State Port Authority Terminal south to South Wilmington Terminal.

The security zone will prevent access to unauthorized persons who may attempt to enter the secure area via the Cape Fear River, the North Carolina State Port Authority terminal, or use Eagle Island as vantage point for surveillance of the secure area. The security zone will protect vessels moored at the facility, their crews, others in the maritime community and the surrounding communities from subversive or terrorist attack that could cause serious negative impact to vessels, the port, or the environment, and result in numerous casualties.

No person or vessel may enter or remain in the security zone at any time without the permission of the Captain of the Port, Wilmington. Each person or vessel operating within the security zone will obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from this security zone.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

Although this regulation restricts access to the security zone, the effect of this regulation will not be significant because: (i) The COTP or his or her representative may authorize access to the security zone; (ii) the security zone will be enforced for limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Cape Fear River that is within the security zone.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Although the security zone will apply to the entire width of the river, traffic will be allowed to pass through the zone with the permission of the COTP or his or her designated representative. Before the effective period, we will issue maritime advisories widely available to users of the river.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination''will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–018 to read as follows:

165.T05–018—Security Zone: Cape Fear River, Eagle Island and North Carolina State Port Authority Terminal, Wilmington, NC.

(a) *Location.* The following area is a security zone: The grounds of the North Carolina State Port Authority, Wilmington Terminal and the southern portion of Eagle Island; and an area encompassed from South Wilmington Terminal at 34°10′38.394″ N, 077°57′16.248″ W (Point 1); across Cape Fear River to Southern most entrance of Brunswick River on the West Bank at 34°10′38.052″ N, 077°57′43.143″ W (Point 2); extending along the West bank of the Brunswick River for approximately 750 yards to 34°10′57.062″ N, 077°58′01.342″ W (Point 3); proceeding North across the Brunswick River to the east bank at 34′11′04.846″ N, 077°58′02.861″ W (Point 4) and continuing north on the east bank for approximately 5000 yards along Eagle Island to 34°13′17.815″ N, 077°58′30.671″ W (Point 5); proceeding East to 34°13′19.488″ N, 077°58′24.414″ W (Point 6); and then approximately 1700 yards to 34°13′27.169″ N, 077°57′51.753″ W (Point 7); proceeding East to 34°13′21.226″ N, 077°57′19.264″ W (Point 8); then across Cape Fear River to the Northeast corner of the Colonial Terminal Pier at 34°13′18.724″ N, 077°57′07.401″ W (Point 9), 800 yards South of Cape Fear Memorial Bridge; proceeding South along shoreline (east bank) of Cape Fear River for approximately 500 yards; proceeding east inland to Wilmington State Port property line at 34°13′03.196″ N, 077°56′52.211″W (Point 10); extending South along Wilmington State Port property line to 34°12′43.409″ N, 077°56′50.815″ W (Point 11); proceeding to the North entrance of Wilmington State Port at 34°12′28.854″ N, 077°57′01.017″ W (Point 12); proceeding South along Wilmington State Port property line to 34°12′20.819″ N, 077°57′08.871″ W (Point 13); continuing South along the Wilmington State Port property line to 34°12′08.164″ N, 077°57′08.530″ W (Point 14); continuing along State Port property to 34°11′44.426″ N, 077°56′55.003″ W (Point 15); proceeding South to the main gate of the Wilmington State Port at 34°11′29.578″ N, 077°56′55.240″ W (Point 16); proceeding South approximately 750 yards to the Southeast property corner of the Apex facility at 34°11′10.936″ N, 077°57′04.798″ W (Point 17); proceeding West to East bank of Cape Fear River at 34°11′11.092″ N, 077°57′17.146″ W (Point 18); and proceeding South along East bank of Cape Fear River to original point of origin at 34°10′38.394″ N, 077°57′16.248″ W (Point 1). (NAD 1983)

(b) *Captain of the Port. Captain of the Port* means the Commanding Officer of the Marine Safety Office Wilmington, NC, or any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on her behalf.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in 33 CFR 165.33.

(2) Persons or vessels with a need to enter or get passage within the security zone, must first request authorization from the Captain of the Port. The Captain of the Port's representative enforcing the zone can be contacted on VHF marine band radio, channel 16. The Captain of the Port can be contacted at (910) 772–2200 or toll free (877) 229–0770.

(3) The operator of any vessel within this security zone must:

(i) Stop the vessel immediately upon being directed to do so by the Captain of the Port or his or her designated representative.

(ii) Proceed as directed by the Captain of the Port or his or her designated representative.

(d) *Effective period.* This section is effective from April 1, 2005, until October 1, 2005.

Dated: March 14, 2005.

Jane M. Hartley,

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

[FR Doc. 05–6389 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 05–003]

RIN 1625–AA00

Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the Mission Creek Waterway in China Basin surrounding the construction site of the Fourth Street Bridge, San Francisco, California. This temporary safety zone is necessary to protect persons and vessels

from hazards associated with bridge construction activities. The safety zone temporarily prohibits use of the Mission Creek Waterway surrounding the Fourth Street Bridge during construction unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 12:01 a.m. on May 4, 2005 to 11:59 p.m. on December 31, 2005.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket COTP 05–003 and are available for inspection or copying at the Waterways Branch of the Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Doug Ebbers, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3073.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 5, 2004, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** (69 FR 64555) proposing to establish a temporary safety zone in the navigable waters of the Mission Creek Waterway in China Basin surrounding the construction site of the Fourth Street Bridge, San Francisco, California. We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Penalties for Violating a Safety Zone

Vessels or persons violating this safety zone will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the safety zone described herein, is punishable by civil penalties (not to exceed $32,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of $250,000), and in rem liability against the offending vessel. Any person who violates this section, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years. Vessels or persons violating this section are also subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel to the United States, a maximum criminal fine of $10,000, and imprisonment up to 10 years.

The Captain of the Port will enforce this zone and may enlist the aid and cooperation of any Federal, State, county, or municipal agency to assist in the enforcement of the regulation.

Background and Purpose

The San Francisco Department of Public Works requested a temporary closure of the Mission Creek waterway for the purpose of performing significant work to the Fourth Street Bridge. The Fourth Street Bridge was erected across the Mission Creek Waterway at the China Basin in 1917, and was determined eligible for listing in the National Register of Historic Places in 1985 as part of the California Department of Transportation (Caltrans) Historic Bridge Inventory. Caltrans, Division of Structures, evaluated the Fourth Street Bridge and recommended that the bridge be brought up to current seismic safety standards. The three objectives of the rehabilitation project are to: (1) Seismically retrofit the structure while not significantly altering the historical appearance of the bridge; (2) repair the damage to the concrete approaches and several steel and concrete members of the movable span, and (3) reinitiate light rail service across the bridge. The Federal Highway Administration, the State of California and the City of San Francisco are funding the Fourth Street Bridge Retrofit Project.

The first phase of this project included the removal of the lift span, and took place between May 1 and July 28, 2003. During that period, the channel was closed at the Fourth Street Bridge to boating traffic by a temporary final rule that was published in the **Federal Register** on May 13, 2003 (68 FR 25500) and a subsequent change in effective period temporary final rule that was published on July 9, 2003 (68 FR 40772). Those two rules established a safety zone that extended 100 yards on either side of the Fourth Street Bridge. The second phase of the construction project included rebuilding the north and south approaches and the new counterweight and its enclosing pit; but did not require that the waterway be closed to boating traffic.

The safety zone established in this rule is for the last phase of construction, which includes replacing the lift span and aligning the bridge to accept the light rail track system. This final phase is scheduled to begin on May 4, 2005, and end on December 31, 2005. A safety zone of 100 yards on either side of the Fourth Street Bridge is needed during this period to protect boating traffic public from the dangers posed by the construction operations and to allow the construction operations to be completed.

There are two major environmental issues that affect the scheduling of construction in the channel, namely the annual pacific herring spawning season that runs from December 1st to March 31st, and noise constraints for steelhead from December 1st to June 1st. Any demolition, pile driving and excavation in the water during those time periods will be monitored and restricted for possible impacts on these species.

The Fourth Street Bridge Project is related to the larger Third Street Light Rail Project, and many public presentations on the project's components, channel closure schedules, impacts to surrounding uses and project duration have been made by the City and Port of San Francisco. The Third Street Light Rail Advisory Group was created as a forum to keep the public informed on the progress being made on the Third Street Light Rail Project. Also, this project has been presented at many Mission Bay Citizen Advisory Committee meetings. At these meetings, the public was notified of the project components, impacts and the need to temporarily close the waterway. Specific to the Fourth Street Bridge project, an Environmental Assessment, required by the Federal Highway Administration and Caltrans, (under the National Environmental Protection Act) was conducted by the City of San Francisco. A public hearing regarding the Environmental Assessment was held on January 17, 2002 at San Francisco Arts College, Timken Lecture Hall, 1111 8th Street in San Francisco California, and was well attended.

In addition, the City of San Francisco advised the Coast Guard Captain of the Port in January of 2003 that two channel closures would be necessary in order to accomplish the Fourth Street Bridge project. The Coast Guard met with various City and Port officials to ensure that there would be minimal impacts on area boaters and other involved entities.

Discussion of Comments and Changes

We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. The only change incorporated in this Final Rule is a later start date than was indicated in the NPRM. The NPRM indicated that this final phase of construction would commence on February 15, 2005, but due to delays, the construction will not commence until May 4, 2005. The scheduled completion date remains December 31, 2005.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

Although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule is not significant because: (1) Owners of boats located within Mission Creek have been advised of the planned waterway closures at several Mission Bay Citizen Advisory Committee meetings, (2) the San Francisco Department of Public Works and the Port of San Francisco have consulted with the Mission Creek Harbor Association to address the impacts of temporarily closing the channel to local boaters, (3) the Department of Public works has made arrangements to accommodate the requests of owners that have asked to temporarily moor their house boats or pleasure boats at the head of the channel, (4) the channel closure will not impact land access to the houseboats west of the bridge during the waterway closure and (5) the zone is not permanent.

The size of the zone is the minimum necessary to provide adequate protection for the boating public and an adequate distance to ensure vessel wakes to not interfere with construction operations. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The effect of this rule on small entities is not expected to be significant because: (1) Owners of boats located within Mission Creek have been advised of the planned waterway closures at several Mission Bay Citizen Advisory Committee meetings, (2) the San Francisco Department of Public Works and the Port of San Francisco have consulted with the Mission Creek Harbor Association to address the impacts of temporarily closing the channel to local boaters, (3) the Department of Public works has made arrangements to accommodate the requests of owners that have asked to temporarily moor their house boats or pleasure boats at the head of the channel, (4) the channel closure will not impact land access to the houseboats west of the bridge during the waterway closure and (5) the zone is not permanent. However, a small number of sailboats that moor in the harbor may be impacted. Small entities and the maritime public will be advised of this safety zone via public notice to mariners.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal Regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–800–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule does not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because it establishes a safety zone.

A draft ''Environmental Analysis Check List'' and a draft ''Categorical Exclusion Determination'' (CED) will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. From May 4, 2005 through December 31, 2005 add § 165.T11–048 to read as follows:

§ 165.T11–048 Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, California.

(a) *Location.* One hundred yards to either water-side of the Fourth Street Bridge, encompassing the navigable waters, from the surface to the sea floor, bounded by two lines; one line drawn from a point on the north shore of Mission Creek [37°46′29″ N, 122°23′36″ W] extending southeast to a point on the opposite shore [37°46′28″ N, 122°23′34″ W], and the other line drawn from a point on the north shore of Mission Creek [37°46′34″ N, 122°23′30″ W] extending southeast to a point on the opposite shore [37°46′33″ N, 122°23'28] [Datum: NAD 83].

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless specifically authorized by the Captain of the Port San Francisco Bay, or his designated representative.

(c) *Effective Period.* The safety zone will be in effect from 12:01 a.m. on May 4, 2005 to 11:59 p.m. on December 31, 2005. If the need for this safety zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of the safety zone and will announce that fact via Broadcast Notice to Mariners.

(d) *Enforcement.* The Captain of the Port will enforce this zone and may enlist the aid and cooperation of any Federal, State, county, or municipal agency to assist in the enforcement of the regulation. All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, or the designated on-scene patrol personnel. Patrol personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, Federal, State, and local law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: March 23, 2005.

Gordon A. Loebl,

Commander, U.S. Coast Guard, Acting Captain of the Port, San Francisco Bay, California.

[FR Doc. 05–6390 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2005–PA–0008; FRL–7893–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eleven Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for eleven major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X). These sources are located in Pennsylvania. EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on May 31, 2005 without further notice, unless EPA receives adverse written comment by May 2, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2005–PA–0008 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *morris.makeba@epa.gov.*

D. Mail: R03–OAR–2005–PA–0008, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2005–PA–0008. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov websites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Pauline DeVose, (215) 814–2186 , or by e-mail at *devose.pauline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the CAA, the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing RACT for three classes of VOC sources are required under section 182(b)(2). The categories are:

(1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment;

(2) All sources covered by a CTG issued prior to November 15, 1990; and

(3) All major non-CTG sources.

The Pennsylvania SIP already has approved RACT regulations and requirements for all sources and source categories covered by the CTGs. The Pennsylvania SIP also has approved regulations to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. These regulations are commonly termed the ''generic RACT regulations''. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead establishes procedures for imposing case-by-case RACT determinations. The Commonwealth's SIP-approved generic RACT regulations consist of the procedures PADEP uses to establish and impose RACT for subject sources of VOC and NO_X. Pursuant to the SIP-approved generic RACT rules, PADEP imposes RACT on each subject source in an enforceable document, usually a Plan Approval (PA) or Operating Permit (OP). The Commonwealth then submits these PAs and OPs to EPA for approval as source-specific SIP revisions.

It must be noted that the Commonwealth has adopted and is implementing additional ''post RACT requirements'' to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted 25 Pa Code Chapter 145 to satisfy Phase I of the NO_X SIP call. That regulation was approved as a SIP revision on August 21, 2001 (66 FR 43795). Federal approval of a source-specific RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

On August 30, 2004, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for eleven sources of VOC and NO_X. The Commonwealth's submittals consist of PAs and OPs which impose VOC and NO_X RACT requirements for each source.

II. Summary of the SIP Revisions

Copies of the actual PAs and OPs imposing RACT and PADEP's evaluation memoranda are included in the electronic and hard copy docket for this final rule. As previously stated, all documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/*. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105. The table below identifies the sources and the individual plan approvals (PAs) and operating permits (OPs) which are the subject of this rulemaking.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Plan Approval (PA #) Operating Permit (OP #)	Source type	''Major source'' pollutant
Department of the Army	Franklin	28–02002	Surface Coating Operations	VOC and NO_X.
Harley-Davidson Motor Company	York	67–2032	Motor Cycle Assembly Facility	VOC and NO_X.
Dart Container Corporation	Lancaster	36–2015	Expanded Polystyrene Manufacturing Facility.	VOC and NO_X.
GE Transportation Systems	Mercer	OP 43–196	Surface Coating	VOC and No_X.
Stone Container Corporation	York	67–2002	Paperboard Mill	NO_X.
Stanley Storage Systems, Inc	Lehigh	39–0031	Metal Tool Cabinet Manufacturing Facility	VOC.
York Group, Inc	York	67–2014	Casket and Furniture Manufacturing Facility.	VOC.
Strick Corporation	Columbia	OP–19–0002	Surface Coating Operations	VOC.
Grumman Olson, Division of Grumman Allied Industries.	Lycoming	OP–41–0002	Truck and Van Manufacturing Processes	VOC.
Prior Coated Metals, Inc	Lehigh	39–0005	Coil Coating Line Operations	VOC.
Schindler Elevator Corporation	Adams	01–2007	Elevator Cab Manufacturing Facility	VOC.

EPA is approving these RACT SIP submittals because PADEP established and imposed these RACT requirements in accordance with the criteria set forth in its SIP-approved generic RACT regulations applicable to these sources. The Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and NO_X RACT for eleven major sources. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on May 31, 2005 without further notice unless EPA receives adverse comment by May 2, 2005. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for 11 named sources.

C. Petitions for Judicial Review

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 31, 2005. Filing a petition for reconsideration by the Administrator of this final rule approving source-specific RACT requirements for eleven major sources in the Commonwealth of Pennsylvania 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 24, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 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 NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entry/entries for Department of the Army, Harley-Davidson Motor Company, Dart Container Corporation, GE Transportation Systems, Stone Container Corporation, Stanley Storage Systems, Inc., York Group, Inc., Strick Corporation, Grumman Olson, Division of Grumman Allied Industries, Prior Coated Metals, Inc., and Schindler Elevator Corporation at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(d) * * *

(1) * * *

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
*	*	*	*	*	*
Department of Army	28–02002	Franklin	2/3/00	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(g)
Harley-Davidson Motor Company.	67–2032	York	4/9/97	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(g)
Dart Container Corporation	36–2015	Lancaster	8/31/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(g)
GE Transportation Systems	OP 43–196	Mercer	5/16/01	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(g)
Stone Container Corporation	67–2002	York	9/3/96	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(g)
Stanley Storage Systems, Inc	39–0031	Lehigh	6/12/98	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(g)
York Group, Inc	67–2014	York	7/3/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(g)
Strick Corporation	OP–19–0002	Columbia	6/6/97	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(g)
Grumman Olson, Division of Grumman Allied Industries.	OP–41–0002	Lycoming	9/25/97	52.2020(d)(1)(g).	
Prior Coated Metals, Inc	39–0005	Lehigh	5/26/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(g)
Schindler Elevator Corporation.	01–2007	Adams	5/24/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(g)

* * * * *

[FR Doc. 05–6372 Filed 3–30–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2005–PA–0003; FRL–7893–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Seven Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for seven major sources of volatile organic compounds (VOC). These sources are located in Pennsylvania. EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on May 31, 2005 without further notice, unless EPA receives adverse written comment by May 2, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2005–PA–0003 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *morris.makeba@epa.gov.*

D. Mail: R03–OAR–2005–PA–0003, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2005–PA–0003. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov Web sites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Amy Caprio, (215) 814–2156, or by e-mail at *caprio.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the CAA, the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing RACT for three classes of VOC sources are required under section 182(b)(2). The categories are:

(1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment;

(2) All sources covered by a CTG issued prior to November 15, 1990; and

(3) All major non-CTG sources.

The Pennsylvania SIP already has approved RACT regulations and requirements for all sources and source categories covered by the CTGs. The Pennsylvania SIP also has approved regulations to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. These regulations are commonly termed the ''generic RACT regulations''. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead establishes procedures for imposing case-by-case RACT determinations. The Commonwealth's SIP-approved generic RACT regulations consist of the procedures PADEP uses to establish and impose RACT for subject sources of VOC and NO_X. Pursuant to the SIP-approved generic RACT rules, PADEP imposes RACT on each subject source in an enforceable document, usually a Plan Approval (PA) or Operating Permit (OP). The Commonwealth then submits these PAs and OPs to EPA for approval as source-specific SIP revisions.

On August 30, 2004, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for sources of VOC. The Commonwealth's submittals consist of PAs and OPs which impose VOC RACT requirements for each source.

II. Summary of the SIP Revisions

Copies of the actual PAs and OPs imposing RACT and PADEP's evaluation memorandum are included in the electronic and hard copy docket for this final rule. As previously stated, all documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/*. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105. The table below identifies the sources and the individual PAs and OPs which are the subject of this rulemaking.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Plan Approval (PA #) Operating Permit (OP #)	Source type	"Major source" pollutant
Hodge Foundry	Mercer	OP–43–036	Iron Foundry; binders, molds	VOC
Resolite, A United Dominion Co.	Butler	OP–10–266	Fiberglass Reinforced Plastic Lamination; Resin Mixtures.	VOC
Consolidation Coal Co.—Coal Preparation Plant.	Greene	30–000–063	Coal Preparation; Frothing Agent; mixture of diesel fuel and alcohol/aldehyde frothing agent; Antifreeze; Thickner.	VOC
Urick Foundry	Erie	OP–25–053	Iron Foundry; 52" Hot Blast Cupola w/afterburner control; Binders.	VOC
Keystone Sanitary Landfill, Inc	Lackawanna	35–0014	Active LFG Collection System; Enclosed Ground Flare.	VOC
Grinnell Corporation	Lancaster	36–2019	Foundry; binders; solvents	VOC
Buck Company Inc	Lancaster	36–2035	Foundry; binders; solvents	VOC

EPA is approving these RACT SIP submittals because PADEP established and imposed these RACT requirements in accordance with the criteria set forth in its SIP-approved generic RACT regulations applicable to these sources. The Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC RACT for seven major sources. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on May 31, 2005, without further notice unless EPA receives adverse comment by May 2, 2005. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus

standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for seven named sources.

C. Petitions for Judicial Review

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 31, 2005. Filing a petition for reconsideration by the Administrator of this final rule approving source-specific RACT requirements for seven sources in the Commonwealth of Pennsylvania 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 24, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 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 NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entries for Hodge Foundry, Resolite, A United Dominion Co., Consolidated Coal Co.-Coal Preparation Plant, Urick Foundry, Keystone Sanitary Landfill, Inc., Grinnell Corporation, and Buck Company Inc. at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(d) * * *

(1) * * *

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
*	*	*	*	*	*
Hodge Foundry	OP–43–036	Mercer	3/31/99	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(a)
Resolite, A United Dominion Co.	OP–10–266	Butler	10/15/99 2/18/00	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(a)
Consolidation Coal Co.—Coal Preparation Plant.	30–000–063	Greene	5/17/99	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(a)
Urick Foundry	OP–25–053	Erie	10/24/96	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(a)
Keystone Sanitary Landfill, Inc.	35–0014	Lackawanna	4/19/99	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(a)
Grinnell Corporation	36–2019	Lancaster	6/30/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(a)
Buck Company Inc	36–2035	Lancaster	8/1/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(a)

* * * * *

[FR Doc. 05–6373 Filed 3–30–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2005–PA–0007; FRL–7893–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Determinations for Fifteen Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) fifteen major sources of volatile organic compounds and nitrogen oxides (NO_X). These sources are located in Pennsylvania. EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on May 31, 2005, without further notice, unless EPA receives adverse written comment by May 2, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2005–PA–0007 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *morris.makeba@epa.gov.*

D. Mail: R03–OAR–2005–PA–0007, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2005–PA–0007. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov Web sites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: LaKeshia Robertson, (215) 814–2113, or by e-mail at *robertson.lakeshia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the CAA, the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing RACT for three classes of VOC sources are required under section 182(b)(2). The categories are:

(1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990, and the date of attainment;

(2) All sources covered by a CTG issued prior to November 15, 1990; and

(3) All major non-CTG sources.

The Pennsylvania SIP already has approved RACT regulations and requirements for all sources and source categories covered by the CTGs. The Pennsylvania SIP also has approved regulations to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. These regulations are commonly termed the ''generic RACT regulations''. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead establishes procedures for imposing case-by-case RACT determinations. The Commonwealth's SIP-approved generic RACT regulations consist of the procedures PADEP uses to establish and impose RACT for subject sources of VOC and NO_X. Pursuant to the SIP-approved generic RACT rules, PADEP imposes RACT on each subject source in an enforceable document, usually a Plan Approval (PA) or Operating Permit (OP). The Commonwealth then submits these PAs and OPs to EPA for approval as source-specific SIP revisions.

It must be noted that the Commonwealth has adopted and is implementing additional ''post RACT requirements'' to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters

121 and 123, based upon a model rule developed by the States in the OTR. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted 25 Pa Code Chapter 145 to satisfy Phase I of the NO_X SIP call. That regulation was approved as a SIP revision on August 21, 2001 (66 FR 43795). Federal approval of a source-specific RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

On August 30, 2004, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for fifteen sources of NO_X. The Commonwealth's submittals consist of PAs and OPs which impose NO_X RACT requirements for each source.

II. Summary of the SIP Revisions

Copies of the actual PAs and OPs imposing RACT and PADEP's evaluation memoranda are included in the electronic and hard copy docket for this final rule. As previously stated, all documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/*. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105. The table below identifies the sources and the individual PAs and OPs which are the subject of this rulemaking.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Plan approval (PA #) Operating permit (OP #)	Source type	"Major source" pollutant
Owens-Brockway Glass Container, Inc	Clarion	OP 16–010	Two Furnaces, Two Refiners, Seven Forehearths, and Seven Lehrs.	NO_X.
Alcoa Extrusions, Inc	Schuylkill	54–0022	Boilers, Furnaces, Casting Units, Ovens, and Vaporizer.	NO_X.
Pennsylvania Electric Company	Indiana	32–000–059	Boilers, Diesel Generators, and Miscellaneous Sources.	NO_X.
National Gypsum Company	Union	OP–60–0003	Two Boilers	NO_X.
Stoney Creek Technologies, LLC	Delaware	OP–16–010	Two Steam Boilers	NO_X.
Northeastern Power Company	Schuylkill	54–0008	Boiler, Diesel Fire Pump, Diesel Boiler Water Feed Pump, and Generators.	NO_X.
Koppers Industries, Inc	Lycoming	OP–41–0008	Boilers, Fire Pump, Furnace, and Heaters	NO_X.
Texas Eastern Transmission Corporation	Dauphin	22–2100	Turbines and Generator	NO_X.
The Miller Group	Schuylkill	54–0024	Boiler, Textile Dryers, Air Make-up, and Unit Heaters.	NO_X.
CNG Transmission Corporation	Indiana	32–000–129	Dehydrator Reboiler and Four Ingersoil Engines.	NO_X.
I.H.F.P., Inc	Northumberland	OP–49–0010A	Eight Boilers and Seventy Seven Small Combustion Sources.	NO_X.
National Forge Company	Warren	OP 62–032	Two Boilers and Thirty-Five Furnaces	NO_X.
United Refining Company	Warren	OP 62–017	Five Boilers, Four Heaters, and Regenerator.	NO_X.
Petrowax Refining	McKean	OP 42–110	Four Boilers, Flares, Heaters and Burner	NO_X.
Westvaco Corporation	Blair	07–2008	Two Boilers and Emergency Generator	NO_X.

EPA is approving these RACT SIP submittals because PADEP established and imposed these RACT requirements in accordance with the criteria set forth in its SIP-approved generic RACT regulations applicable to these sources. The Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require NO_X RACT for fifteen major of sources. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on May 31, 2005, without further notice unless EPA receives adverse comment by May 2, 2005. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the

Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for 15 named sources.

C. Petitions for Judicial Review

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 31, 2005. Filing a petition for reconsideration by the Administrator of this final rule approving source-specific RACT requirements for fifteen sources in the Commonwealth of Pennsylvania 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 24, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 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 NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entries for Owens-Brockway Glass Container, Inc., Alcoa Extrusion, Inc., Pennsylvania Electric Company, National Gypsum Company, Stoney Creek Technologies, LLC, Northeastern Power Company, Koppers Industries, Inc., Texas Eastern Transmission, The Miller Group, CNG Transmission Corporation, I.H.F.P., Inc., National Forge Company, United Refining Company, Petrowax Refining, and Westvaco Corporation at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(d) * * *

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
*	*	*	*	*	*
Owens-Brockway Glass Container, Inc.	OP 16–010	Clarion	3/27/95 5/31/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
Alcoa Extrusion, Inc	54–0022	Schuylkill	3/19/99	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
Pennsylvania Electric Company.	32–000–059	Indiana	12/29/94	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
National Gypsum Company	OP–60–0003	Union	1/17/96	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Stoney Creek Technologies, LLC.	OP–16–010	Delaware	7/24/03	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
Northeastern Power Company	54–0008	Schuylkill	5/26/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
Koppers Industries, Inc	OP–41–0008	Lycoming	3/30/99	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
Texas Eastern Transmission Corporation.	22–2100	Dauphin	1/31/97	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
The Miller Group	54–0024	Schuylkill	2/1/99	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
CNG Transmission Corporation.	32–000–129	Indiana	6/22/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
I.H.F.P., Inc	OP–49–0010A	Northumberland	1/7/98	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
National Forge Company	OP 62–032	Warren	5/31/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
United Refining Company	OP 62–017	Warren	5/31/95 11/14/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
Petrowax Refining	OP 42–110	McKean	3/4/96 5/31/96	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)
Westvaco Corporation	07–2008	Blair	9/29/95	3/31/05 [Insert page number where the document begins].	52.2020(d)(1)(f)

[FR Doc. 05–6376 Filed 3–30–05; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[R07–OAR–2005–NE–0001; FRL–7894–1]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP) and Operating Permits Program submitted by the state of Nebraska. These revisions provide or incorporate rules for predictive emissions monitoring (PEMS) in Chapter 34, delete obsolete footnotes from Appendix III (relating to emissions inventories for hazardous air pollutants under the state's operating permit program), correct a mistakenly worded rule in Chapter 20 (relating to process weight rates for particulate matter from certain sources), and improve understanding of Chapter 20 by consolidating the process weight rates into a single table. Approval of these revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's revised air program rules.

DATES: This direct final rule will be effective May 31, 2005, without further notice, unless EPA receives adverse comment by May 2, 2005. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2005–NE–0001, by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. Agency Website: *http://docket.epa.gov/rmepub/.* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search;'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: *rios.shelly@epa.gov.*

4. Mail: Shelly Rios-LaLuz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. Hand Delivery or Courier. Deliver your comments to Shelly Rios-LaLuz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to RME ID No. R07–OAR–2005–NE–0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov,

or e-mail. The EPA RME Web site and the Federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Shelly Rios-LaLuz at (913) 551–7296 or by e-mail at *rios.shelly@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is the Part 70 operating permits program?
What is the Federal approval process for an operating permits program?
What is being addressed in this document?
What is EPA's analysis of the revisions?
Have the requirements for approval of a SIP and Part 70 revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is the Part 70 Operating Permits Program?

The CAA Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in our implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM_{10}; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

Revision to the state and local agencies operating permits program are also subject to public notice, comment, and our approval.

What Is the Federal Approval Process for an Operating Permits Program?

In order for state regulations to be included in the Federally-enforceable Title V operating permits program, states must formally adopt regulations consistent with state and Federal requirements. This process generally includes a public notice, public hearing,

public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the approved operating permits program. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 502 of the CAA, including revisions to the state program, are included in the Federally-approved operating permits program. Records of such actions are maintained in the CFR at Title 40, part 70, appendix A, entitled ''Approval Status of State and Local Operating Permits Programs.''

What Is Being Addressed in This Document?

On June 4, 2004, we received a request from the state of Nebraska to approve revisions to Nebraska's State Implementation Plan and Part 70 Operating Permits Program. These revisions were adopted by the Nebraska Department of Environmental Quality (NDEQ) on June 6, 2003, and on September 4, 2003. This action addresses rule revisions to Title 129—Nebraska Air Quality Regulations, Chapters 20 and 34 and Appendix III. The purpose of these revisions are to: (a) Provide or incorporate rules for Predictive Emissions Monitoring Systems (PEMS) in Chapter 34; (b) delete, from Appendix III, obsolete footnotes which described the uses of the various hazardous air pollutants listed in the appendix; (c) correct a mistakenly worded rule in Chapter 20 (which establishes emissions rates for particulates from certain industrial processes); and (d) improve understanding of Chapter 20 by consolidating various process weight rates into a single table.

What Is EPA's Analysis of the Revisions?

The addition of regulations governing PEMS introduces regulatory requirements under which Predictive Emissions Monitoring may be used in the state of Nebraska. The Nebraska Department of Environmental Quality determined that the use of PEMS is an appropriate alternative to Continuous Emissions Monitoring in some instances. The rule allows the state to require PEMS under certain circumstances described in the rule. The rule, which is applicable to sources subject only to various implementation plan requirements (and not to federally promulgated requirements such as New Source Performance Standards (40 CFR Part 60)) requires that alternative PEMS monitoring be approved by the state and EPA. Because of the limitations and safeguards included in the rule, EPA believes that it is acceptable.

The re-formatting of sections 002 and 003 in Chapter 20 resulted in a renumbering of these sections. The consolidation of the emissions rates in Chapter 20 does not change any of the emissions rates but only clarifies them.

The changes in Appendix III relate to emission inventory reporting for Hazardous Air Pollutants (HAPs). Although these modifications include minor technical amendments to how emissions are reported, they do not change previous reporting requirements for HAPs. These changes are not substantive, thus we are approving these changes.

For the reasons stated above, we have determined that the revisions to Nebraska's State Implementation Plan and to the Operating Permits Program described above should be approved. In this action, we are not acting on Title 129, Chapter 34, Section 005 relating to continuous emissions monitoring for certain sources subject to SIP requirements. NDEQ had revised this rule in a manner which is inconsistent with EPA requirements (40 CFR part 51, appendix P). As a result, NDEQ determined that this provision should be further revised to be consistent with the Federal rule and will submit a revision to its rulemaking council in the near future. EPA will act on this rule when it is revised, in a separate rulemaking. In this action we are also not acting on Title 129, Chapter 42 relating to Permits-by-Rule. NDEQ has made revisions to this chapter and will be submitting them in the near future. Action on Chapter 42 will be taken at a future date.

Have the Requirements for Approval of a SIP and Part 70 Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations. The revision also meets the applicable requirements of Title V and EPA regulations for revision to the operating permits program.

What Action Is EPA Taking?

We are approving, as an amendment to the Nebraska SIP, revisions to Title 129, Chapters 20 and 34 (with the exception of Chapter 34, section 005) as described in this rule. We are also approving, as a program revision to the state's part 70 Operating Permits Program, revisions to Title 129, Appendix III. Revisions to Title 129, Chapter 20 became effective February 7, 2004, and revisions to Title 129, Chapter 34 and Appendix III became effective November 24. 2003. In this action we are not acting on Title 129, Chapter 42 relating to Permits-by-Rule.

EPA is processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the

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

In reviewing state submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 31, 2005. 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

40 CFR Part 52

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

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: March 21, 2005.

James B. Gulliford,

Regional Administrator, Region 7.

■ 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 CC—Nebraska

■ 2. In § 52.1420 the table in paragraph (c) is amended by revising the entries for 129–20 and 129–34 to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
State of Nebraska Department of Environmental Quality				
Title 129—Nebraska Air Quality Regulations				
129–20	Particulate Emissions; Limitations and Standards (Exceptions Due to Breakdowns or Scheduled Maintenance: See Chapter 35).	2/7/04	3/31/05, [insert FR page number where the document begins].	
*	*	*	*	*
129–34	Emission Sources; Testing; Monitoring	11/24/03	3/31/05, [insert FR page number where the document begins].	Section 005 is not SIP approved.
*	*	*	*	*

* * * * *

PART 70—[AMENDED]

■ 1. The authority citation for Part 70 continues to read as follows:

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

Appendix A—[Amended]

■ 2. Appendix A to Part 70 is amended by adding paragraph (h) under Nebraska; City of Omaha; Lincoln-Lancaster County Health Department to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Nebraska; City of Omaha; Lincoln-Lancaster County Health Department

* * * * *

(h) The Nebraska Department of Environmental Quality approved a revision to NDEQ Title 129, appendix III, on November 19, 2003, which became effective November 24, 2003. This revision was submitted on June 4, 2004. We are approving this program revision effective May 31, 2005.

* * * * *

[FR Doc. 05–6369 Filed 3–30–05; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 70, No. 61
Thursday, March 31, 2005

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 03–048–1]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. Many of these fruits and vegetables are already eligible for importation under permit, but are not specifically listed in the regulations. All of the fruits and vegetables, as a condition of entry, would be inspected and subject to treatment at the port of first arrival as may be required by an inspector. In addition, some of the fruits and vegetables would be required to be treated or meet other special conditions. We also propose to recognize areas in several countries as free from certain fruit flies; provide for the importation of untreated citrus from Mexico for processing under certain conditions; add, modify, or remove certain definitions; eliminate or modify existing treatment requirements for specified commodities; and make other miscellaneous changes. These actions would improve the transparency of our regulations while continuing to protect against the introduction of quarantine pests through imported fruits and vegetables.

DATES: We will consider all comments that we receive on or before May 31, 2005.

ADDRESSES: You may submit comments by any of the following methods:

- EDOCKET: Go to *http://www.epa.gov/feddocket* 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. Once you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate this document.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 03–048–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–048–1.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. West, Senior Import Specialist, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737–1228; (301) 734–8262.

SUPPLEMENTARY INFORMATION:

Background

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

The regulations in ''Subpart-Fruits and Vegetables'' (7 CFR 319.56 through 319.56–8, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and spread of plant pests that are new to or not widely distributed within the United States.

In this document, we are proposing to amend the regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. Many of these fruits and vegetables are already eligible for importation under permit, but are not specifically listed in the regulations. All of the fruits and vegetables, as a condition of entry, would be inspected and subject to treatment at the port of first arrival as may be required by an inspector. In addition, some of the fruits and vegetables would have to meet other special conditions. We are also proposing to recognize areas in several countries as free from certain fruit flies; add an alternative treatment for specified commodities; provide for the importation of untreated citrus from Mexico for processing under certain conditions; and to add, modify, or remove certain definitions make other miscellaneous changes. Our proposed amendments are discussed below by topic.

Fruits and Vegetables Eligible for Entry Under Permit

Prior to 1992, APHIS did not specifically amend the regulations to list those fruits and vegetables for which we issued a permit after determining that the fruit or vegetable was eligible for entry under the regulations in § 319.56–2(e). However, in 1992, in an effort to increase transparency, we changed our approach and began to amend the regulations to specifically list all newly eligible fruits and vegetables (*i.e.*, those that were not previously eligible under a specific administrative instruction or imported under permit in accordance with § 319.56–2(e)). In most cases, we have not amended the regulations to list the fruits and vegetables that were allowed entry exclusively under permit prior to our decision to specifically list the commodities in the regulations.

In this document, we are proposing to amend the regulations to list a number of those fruits and vegetables that were approved for entry prior to 1992 and that have been eligible for importation under permit. In those cases where a permit has contained additional conditions that apply to the importation of the fruit or vegetable (such as a

requirement for a phytosanitary certificate with an additional declaration or limitations on the origin or distribution of the article), those additional conditions would be reflected in the regulations. This proposed action would serve to improve the transparency of our regulations.

The permit requirement for these fruits and vegetables would continue to apply to their importation, as would the requirements of § 319.56–6 of the regulations. Under § 319.56–6, all imported fruits and vegetables, as a condition of entry into the United States, must be inspected; they are also subject to disinfection at the port of first arrival if an inspector requires it. Section 319.56–6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is so infested with plant pests that an inspector determines that it cannot be cleaned or treated.

As noted previously, some of the fruits and vegetables we would list in the regulations would have to meet other special conditions. The proposed conditions of entry, which are discussed below, appear adequate to prevent the introduction and spread of quarantine pests through the importation of these fruits and vegetables.

Inspected and Subject to Disinfection

Section 319.56–2t lists fruits and vegetables that may be imported into the United States in accordance with the inspection and disinfection requirements of § 319.56–6 and all other applicable requirements of the regulations. We propose to amend that list to include the following additional fruits and vegetables from certain countries. All of these fruits and vegetables are eligible for importation into the United States in accordance with § 319.56–6 and all other applicable requirements of the regulations. These fruits and vegetables also meet the criteria of § 319.56–2(e)(4) and have been imported into the United States under permit since before 1992.

Country of origin	Common name	Botanical name
Argentina	Allium	*Allium* spp.
Belgium	Cichorium	*Cichorium* spp.
Belize	Pepper	*Capsicum* spp.
Brazil	Dasheen	*Colocasia esculenta.*
	Ginger root	*Zingiber officinale.*
Chile	Asparagus	*Asparagus officinalis.*
	Blackberry	*Rubus* spp.
	Blueberry	*Vaccinium* spp.
	Raspberry	*Rubus* spp.
China	Ginger root	*Zingiber officinale.*
Colombia	Banana	*Musa* spp.
Costa Rica	Banana	*Musa* spp.
	Carrot	*Daucus carota* ssp. *sativus.*
	Cucurbit	*Cucurbitaceae.*
Dominican Republic	Avocado	*Persea americana.*
	Banana	*Musa* spp.
	Breadfruit	*Artocarpus altilis.*
	Cassava	*Manihot esculenta.*
	Celeriac	*Apium graveolens* var. *dulce.*
	Citrus	*Citrus* spp.
	Cucurbit	*Cucurbitaceae.*
	Dasheen	*Colocasia esculenta.*
	Genip	*Melicoccus bijugatus.*
	Pepper	*Capsicum* spp.
Guatemala	Banana	*Musa* spp.
	Cichorium	*Cichorium* spp.
	Cucurbit	*Cucurbitaceae.*
	Okra	*Abelmoschus esculentus.*
Honduras	Cucurbit	*Cucurbitaceae.*
	Okra	*Abelmoschus esculentus.*
Israel	Basil	*Ocimum* spp.
Jamaica	Cucurbit	*Cucurbitaceae.*
Mexico	Artichoke, globe	*Cynara scolymus.*
	Artichoke, Jerusalem	*Helianthus tubersus.*
	Basil	*Ocimum* spp.
	Blackberry	*Rubus* spp.
	Celery	*Apium graveolens* var. *dulce.*
	Cichorium	*Cichorium* spp.
	Dill	*Anethum graveolens.*
	Jicama or yam bean	*Pachyrhizus tuberosus, P. erosus.*
	Lettuce	*Lactuca sativa.*
	Oregano	*Origanum* spp.
	Pepper	*Capsicum* spp.
	Raspberry	*Rubus* spp.
	Spinach	*Spinacia oleracea.*
	Strawberry	*Fragaria* spp.
	Swiss chard	*Beta vulgaris* var. *cicla.*
	Tomatillo	*Physalis ixocarpa.*
Netherlands	Cichorium	*Cichorium* spp.
	Cucurbit	*Cucurbitaceae.*
	Eggplant	*Solanum melongena.*
Nicaragua	Banana	*Musa* spp.
	Dasheen	*Colocasia esculenta.*

Country of origin	Common name	Botanical name
Panama	Cucurbit	*Cucurbitaceae.*
Peru	Banana	*Musa* spp.
Spain	Cucurbit	*Cucurbitaceae.*
	Lemon	*Citrus limon.*
Trinidad and Tobago	Cucurbit	*Cucurbitaceae.*
Venezuela	Banana	*Musa* spp.

We have determined that any quarantine pests that might be carried by any of the fruits and vegetables listed above would be readily detectable by an inspector. Therefore, the provisions of § 319.56–6 for inspection and disinfection at the U.S. port of first arrival appear adequate to prevent the introduction into the United States of quarantine pests by the importation of these fruits and vegetables.

Paragraph (b) of § 319.56–2t currently sets out any additional restrictions that may apply to a fruit or vegetable listed in the table in paragraph (a) of that section, such as a requirement for a phytosanitary certificate with an additional declaration or limitations on the origin or distribution of the article. In some cases, the entry we would add to § 319.56–2t for a particular fruit or vegetable listed above would provide a broad common name such as ''citrus,'' but the permit for the article has been more specific, either naming particular varieties as enterable or excluding specific varieties. To account for this, we would add a new paragraph (b)(6) to § 319.56–2t in which we would set out any specific restrictions on the type or variety of an article listed in the table. These specific restrictions would be as follows:

- For cichorium from Belgium, Guatemala, and Mexico, paragraph (b)(6)(ii) would specify chicory (*Cichorium intybus*) and endive (*C. endiva*) only.
- For peppers from Belize and Mexico, paragraph (b)(6)(iii) would specify that rocoto pepper or chamburoto (*Capsicum pubescens*) is prohibited.
- For citrus from the Dominican Republic, paragraph (b)(6)(iv) would specify grapefruit (*Citrus paradisi*), lemon (*C. limon*), orange (*C. sinensis*), sour lime (*C. aurantiifolia*), and tangerine (*C. reticulata*) only.
- For lemons from Spain, paragraph (b)(6)(v) would specify smooth-skinned variety only.

Fruit From Fruit Fly-Free Areas

We propose to amend § 319.56–2t to allow the entry of the fruits and vegetables listed below, which are currently eligible for entry under permit, provided the shipments meet the criteria set forth in § 319.56–6, were grown in an area recognized by APHIS as free of Mediterranean fruit fly (Medfly, *Ceratitis capitata*), and are accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) in their country of origin. The proposed origin and phytosanitary certificate requirements for these fruits, which reflect the current permit conditions that apply to their importation, are necessary to assure us that the fruits originated in a Medfly-free area and were inspected and found free of plant pests.

To address those cases where the fruits and vegetables listed below are grown outside a Medfly-free area in their respective countries of origin, we would also amend § 319.56–2x to add these same fruits and vegetables to the list of fruits and vegetables that may be imported into the United States provided that they are treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at 7 CFR 300.1, or irradiated in accordance with 7 CFR 305.2.

Country of origin	Common name	Botanical name
Argentina	Apple	*Malus domestica.*
	Apricot	*Prunus americana.*
	Cherry	*Prunus avium, P. cerasus.*
	Kiwi	*Actinidia deliciosa.*
	Nectarine	*Prunus persica* var. *nucipersica.*
	Peach	*Prunus persica* var. *persica.*
	Pear	*Pyrus communis.*
	Plum	*Prunus domestica* subsp. *domestica.*
	Pomegranate	*Punica granatum.*
	Quince	*Cydonia oblonga.*
Chile	Apple	*Malus domestica.*
	Avocado	*Persea americana.*
	Cherry	*Prunus avium, P. cerasus.*
	Pear	*Pyrus communis.*

Papayas and Pineapples

We propose to add papayas and pineapples from various countries from which they are currently enterable under permit to the list in § 319.56–2t, under the condition that cartons containing these fruits be stamped ''Not for distribution in Hawaii.'' Papayas are host to the papaya fruit fly, a plant pest not present in Hawaii. Shipments of papayas would be prohibited in order to prevent the introduction of this pest into Hawaii. Similarly, pineapples and other bromeliads are host to numerous plant pests and diseases (*e.g.,* burrowing nematode, mealybug, root rot) that could pose a risk to the pineapple and bromeliad industries in Hawaii; therefore, we believe it is necessary to prohibit shipment of untreated pineapples into Hawaii in order to protect those industries. This proposed limitation on the distribution of these papayas and pineapples reflect the current permit conditions that apply to their importation.

Country of origin	Common name	Botanical name
Dominican Republic	Papaya	*Carica papaya.*
	Pineapple	*Ananas comosus.*
Ecuador	Pineapple	*Ananas comosus.*
Jamaica	Papaya	*Carica papaya.*

Papayas From Central America and Brazil

The regulations in § 319.56–2w provide that papayas from certain areas in Central America and Brazil may be imported into the United States if they are grown, treated, packed, labeled, and shipped according to certain specifications to prevent the introduction of fruit flies into the United States. Papayas from those areas listed in § 319.56–2w(a) may be imported into the United States only if they meet a series of 10 conditions which we have determined to be sufficient to prevent the introduction of fruit flies into the United States. Those conditions can be found in paragraphs (b) through (k) of § 319.56–2w. The papayas are also subject to inspection, disinfection, or both, at the port of first arrival in accordance with § 319.56–6. The State of Espirito Santo in Brazil and the Departments of Carazo, Granada, Managua, Masaya, and Rivas in Nicaragua are among the eligible locations listed in § 319.56–2w(a).

We are now proposing to amend § 319.56–2w(a) by adding two new areas of Brazil to the list of localities eligible to export papayas to the United States. Local exporters and Brazil's Ministry of Agriculture have agreed to meet the 10 conditions mentioned above with regard to papayas grown and exported from certain areas in the State of Bahia and the State of Rio Grande del Norte. Therefore, we propose to add portions of the States of Bahia and Rio Grande del Norte to the list in § 319.56–2w(a)(1) of areas in Brazil approved to export papayas to the United States.

We are also proposing to add the Department of Leon to the list of areas in Nicaragua approved to export papayas to the United States, since local exporters and Nicaragua's Ministry of Agriculture have agreed to meet the 10 conditions mentioned above with regard to papayas grown and exported from the Department of Leon. Therefore, we propose to add the Department of Leon to the list in § 319.56–2w(a)(6) of areas in Nicaragua approved to export papayas to the United States.

Finally, the regulations in § 319.56–2w(c) currently state that the papayas must be treated with a hot water treatment consisting of 20 minutes in water at 49 °C (120.2 °F). In response to a request by Brazil's Ministry of Agriculture, we are proposing to lower the required temperature of the hot water treatment from 49 °C to 48 °C, which has been determined to be as effective and less damaging to the fruit.

Field-Grown Grapes

The regulations in § 319.56–2k provide procedures for the fumigation of shipments of field-grown grapes from certain of the continental countries of southern and middle Europe, North Africa, and the Near East. A list of countries included in these geographical areas is provided at § 319.56–2k(a).

We are proposing to update that list of countries by removing a reference to the ''Union of Soviet Socialist Republics'' and replacing it with references to the 15 successor States to the former Soviet Union. Those States are: Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Irradiation Treatment

The regulations in § 319.56–2j contain requirements applicable to the importation into the United States of apples and pears from Australia (including Tasmania) and New Zealand. Footnote 4 in that section states that apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the cold treatment requirements found at § 319.56–2d.

The regulations in § 319.56–2v govern the importation into the United States of citrus from Australia. Paragraph (c) in that section states that citrus from areas in Australia where certain tropical fruit flies occur is also subject to the cold treatment requirements found in the PPQ Treatment Manual.

However, the fruits listed above are also eligible for importation if they have been irradiated in accordance with 7 CFR part 305. The regulations in § 319.56–2(k) provide that any fruit or vegetable that is required by the regulations or the PPQ Treatment Manual to be treated or subjected to other growing or inspection requirements to control one or more of the 11 species of fruit flies and one species of seed weevil listed in § 305.2(a) as a condition of entry into the United States may instead be treated by irradiation in accordance with part 305. Elsewhere in the regulations, the irradiation option is specifically noted where applicable, but it is not mentioned in §§ 319.56–2j or 319.56–2v. Therefore, we are proposing to amend those sections to explicitly cite the availability of the irradiation option.

Blueberries From South America

Under the regulations in § 319.56–2x, certain fruits and vegetables, including blueberries (*Vaccinium* spp.) from specified countries in South America (Argentina, Bolivia, Ecuador, and Peru), may currently be imported into the United States provided that they are (1) treated with methyl bromide in accordance with the PPQ Treatment Manual or (2) irradiated in accordance with 7 CFR 305.2.

Blueberries from Argentina, Bolivia, Ecuador, and Peru are currently required to be treated in order to mitigate the risk of Medfly infestation. However, blueberries are not a host for Medfly in South America, and blueberries are not listed as a regulated article in our domestic Medfly regulations in 7 CFR 301.78–2. Therefore, we propose to amend the regulations to remove the treatment requirement for blueberries from South America in order to make our import requirements consistent with our domestic requirements. To accomplish this, we would remove the entries for blueberries from Argentina, Bolivia, Ecuador, and Peru from the table in § 319.56–2x and add entries for blueberries from those countries to the table in § 319.56–2t, which lists fruits and vegetables that may be imported in accordance with § 319.56–6 and all other applicable requirements of the regulations, but do not require treatment as a condition of entry. As a result of this proposed change, blueberries from Argentina, Bolivia, Ecuador, and Peru would no longer have to be fumigated with methyl bromide or irradiated to be eligible for importation into the United States.

We are also proposing to amend § 319.56–2t by adding an entry for blueberries from Colombia. Unlike the blueberries from Argentina, Bolivia, Ecuador, and Peru discussed in the previous paragraph, blueberries from

Colombia have not previously been eligible for entry. However, we have prepared a pest risk assessment, which may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**, that concludes that there are no quarantine pests associated with blueberries from Colombia that are likely to follow the import pathway. Therefore, we are proposing to add blueberries from Colombia to the list of fruits and vegetables that may be imported into the United States in accordance with § 319.56–6 and all other applicable requirements of the regulations.

Fruit Fly-Free Areas in Argentina

The regulations in § 319.56–2(j) list areas in South and Central America that APHIS has determined meet the criteria in § 319.56–2(e) and (f) with regard to freedom from Medfly. Argentina recently provided APHIS with fruit fly survey data that demonstrate that certain areas in southern Argentina meet the criteria of § 319.56–2(f) for area freedom from Medfly and other fruit flies. (The survey data are available upon request from the person listed under **FOR FURTHER INFORMATION CONTACT.**) Following site visits by APHIS officials, we have successfully verified this area's status as a fruit fly free zone.

Therefore, we propose to amend paragraph (j) to state that the Patagonia region of Argentina is free of those pests. The Patagonia region includes those areas along the valleys of the Rio Colorado and Rio Negro rivers and includes the provinces of Neuquen, Rio Negro, Chubut, Santa Cruz, and Tierra del Fuego.

Movement of Fruit From Pest-Free Areas

We are proposing to amend § 319.56–2(g), which currently specifies the requirements for the marking of boxes of fruits or vegetables produced in an area that has been determined to be free of certain pests in accordance with paragraphs (e)(3) or (4) and (f) of that section. While those paragraphs contain criteria for establishing the freedom of a production area from certain pests, they do not address the pest status of other areas through which the fruits or vegetables produced there may move en route to the United States. In order to protect the fruits or vegetables from potential infestation during its movement from the pest-free area to the United States, we are proposing to amend paragraph (g) to require that each box of fruits or vegetables from areas determined to be free of quarantine pests be safeguarded from infestation while in transit to the United States through other areas that have not been designated free of those pests.

Grapefruit, Sweet Oranges, and Tangerines From Mexico

We propose to allow grapefruit (*Citrus paradisi*), sweet oranges (*Citrus sinensis*), and tangerines (*Citrus reticulata*) from areas of Mexico where certain fruit flies occur to be imported into the United States without treatment under certain conditions, which would be set forth in a new § 319.56–2nn.

Grapefruit, sweet oranges, and tangerines from Mexico are currently eligible for importation into the United States provided that shipments of fruit are treated for Mexican fruit fly (*Anastrepha ludens*) and other *Anastrepha* spp. fruit flies with a treatment approved by APHIS, or that the shipments originate in an area of Mexico that has been determined to be free of Mexican fruit fly and other *Anastrepha* spp. fruit flies.

The Government of Mexico has requested that we allow untreated grapefruit, sweet oranges, and tangerines to be imported and processed (*i.e.,* juiced) in areas in the State of Texas that are under quarantine for Mexican fruit fly and that are under an APHIS-approved preventative release program using sterile insect technique for Mexican fruit fly. We considered Mexico's request and believe that untreated grapefruit, sweet oranges, and tangerines can be safely imported, provided they are grown, shipped, handled, and processed under certain conditions, which are described below.

Sterile insect technique. Under this proposed rule, the areas where imported grapefruit, sweet oranges, and tangerines are grown and surrounding 1.5 mile buffer areas must be administered under an APHIS-approved preventative release program using sterile insect technique for the Mexican fruit fly. This condition mirrors requirements on production areas under quarantine in the State of Texas for Mexican fruit fly, and is intended to ensure that there is a low prevalence of reproducing Mexican fruit flies in production sites.

Fruit fly trapping protocol. In order to assess the prevalence of fruit flies in production areas, surveillance for fruit flies would be required as follows:

- For Mexican fruit fly and Sapote fruit fly (*Anastrepha serpentina*), APHIS-approved traps and lures must be placed in production sites and surrounding 1.5 mile buffer areas at a rate of 1 trap per 10 hectares.
- For Medfly, APHIS-approved traps and lures must be placed in production sites and surrounding 1.5 mile buffer areas at a rate of 1 to 4 traps per 250 hectares.

We would require that, upon trapping of a Mexican fruit fly, Sapote fruit fly, or Medfly in a production site or buffer area, exports to the United States from that production site would be prohibited until the Administrator determines that the phytosanitary measures taken have been effective to allow the resumption of exports from that production site. Such measures may include increased trapping densities, pesticide applications, or other measures. This proposed requirement is necessary to ensure that imported untreated citrus originates from areas where there is a low prevalence of Mexican fruit fly, and which is free of Sapote fruit fly and Medfly, as is the case in the areas in Texas into which fruit would be allowed importation for processing.

In order to ensure the reliability of the trapping programs, the growers who would conduct the trapping would be required to be monitored under an APHIS-approved quality control program.

Safeguarding and certification. We would also require that fruit be safeguarded against fruit fly infestation from the time of harvest until its processing in the United States. This proposed requirement is necessary to preclude the infestation of picked fruit by plant pests, as well as the escape of such pests from fruit and their containers, and subsequent dissemination into the United States. Safeguarding could include packing the fruit in insect-proof cartons or containers, or covering fruit with insect-proof mesh or plastic tarpaulin, for transit to the United States from the production site. The specific methods employed to safeguard fruit would have to be approved by APHIS prior to the importation of fruit into the United States. In addition, each shipment of fruit would be required to be accompanied by a phytosanitary certificate issued by Mexico's NPPO. The certificate would have to contain additional declarations stating that the trapping requirements described above have been met.

Ports, route of transit, and destinations. We would require that harvested fruit enter the United States only through a port of entry located in one of the Texas counties listed in § 301.64–3(c) in order to protect against the spread of fruit flies to noninfested areas of the United States. To protect against further introductions of fruit flies into the United States, harvested fruit could only travel on the most direct route to the processing plant from

its point of entry into the United States, as specified in the permit issued for the importation of the fruit. Furthermore, fruit could only be processed at plants located within an area in Texas that is under an APHIS approved preventative release program using sterile insect technique for Mexican fruit fly.

Compliance agreements. In order to ensure compliance with the proposed regulations and protection against the introduction of fruit flies into the United States, we would require processing plants within the United States to enter into a compliance agreement with APHIS in order to handle untreated grapefruit, sweet oranges, and tangerines from Mexico. APHIS would only enter into compliance agreements with facilities that handle and process grapefruit, sweet oranges, and tangerines from Mexico in such a way as to eliminate any risk that exotic fruit flies could be disseminated into the United States, as determined by APHIS.

Definitions

We propose to amend § 319.56–1 by adding, removing, or modifying several definitions. First, for consistency with our other regulations in title 7, we would remove the definition of *Deputy Administrator* and replace it with a definition of *Administrator.* We would make a similar change throughout the text of the regulations, replacing references to the Deputy Administrator with references to the Administrator. We would also add a definition of APHIS to § 319.56–1.

We would remove the definition of *plants or portions of plants* and replace it with a definition of *plant debris.* This change would differentiate detached leaves from approved parts of plants, resulting in lessened restrictions on low-risk articles and facilitating the inspection process by clarifying our definition of allowable materials. It is necessary to specify ''detached leaves'' since attached leaves may qualify as approved parts of some fruits and vegetables. In connection with this proposed change in definitions, we would amend § 319.56–2(a) by replacing a reference to ''plants or portions of plants'' with the term ''plant debris.''

We would replace the definition of *fresh fruits and vegetables* with a definition of *fruits and vegetables* in order to achieve equivalence with the definition listed in International Plant Protection Convention's ''Glossary of Phytosanitary Terms.''

We would amend the definitions for *cucurbits, inspector,* and *port of first arrival* because the current definitions are too specific, thus affecting their usefulness for the purposes of our regulations. The current definition of *cucurbits* lists specific genera or species within the family Cucurbitaceae, while our proposed definition would simply refer to any plants in the family Cucurbitaceae. The current definition of *inspector* refers only to APHIS inspectors, while our proposed definition would reflect the transfer of some inspection functions to the Department of Homeland Security's Bureau of Customs and Border Protection. The current definition of *port of first arrival* refers to ''the first port within the United States where the shipment is (1) offered for consumption entry or (2) offered for entry for immediate transportation in bond,'' while our proposed definition would simply refer to the first point in the United States where a consignment is offered for entry.

Finally, we would add definitions of *import and importation* and *United States*. Our proposed definitions of these terms are drawn from the Plant Protection Act and would serve to enhance the clarity of the regulations.

Treatments

The regulations in §§ 319.56–2k, 319.56–2m, and 319.56–2n contain specific treatment schedules for the fumigation of grapes from middle Europe, North Africa, and the Near East, various fruits from Chile, and certain fruits from other countries, respectively. However, in each case, those same treatment schedules are also listed in the PPQ Treatment Manual, which is incorporated by reference at 7 CFR 300.1. Therefore, to eliminate the duplicative presentation of these treatment schedules, we are proposing to remove the specific treatment schedules currently found in §§ 319.56–2k(d), 319.56–2m(b), and 319.56–2n(b) and replace them with references to the PPQ Treatment Manual.

Notice of Quarantine

In § 319.56, ''Notice of quarantine,'' paragraph (d) states ''This section leaves in full effect all special quarantines and other orders now in force restricting the entry into the United States of fruits and vegetables with the exception of Quarantine No. 49, with regulations, on account of the citrus black fly, which is replaced by this section.'' Currently, the only remaining ''special quarantine or other order'' relevant to the importation of fruits and vegetables is ''Subpart-Citrus Fruit'' (§ 319.28), and the introductory text of that subpart clearly indicates that the importation of fruits of citrus and citrus relatives, other than those specified in the subpart, is restricted under the fruits and vegetables regulations. Further, paragraph (e) of § 319.28 provides that the importations allowed in paragraphs (b), (c), and (d) of the subpart are subject to the permit and other requirements of the fruits and vegetables regulations. Given those clear links between the citrus subpart and the fruits and vegetables subpart, and given that there are no longer any other ''special quarantines or other orders'' relevant to the importation of fruits and vegetables in force, we believe that paragraph (d) of § 319.56 is no longer necessary. Therefore, we propose to remove that paragraph from the regulations.

We are also proposing to remove paragraph (e) from § 319.56. That paragraph consists of a definition of the term ''United States.'' Since we are proposing to add a definition of ''United States'' to the subpart's definitions section (§ 319.56–1), paragraph § 319.56(e) is no longer necessary.

Changes in Terminology

We propose to amend the list in § 319.56–2x of commodities enterable subject to treatment by changing the common name for *Opuntia* spp. Currently, that species is listed as enterable from Israel under the common name ''cactus,'' but that common name is too broad. The regulated plant part is the fruit, which has the common name ''tuna.'' Therefore, in order to improve the accuracy of the regulations, we would replace the term ''cactus'' in the table with the term ''tuna.''

We also propose to amend the regulations in § 319.56–2v, ''Conditions governing the entry of citrus from Australia,'' in order to update the scientific name for the Queensland fruit fly. Currently, this fruit fly is listed as *Dacus tryoni* [Frogg], but is referred to elsewhere in our regulations as *Bactrocera tryoni*. Therefore, to make our regulations internally consistent, we would replace the scientific name ''*Dacus tryoni*'' with ''*Bactrocera tryoni*'' both times it occurs in § 319.56–2v.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this proposed rule on small entities. Based on the information we have, there

is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities that may incur benefits or costs from the implementation of this proposed rule.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

We are proposing to amend the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. Many of these fruits and vegetables are already eligible for importation under permit, but are not specifically listed in the regulations. All of the fruits and vegetables, as a condition of entry, would be inspected and subject to treatment at the port of first arrival as may be required by an inspector. In addition, some of the fruits and vegetables would be required to be treated or meet other special conditions. We also propose to recognize areas in several countries as free from certain fruit flies; provide for the importation of untreated citrus from Mexico for processing under certain conditions; add, modify, or remove certain definitions; eliminate or modify existing treatment requirements for specified commodities; and make other miscellaneous changes. These actions would improve the transparency of our regulations while continuing to protect against the introduction of quarantine pests through imported fruits and vegetables.

Impact on Small Entities

The Regulatory Flexibility Act requires agencies to consider the economic impact of their regulations on small entities and to use flexibility to provide regulatory relief when regulations create economic disparities between differently sized entities. Data on the number and size of U.S. producers of the various commodities proposed for importation into the United States in this document are not available. However, since most fruit and vegetable farms are small by Small Business Administration standards, it is likely that the majority of U.S. farms producing the commodities listed below are small.

As previously stated, many of the commodities listed in this document may currently enter the United States under permit. Therefore, we do not expect the amount of commodities submitted for importation to increase beyond current levels. Additionally, in many cases, importation of certain commodities is necessary given that the commodities are not grown extensively in the United States (*e.g.*, bananas, breadfruits, cassavas, chicory, dasheens, genip, kiwis, papayas, pineapples, jicama, and tomatillos). In other instances, importation augments domestic supplies that are not sufficient to meet consumer demand (*e.g.*, apples, blackberries, blueberries, carrots, cherries, cucumbers, garlic, onions, pears, raspberries, and strawberries).

Papayas From Brazil and Central America

We are proposing to list two additional growing areas in Brazil (the States of Bahia and Rio Grande del Norte) and one additional area in Nicaragua (the Department of Leon) as eligible to export papayas into the United States. Brazil is currently eligible to export papayas into the United States from the State of Espirito Santo. Nicaragua is currently eligible to export papayas into the United States from the Departments of Carazo, Granada, Managua, Masaya, and Rivas.

Papaya production levels in the United States are small, with a majority of papaya production occurring in Florida. Between 2000 and 2003, Brazil represented, on average, 9 percent of the total U.S. imports of papayas. The addition of two more Brazilian States to the list of areas eligible for export is expected to increase the Brazilian share in the U.S. market for imported papayas. Brazil is a major producer of papayas, however only 1.6 percent of its production is exported. The rest is reserved for domestic consumption.

The United States imports four times the amount of papayas produced domestically, while, as stated previously, the amount of Brazilian papayas imported into the United States accounts for, on average, 9 percent of the total U.S. imports of papayas. Even if Brazil greatly increases its exports to the United States, it is more likely to displace other countries' shares of total U.S. imports than to affect the overall level of U.S. consumption. The economic impact resulting from this change is not expected to be substantial.

There is no official production data available for papayas produced in Nicaragua. However, the existing trade data show that Nicaragua has historically exported papayas very sporadically. For example, between 1997 and 2001, Nicaragua did not export any papayas. In 2002, 203 metric tons were exported to the world; the following year, 18 metric tons were exported. Nicaragua did not export any papayas to the United States over that time period despite the fact that there are five approved exporting regions in Nicaragua. Therefore, the addition of one more eligible exporting area to the list should not have any substantial impact on the U.S. papaya market.

Fruit Fly Free Areas

We are proposing to allow fruits to be imported into the United States from a new Medfly-free area in Argentina. We have determined that the Patagonia region of Argentina is free of those pests. The Patagonia region includes those areas along the valleys of the Rio Colorado and Rio Negro rivers and includes the provinces of Neuquen, Rio Negro, Chubut, Santa Cruz, and Tierra del Fuego.

Fruits from Argentina (apple, apricot, cherry, kiwi, nectarine, peach, pear, plum, pomegranate, and quince) are already admissible into the United States under permit from Argentina. The creation of a Medfly-free area would lessen certain treatment requirements, thus lowering the cost for exporters. This may, in turn, result in a lower cost for consumers. Further, as a country in the Southern Hemisphere, Argentina's growing seasons are the opposite of those in the United States. An increased supply of Argentine fruit supplements the U.S. winter fruit market. However, we do not anticipate that this potentially increased supply will be large enough to have any substantial impact on small entities.

Citrus From Mexico

We are proposing to allow grapefruit (*Citrus paradisi*), sweet oranges (*Citrus sinensis*), and tangerines (*Citrus reticulata*) from areas of Mexico where certain fruit flies occur to be imported into the United States without treatment under certain conditions as long as the citrus remains in areas of the United States where the same fruit flies occur and the fruit is intended for processing only.

This change in the regulations would positively affect U.S. citrus processing plants. These businesses and their surrounding areas are expected to benefit. In addition, there should be added work for the U.S. trucking industry as a result of the loading of the fruit containers at the U.S./Mexico border and transport and unloading the containers at the processing plants. However, the exact amount of financial

gain and the extent of the expected economic impact would depend upon the volume of citrus fruits that entered the United States for processing.

Between 2000 and 2002, the United States produced an average of 15 million metric tons of citrus fruits annually. During that same period, Mexico produced an average of 4.9 million metric tons of citrus fruits annually. Mexican consumers greatly favor fresh citrus over processed citrus, thus the majority of Mexican citrus produced is consumed domestically with around 6 percent of average annual production serving as exports. Therefore, given the relatively small amount of Mexican production when compared to U.S. production levels, coupled with the small percentage of exported Mexican citrus, the economic impact due to this proposed change would be expected to be small.

Blueberries From Colombia

We are proposing to allow for the importation of blueberries from Colombia into the United States. Colombian blueberries have not been previously imported into the United States. Further, there is no official data concerning blueberry production in Colombia. The country has never exported blueberries on a commercial level. For these reasons, we cannot determine the what the economic effects of this proposal would be, but they are not expected to be significant.

Blueberries From South America

We are proposing to eliminate the methyl bromide treatment requirement for blueberries from certain countries in South America (Argentina, Bolivia, Ecuador, and Peru). These fruits are currently allowed entry into the United States subsequent to treatment.

Between 2000 and 2002, the United States produced an average of 123,801 metric tons of blueberries annually and has imported an average of 20,025 metric tons. During this same time period Argentina supplied 3 percent of the total U.S. blueberry imports (253 metric tons). The United States has not historically imported any blueberries from Bolivia, Ecuador, or Peru, nor are there any data on production or commercial export of blueberries from those countries.

Even if Argentina greatly increases its level of blueberry exports to the United States, it is more likely to displace other foreign blueberry suppliers (*e.g.*, Chile, which supplies an average of 30 percent of all U.S. imported blueberries) than to change the overall level of U.S. imports of blueberries, which has remained at around 16 percent over the last 3 years.

There is no reason to expect any significant amount of economic impact on U.S. consumers or producers of blueberries due to this proposed change.

This proposed rule contains certain reporting and recordkeeping requirements (see ''Paperwork Reduction Act'' below).

Executive Order 12988

This proposed rule would allow certain fruits and vegetables to be imported into the United States from certain parts of the world. If this proposed rule is adopted, State and local laws and regulations regarding the importation of fruits and vegetables would be preempted while the fruits and vegetables are in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 03–048–1. Please send a copy of your comments to: (1) Docket No. 03–048–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

In this document, we are proposing to allow a number of fruits and vegetables from certain countries of the world to be imported into the United States, under specified conditions. Before entering the United States, all of the fruits and vegetables would be subject to inspection and disinfection at the port of first arrival in the United States to ensure that no plant pests are inadvertently brought into the United States. These precautions, along with other requirements, would ensure that these items can be imported into the United States with a minimal risk of introducing exotic plant pests such as fruit flies.

Allowing these fruits and vegetables to be imported would necessitate the use of certain information collection activities, including the completion of import permits, phytosanitary certificates, and fruit fly monitoring records.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

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

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

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

(4) Minimize the burden of the information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 4.4 hours per response.

Respondents: Growers, shippers, national plant protection organizations.

Estimated annual number of respondents: 1.

Estimated annual number of responses per respondent: 5.

Estimated annual number of responses: 5.

Estimated total annual burden on respondents: 22 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government

Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Honey, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 450 and 7701–7772; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.56 [Amended]

2. Section 319.56 would be amended as follows:

a. In paragraph (c), by removing the words ''Deputy Administrator of the Plant Protection and Quarantine Programs'' and adding the word ''Administrator'' in their place.

b. By removing paragraphs (d) and (e).

3. Section 319.56–1 would be amended as follows:

a. By removing the definitions for *Deputy Administrator, fresh fruits and vegetables,* and *plants or portions of plants.*

b. By adding, in alphabetical order, new definitions for *Administrator, APHIS, fruits and vegetables, import and importation, plant debris* and *United States* to read as set forth below.

c. By revising the definitions for *cucurbits, inspector,* and *port of first arrival* to read as set forth below.

§ 319.56–1 Definitions.

* * * * *

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

APHIS. The Animal and Plant Health Inspection Service, United States Department of Agriculture.

* * * * *

Cucurbits. Any plants in the family Cucurbitaceae.

* * * * *

Fruits and vegetables. A commodity class for fresh parts of plants intended for consumption or processing and not for planting.

* * * * *

Import and importation. To move into, or the act of movement into, the territorial limits of the United States.

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of the Bureau of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this subpart.

* * * * *

Plant debris. Detached leaves, twigs, or other portions of plants, or plant litter or rubbish as distinguished from approved parts of clean fruits and vegetables, or other commercial articles.

Port of first arrival. The first point of entry into the United States where the consignment is offered for entry.

* * * * *

United States. All of the States of the United States, the Commonwealth of Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, and any other territory or possession of the United States.

4. Section 319.56–2 would be amended as follows:

a. In paragraph (a), by removing the words ''plants or portions of plants'' and adding the words ''plant debris'' in their place.

b. By revising paragraph (g) to read as set forth below.

c. By revising paragraph (j) to read as set forth below.

§ 319.56–2 Restrictions on entry of fruits and vegetables.

* * * * *

(g) Each box of fruit or vegetables imported into the United States in accordance with paragraphs (e) or (f) of this section must be safeguarded from infestation while in transit to the United States through any area that has not been designated as free from quarantine pests that attack the fruit or vegetable. Each box of fruit or vegetables imported into the United States in accordance with paragraphs (e)(3) or (4) and (f) of this section must be clearly labeled with:

(1) The name of the orchard or grove of origin, or the name of the grower, and

(2) The name of the municipality and State in which it was produced, and

(3) The type and amount of fruit it contains.

* * * * *

(j) The Administrator has determined that all Districts in Belize, all provinces in Chile except Arica, and the Department of Petén in Guatamala meet the criteria of paragraphs (e) and (f) of this section with regard to the insect pest Mediterranean fruit fly (Medfly) (*Ceratitis capitata* [Wiedemann]). Also, the Patagonia region of Argentina, including those areas along the valleys of the Rio Colorado and Rio Negro rivers and also including the provinces of Neuquen, Rio Negro, Chubut, Santa Cruz, and Tierra del Fuego, has been determined to meet the criteria of paragraphs (e) and (f) of this section with regard to Medfly and *Anastrepha* spp. fruit flies. Fruits and vegetables otherwise eligible for importation under this subpart may be imported from these areas without treatment for the specified pests.

* * * * *

§ 319.56–2c [Amended]

5. In § 319.56–2c paragraphs (b) and (e) would be amended by removing the words ''Deputy Administrator of the Plant Protection and Quarantine Programs'' and adding the word ''Administrator'' in their place.

§ 319.56–2d [Amended]

6. Section 319.56–2d would be amended as follows:

a. In paragraphs (b)(5)(v)(F), (b)(5)(vi)(G), and (b)(5)(vii)(K), by removing the word ''Deputy''.

b. In paragraphs (b)(7)(i) and (c), by removing the words ''Deputy Administrator of the Plant Protection and Quarantine Programs'' and adding the word ''Administrator'' in their place.

§ 319.56–2g [Amended]

7. In § 319.56–2g, the introductory text of paragraph (b)(1) would be amended by removing the words ''Deputy Administrator of the Plant Protection and Quarantine Programs'' and adding the word ''Administrator'' in their place.

8. In § 319.56–2j, footnote 4 would be revised to read as follows:

§ 319.56–2j Conditions governing the entry of apples and pears from Australia (including Tasmania) and New Zealand.[4]

[4] Apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the irradiation requirements of § 305.2 or the cold treatment requirements of § 319.56–2d.

* * * * *

9. Section 319.56–2k would be amended as follows:

a. By revising the introductory text of the section to read as set forth below.

b. By revising paragraph (a) to read as set forth below.

c. In paragraph (d), by removing the words ''the following fumigation

schedule:'' and adding the words ''the Plant Protection and Quarantine Treatment Manual.'' in their place, and by removing the subsequent table.

d. In paragraph (g), by removing the words ''The treatment prescribed in paragraph (d) of this section is'' and adding the words ''The treatments prescribed in the Plant Protection and Quarantine Treatment Manual are'' in their place.

§ 319.56–2k Administrative instructions prescribing method of fumigation of field-grown grapes from specified countries.

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the Plant Protection and Quarantine Treatment Manual (which is incorporated by reference at § 300.1 of this chapter), is hereby prescribed as a condition of entry under permit for all shipments of field-grown grapes from the continental countries of Asia, Europe, North Africa, and the Near East listed in paragraph (a) of this section. This fumigation shall be in addition to other conditions of entry for field-grown grapes from the areas named.

(a) *Continental countries of Asia, Europe, North Africa, and the Near East.* The term ''continental countries of Asia, Europe, North Africa, and the Near East'' means Algeria, Armenia, Austria, Azerbaijan, Belarus, Bulgaria, Cyprus, Egypt, Estonia, France, Georgia, Germany, Greece, Hungary, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Luxembourg, Portugal, Republic of Moldova, Russian Federation, Spain, Switzerland, Syria, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

* * * * *

§ 319.56–2l [Amended]

10. In § 319.56–2l, paragraph (b)(2)(ii) would be amended by removing the words ''Deputy Administrator of the Plant Protection and Quarantine Programs'' both times they appear and adding the word ''Administrator'' in their place.

§ 319.56–2m [Amended]

11. Section 319.56–2m would be amended as follows:

a. In the introductory text of the section, by removing the words ''the following procedure'' and adding the words ''the Plant Protection and Quarantine Treatment Manual (which is incorporated by reference at § 300.1 of this chapter)'' in their place.

b. In paragraph (b), by removing the words ''the following schedule:'' and adding the words ''the Plant Protection and Quarantine Treatment Manual.'' in their place, and by removing the subsequent table.

c. In paragraph (e), by removing the words ''paragraph (b) of this section'' and adding the words ''the Plant Protection and Quarantine Treatment Manual'' in their place.

§ 319.56–2n [Amended]

12. Section 319.56–2n would be amended as follows:

a. In the introductory text of the section, by removing the words ''the procedures described in this section'' and adding the words ''the Plant Protection and Quarantine Treatment Manual (which is incorporated by reference at § 300.1 of this chapter)'' in their place.

b. In the introductory text of paragraph (b), by removing the words ''the following table:'' and adding the words ''the Plant Protection and Quarantine Treatment Manual.'' in their place and by removing the subsequent table.

c. By removing paragraphs (b)(1) and (b)(2).

§ 319.56–2p [Amended]

13. In § 319.56–2p, paragraph (b)(7) would be amended by removing the words ''Deputy Administrator of the Plant Protection and Quarantine Programs'' and adding the word ''Administrator'' in their place.

14. Section 319.56–2t would be amended as follows:

a. In the table in paragraph (a), by revising the entry for jicama from Mexico and by adding, in alphabetical order, entries for the following fruits and vegetables to read as set forth below: Under Argentina, for allium, apple, apricot, blueberry, cherry, kiwi, nectarine, peach, pear, plum, pomegranate, and quince; under Belgium, for cichorium; under Belize, for pepper; under Bolivia, for blueberry; under Chile, for apple, asparagus, avocado, blackberry, blueberry, cherry, pear, and raspberry; under China, for ginger root; under Colombia, for banana and blueberry; under Costa Rica, for banana, carrot, and cucurbit; under Dominican Republic, for avocado, banana, breadfruit, cassava, celeriac, citrus, cucurbit, dasheen, genip, papaya, pepper, and pineapple; under Ecuador, for blueberry and pineapple; under Guatemala, for banana, cichorium, cucurbit, and okra; under Honduras, for cucurbit and okra; under Israel, for basil; under Jamaica, for cucurbit and papaya; under Mexico, for artichoke, globe; artichoke, Jerusalem; basil, blackberry, celery, cichorium, dill, lettuce, oregano, pepper, raspberry, spinach, strawberry, Swiss chard, and tomatillo; under Netherlands, for cichorium, cucurbit, and eggplant; under Nicaragua, for banana and dasheen; under Panama, for cucurbit; under Peru, for banana and blueberry; under Spain, for cucurbit and lemon; and under Trinidad and Tobago, for cucurbit.

b. By adding to the table in paragraph (a) new entries for ''Brazil'' and ''Venezuela''.

c. By adding a new paragraph (b)(6) to read as set forth below.

§ 319.56–2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (See paragraph (b) of this section.)
Argentina	Allium	*Allium* spp.	Whole plant.	
	Apple	*Malus domestica*	Fruit	(b)(1)(ii)
	Apricot	*Prunus americana*	Fruit	(b)(1)(ii)
*	*	*	*	*
	Blueberry	*Vaccinium* spp.	Fruit.	
	Cherry	*Prunus avirum, P. cerasus*	Fruit	(b)(1)(ii)
*	*	*	*	*
	Kiwi	*Actinidia deliciosa*	Fruit	(b)(1)(ii)
*	*	*	*	*
	Nectarine	*Prunus persica* var. *nucipersica*	Fruit	(b)(1)(ii)

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (See paragraph (b) of this section.)
*	*	*	*	*
	Peach	*Prunus persica* var. *persica*	Fruit	(b)(1)(ii)
	Pear	*Pyrus communis*	Fruit	(b)(1)(ii)
	Plum	*Prunus domestica* subsp. *domestica*	Fruit	(b)(1)(ii)
	Pomegranate	*Punica granatum*	Fruit	(b)(1)(ii)
	Quince	*Cydonia oblonga*	Fruit	(b)(1)(ii)
*	*	*	*	*
Belgium	Cichorium	*Cichorium* spp.	Above ground parts	(b)(6)(i)
*	*	*	*	*
Belize.				
*	*	*	*	*
	Pepper	*Capsicum* spp.	Fruit	(b)(6)(ii)
*	*	*	*	*
Bolivia.				
*	*	*	*	*
	Blueberry	*Vaccinium* spp.	Fruit.	
Brazil	Dasheen	*Colocasia esculenta*	Whole plant.	
	Ginger root	*Zingiber officinale*	Root.	
Chile.				
*	*	*	*	*
	Apple	*Malus domestica*	Fruit	(b)(1)(ii)
	Asparagus	*Asparagus officinalis*	Whole plant.	
	Avocado	*Persea americana*	Fruit	(b)(1)(ii)
*	*	*	*	*
	Blackberry	*Rubus* spp.	Fruit.	
	Blueberry	*Vaccinium* spp.	Fruit.	
	Cherry	*Prunus avium, P. cerasus*	Fruit	(b)(1)(ii)
*	*	*	*	*
	Pear	*Pyrus communis*	Fruit	(b)(1)(ii)
*	*	*	*	*
	Raspberry	*Rubus* spp.	Fruit.	
*	*	*	*	*
China.				
*	*	*	*	*
	Ginger root	*Zingiber officinale*	Root.	
Colombia	Banana	*Musa* spp.	Leaf and Fruit.	
	Blueberry	*Vaccinium* spp.	Fruit.	
*	*	*	*	*
Costa Rica	Banana	*Musa* spp.	Leaf and Fruit.	
*	*	*	*	*
	Carrot	*Daucus carota* ssp. *sativus*	Whole plant.	
*	*	*	*	*
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
*	*	*	*	*
Dominican Republic	Avocado	*Persea americana*	Fruit.	
*	*	*	*	*
	Banana	*Musa* spp.	Fruit.	
	Breadfruit	*Artocarpus altilis*	Fruit.	
	Cassava	*Manihot esculenta*	Root.	
	Celeriac	*Apium graveolens* var. *dulce*	Whole plant.	
	Citrus	*Citrus* spp.	Fruit	(b)(6)(iii)
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
	Dasheen	*Colocasia esculenta*	Whole plant.	
*	*	*	*	*
	Genip	*Melicoccus bijugatus*	Fruit.	

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (See paragraph (b) of this section.)
	Papaya	*Carica papaya*	Fruit	(b)(2)(iii)
	Pepper	*Capsicum* spp.	Fruit.	
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(iii)
Ecuador.				
*	*	*	*	*
	Blueberry	*Vaccinium* spp.	Fruit.	
*	*	*	*	*
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(iii)
*	*	*	*	*
Guatemala.				
*	*	*	*	*
	Banana	*Musa* spp.	Leaf and Fruit.	
*	*	*	*	*
	Cichorium	*Cichorium* spp.	Above ground parts	(b)(6)(i)
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
*	*	*	*	*
	Okra	*Abelmoschus esculentus*	Pod.	
*	*	*	*	*
Honduras.				
*	*	*	*	*
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
*	*	*	*	*
	Okra	*Abelmoschus esculentus*	Pod.	
*	*	*	*	*
Israel.				
*	*	*	*	*
	Basil	*Ocimum* spp.	Above ground parts.	
*	*	*	*	*
Jamaica	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
*	*	*	*	*
	Papaya	*Carica papaya*	Above ground parts	(b)(2)(iii), (b)(3)
*	*	*	*	*
Mexico.				
*	*	*	*	*
	Artichoke, globe	*Cynara scolymus*	Immature flower head.	
	Artichoke, Jerusalem.	*Helianthus tubersus*	Whole plant.	
*	*	*	*	*
	Basil	*Ocimum* spp.	Above ground parts.	
*	*	*	*	*
	Blackberry	*Rubus* spp.	Fruit.	
*	*	*	*	*
	Celery	*Apium graveolens* var *dulce*	Whole plant.	
	Cichorium	*Cichorium* spp.	Above ground parts	(b)(6)(i)
*	*	*	*	*
	Dill	*Anethum graveolens*	Above ground parts.	
*	*	*	*	*
	Jicama or yam bean	*Pachyrhizus tuberosus*, *P. erosus*	Root.	
*	*	*	*	*
	Lettuce	*Lactuca sativa*	Whole plant.	

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (See paragraph (b) of this section.)
*	*	*	*	*
	Oregano	*Origanum* spp.	Above ground parts.	
*	*	*	*	*
	Pepper	*Capsicum* spp.	Fruit	(b)(6)(ii)
*	*	*	*	*
	Raspberry	*Rubus* spp.	Fruit.	
*	*	*	*	*
	Spinach	*Spinacia oleracea*	Whole plant.	
	Strawberry	*Fragaria* spp.	Fruit.	
	Swiss chard	*Beta vulgaris* var. *cicla*	Whole plant.	
*	*	*	*	*
	Tomatillo	*Physalis ixocarpa*	Whole plant.	
*	*	*	*	*
Netherlands	Cichorium	*Cichorium* spp.	Above ground parts	(b)(6)(i)
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
	Eggplant	*Solanum melongena*	Fruit.	
*	*	*	*	*
Nicaragua	Banana	*Musa* spp.	Leaf and Fruit.	
*	*	*	*	*
	Dasheen	*Colocasia esculenta*	Tuber.	
*	*	*	*	*
Panama.				
*	*	*	*	*
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
*	*	*	*	*
Peru.				
*	*	*	*	*
	Banana	*Musa* spp.	Leaf and Fruit.	
*	*	*	*	*
	Blueberry	*Vaccinium* spp.	Fruit.	
*	*	*	*	*
Spain	Cucurbit	Cucurbitaceae	Above ground parts	(b)(3)
*	*	*	*	*
	Lemon	*Citrus limon*	Fruit	(b)(3), (b)(6)(iv)
*	*	*	*	*
Trinidad and Tobago	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
*	*	*	*	*
Venezuela	Banana	*Musa* spp.	Fruit.	
*	*	*	*	*

(b) * * *

(6) *Plant types.*

(i) Chicory (*Cichorium intybus*) and endive (*Cichorium endiva*) only.

(ii) Rocoto pepper or chamburoto (*Capsicum pubescens*) prohibited.

(iii) Grapefruit (*Citrus paradisi*), lemon (*Citrus limon*), orange (*Citrus sinensis*), sour lime (*Citrus aurantiifolia*), and tangerine (*Citrus reticulata*) only.

(iv) Smooth skinned variety only.

* * * * *

15. Section 319.56–2v would be amended as follows:

a. In the introductory text of paragraph (a), by removing the word ''*Dacus*'' and adding the word ''*Bactrocera*'' in its place.

b. In paragraph (c), by removing the word ''*Dacus*'' and adding the word ''*Bactrocera*'' in its place and by adding a new sentence after the last sentence to read as set forth below.

§ 319.56–2v Conditions governing the entry of citrus from Australia.

* * * * *

(c) * * * Irradiation treatments found at part 305 of this chapter may be used as an alternative to the cold treatment described in this paragraph.

16. Section 319.56–2w would be amended as follows:

a. By revising paragraph (a)(1) to read as set forth below.

b. In paragraph (a)(6), by adding the word ''Leon,'' after the word ''Granada,''.

c. In paragraph (c), by removing the words ''49 °C (120.2 °F)'' and adding the words ''48 °C (118.4 °F)'' in their place.

§ 319.56–2w Administrative instruction; conditions governing the entry of papayas from Central America and Brazil.

* * * * *

(a) * * *

(1) Brazil: State of Espirito Santo; all areas in the State of Bahia that are between the Jequitinhonha River and the border with the State of Espirito Santo and all areas in the State of Rio Grande del Norte that contain the following municipalities: Touros, Pureza, Rio do Fogo, Barra de Maxaranguape, Taipu, Ceara Mirim, Extremoz, Ielmon Marinho, Sao Goncalo do Amarante, Natal, Maciaba, Parnamirim, Veracruz, Sao Jose de Mipibu, Nizia Floresta, Monte Aletre, Areas, Senador Georgino Avelino, Espirito Santo, Goianinha, Tibau do Sul, Vila Flor, and Canguaretama e Baia Formosa.

* * * * *

17. In § 319.56–2x, paragraph (a), the table would be amended as follows:

a. Under Argentina, by removing the entry for blueberry and by revising the entry for kiwi and adding, in alphabetical order, entries for apple, apricot, cherry, nectarine, peach, pear, plum, pomegranate, and quince to read as set forth below.

b. By removing the entry for Bolivia.

c. Under Chile, by adding, in alphabetical order, entries for apple, avocado, cherry, and pear to read as set forth below.

d. By removing the entry for Ecuador.

e. Under Israel, by removing the entry for cactus and adding, in alphabetical order, an entry for tuna to read as set forth below.

f. By removing the entry for Peru.

§ 319.56–2x Administrative instructions; conditions governing the entry of certain fruits and vegetables for which treatment is required.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
Argentina	Apple	*Malus domestica*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Apricot	*Prunus armeniaca*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Cherry	*Prunus avium, P. cerasus.*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Kiwi	*Actinidia deliciosa*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Nectarine	*Prunus persica var. nucipersica.*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Peach	*Prunus persica var. persica.*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Pear	*Pyrus communis*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Plum	*Prunus domestica* subsp. *domestica.*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Pomegranate	*Punica granatum*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Quince	*Cydonia oblonga*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
*	*	*	* * *
Chile	Apple	*Malus domestica*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Avocado	*Persea americana*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Cherry	*Prunus avium, P. cerasus.*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
*	*	*	* * *
	Pear	*Pyrus communis*	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
*	*	*	* * *
Israel.			
*	*	*	* * *
	Tuna	*Opuntia* spp.	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
*	*	*	* * *

* * * * *

§ 319.56–2gg [Amended]

18. In § 319.56–2gg, paragraph (d) would be amended by removing the word ''Deputy''.

19. A new § 319.56–2nn would be added to read as follows:

§ 319.56–2nn Administrative instructions; conditions governing the importation of untreated grapefruit, sweet oranges, and tangerines from Mexico for processing.

Untreated grapefruit (*Citrus paradisi*), sweet oranges (*Citrus sinensis*), and tangerines (*Citrus reticulata*) may be

imported into the United States from Mexico for processing if they originate from production sites in Mexico that are approved by APHIS because they meet the following conditions and any other conditions determined by the Administrator to be necessary to mitigate the pest risk that such fruits pose:

(a) *Application of sterile insect technique.* Production sites, and a surrounding 1.5 mile buffer area, must be administered under an APHIS-approved preventative release program using sterile insect technique for the Mexican fruit fly (*Anastrepha ludens*).

(b) *Fruit fly trapping protocol.* (1) *Trapping densities.* In areas where grapefruit, sweet oranges, and tangerines are produced for export to the United States, APHIS approved traps and lures must be placed in production sites and surrounding 1.5 mile buffer areas as follows:

(i) For Mexican fruit fly (*Anastrepha ludens*) and Sapote fruit fly (*Anastrepha serpentina*): One trap per 10 hectares.

(ii) For Mediterranean fruit fly (*Ceratitis capitata*): One to four traps per 250 hectares.

(2) *Fruit fly catches.* Upon trapping of a Mexican fruit fly, Sapote fruit fly, or Mediterranean fruit fly in a production site or buffer area, exports from that production site are prohibited until the Administrator determines that the phytosanitary measures taken have been effective to allow the resumption of export from that production site.

(3) *Monitoring.* The trapping program must be monitored under an APHIS-approved quality control program.

(c) *Safeguarding.* Fruit must be safeguarded against fruit fly infestation using methods approved by APHIS from the time of harvest until processing in the United States.

(d) *Phytosanitary certificate.* Each shipment must be accompanied by a phytosanitary certificate issued by Mexico's national plant protection organization that contains additional declarations stating that the requirements of paragraphs (a), (b), and (c) of this section have been met.

(e) *Ports.* The harvested fruit may enter the United States only through a port of entry located in one of the Texas counties listed in § 301.64–3(c) of this chapter.

(f) *Route of transit.* Harvested fruit must travel on the most direct route to the processing plant from its point of entry into the United States as specified in the import permit. Such fruit may not enter or transit areas other than the Texas counties listed in § 301.64–3(c) of this chapter.

(g) *Approved destinations.* Processing plants within the United States must be located within an area in Texas that is under an APHIS-approved preventative release program using sterile insect technique for Mexican fruit fly.

(h) *Compliance agreements.* Processing plants within the United States must enter into a compliance agreement with APHIS in order to handle grapefruit, sweet oranges, and tangerines imported from Mexico in accordance with this section. APHIS will only enter into compliance agreements with facilities that handle and process grapefruit, sweet oranges, and tangerines from Mexico in such a way as to eliminate any risk that exotic fruit flies could be disseminated into the United States, as determined by APHIS.

Done in Washington, DC, this 24th day of March 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–6269 Filed 3–30–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20731; Directorate Identifier 2004–NM–260–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737–200, –300, and –400 series airplanes. This proposed AD would require replacing the existing fueling float switch in the auxiliary fuel tank with a new, improved fueling float switch, installing a new liner system inside the float switch conduit, and performing related investigative and other specified actions. This proposed AD is prompted by reports of chafing of the direct-current-powered float switch wiring insulation in the center fuel tank. We are proposing this AD to prevent contamination of the fueling float switch of the auxiliary fuel tank by moisture or fuel, and chafing of the float switch wiring against the float switch conduit in the fuel tank, which could present an ignition source inside the fuel tank that could cause a fire or explosion.

DATES: We must receive comments on this proposed AD by May 16, 2005.

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

- 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, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (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 service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–20731; the directorate identifier for this docket is 2004–NM–260–AD.

FOR FURTHER INFORMATION CONTACT: Sherry Vevea, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6514; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–20731; Directorate Identifier 2004–NM–260–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://*

dms.dot.gov, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that website, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

We previously issued AD 2004–15–04, amendment 39–13738 (69 FR 44580, July 27, 2004), for certain Boeing Model 737–200, –200C, –300, –400, and –500 series airplanes. That AD requires, among other actions, replacing the fueling float switches in the center and wing fuel tanks with new, improved parts; installing a conduit liner system in the center fuel tank; and replacing conduit assemblies in the wing fuel tanks with new parts. That AD was prompted by several reports of chafing of the direct-current-powered float switch wiring insulation in the center fuel tank.

We state in AD 2004–15–04 that we may consider additional rulemaking to require actions similar to those required by AD 2004–15–04 be accomplished on the auxiliary fuel tanks on Model 737 series airplanes. We have now determined that additional rulemaking is necessary, and this proposed AD follows from that determination.

Relevant Service Information

We have reviewed Boeing Service Bulletin 737–28A1192, Revision 1, dated August 21, 2003. The service bulletin describes procedures for replacing the existing fueling float switch in the auxiliary fuel tank with a new, improved fueling float switch, installing a new liner system inside the float switch conduit, and performing related investigative and other specified actions. The other specified actions include making wiring changes associated with installing the new, improved float switch. The related investigative actions consist of measuring resistance between the terminal of the bonding jumper and the float switch lug, the terminal of the bonding jumper and the conduit, and the fuel pump assembly and the conduit; testing the conduit for leakage; and testing to make sure that the float switch operates properly and that there is no fuel leakage. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

This proposed AD would affect about 103 airplanes worldwide and 44 airplanes of U.S. registry. The proposed actions would take about 38 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would cost about $1,634 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $180,576, or $4,104 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2005–20731; Directorate Identifier 2004–NM–260–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by May 16, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–200, –300, and –400 series airplanes, certificated in any category, equipped with auxiliary fuel tanks.

Unsafe Condition

(d) This AD was prompted by reports of chafing of the direct-current-powered float switch wiring insulation in the center fuel

tank. We are issuing this AD to prevent contamination of the fueling float switch of the auxiliary fuel tank by moisture or fuel, and chafing of the float switch wiring against the float switch conduit in the fuel tank, which could present an ignition source inside the fuel tank that could cause a fire or explosion.

Compliance

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

Replacement

(f) Within 24 months after the effective date of this AD: Replace the existing fueling float switch in the auxiliary fuel tank with a new, improved fueling float switch, install a new liner system inside the float switch conduit, and perform related investigative and other specified actions, by doing all of the actions in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–28A1192, Revision 1, dated August 21, 2003.

Parts Installation

(g) As of the effective date of this AD, no person may install a fueling float switch having part number 8300–146 on the auxiliary fuel tank of any airplane.

Actions Accomplished Previously

(h) Replacements and conduit liner system installations accomplished before the effective date of this AD in accordance with Boeing Alert Service Bulletin 737–28A1192, dated March 27, 2003, are acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on March 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–6347 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20733; Directorate Identifier 2005–NM–004–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 series airplanes. This proposed AD would require inspecting to determine the part number of the left and right engine fire handles; and replacing the engine fire handles with engine fire handles having different part numbers if necessary. This proposed AD is prompted by cases of the internal circuit of the engine fire handle failing. We are proposing this AD to prevent failure of the internal circuit of the engine fire handle that could disable the fuel shut-off valves and the discharge of the fire extinguishing agent, which, in the event of a fire, could result in the inability to extinguish a fire.

DATES: We must receive comments on this proposed AD by May 2, 2005.

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

- 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, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (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 service information identified in this proposed AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–20733; the directorate identifier for this docket is 2005–NM–004–AD.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–20733; Directorate Identifier 2005–NM–004–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket website, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified us that an unsafe condition may exist on all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 series airplanes. The DAC advises that cases of the internal circuit of the engine fire handle failing have been found. Failure of the internal circuit of the engine fire handle could disable the fuel shut-off valves and the discharge of the fire extinguishing agent. In the event of a fire, this condition, if not corrected, could result in the inability to extinguish a fire.

Relevant Service Information

EMBRAER has issued Service Bulletin 145–26–0012 (for Model EMB–135 and EMB–145 series airplanes, except for EMB–135BJ series airplanes) and Service Bulletin 145LEG–26–0003 (for Model EMB–135BJ series airplanes), both Revision 01, both dated January 6, 2005. The service bulletins describe procedures for inspecting to determine the part number of the left and right engine fire handles; and replacing the engine fire handles with engine fire handles having different part numbers if necessary. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DAC mandated the service information and issued Brazilian airworthiness directive 2004–10–01, dated October 30, 2004, to ensure the continued airworthiness of these airplanes in Brazil.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in Brazil and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. We have examined the DAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and Brazilian Airworthiness Directive.''

Difference Between Proposed Rule and Brazilian Airworthiness Directive

Brazilian airworthiness directive 2004–10–01, dated October 30, 2004, is applicable to ''all EMB–145 and EMB–135 aircraft models in operation.'' However, this does not agree with EMBRAER Service Bulletin 145–26–0012 and Service Bulletin 145LEG–29–0003, both Revision 01, both dated January 6, 2004, which state that only certain EMB–145 and EMB–135 airplanes are affected and identify them by serial number. This proposed AD would be applicable only to the airplanes listed in the service bulletins. This difference has been coordinated with the DAC.

Costs of Compliance

This proposed AD would affect about 616 airplanes of U.S. registry. The proposed actions would take about 2 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $80,080, or $130 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2005–20733; Directorate Identifier 2005–NM–004–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by May 2, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model EMB–135 and –145 series airplanes, certificated in any category; as identified in EMBRAER Service Bulletin 145–26–0012, Revision 01, dated January 6, 2005; and EMBRAER Service Bulletin 145LEG–26–0003, Revision 01, dated January 6, 2005.

Unsafe Condition

(d) This AD was prompted by cases of the internal circuit of the engine fire handle failing. We are issuing this AD to prevent failure of the internal circuit of the engine fire handle that could disable the fuel shut-off valves and the discharge of the fire extinguishing agent, which, in the event of a fire, could result in the inability to extinguish a fire.

Compliance

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

Inspection

(f) Within 1,000 flight hours or 180 days after the effective date of this AD, whichever is first: Inspect to determine the part number (P/N) of the left and right engine fire handles, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–26–0012 (for Model EMB–135 and EMB–145 series airplanes, except for EMB–135BJ series airplanes), Revision 01, dated January 6, 2005; or EMBRAER Service Bulletin 145LEG–26–0003 (for Model EMB–135BJ series airplanes), Revision 01, dated January 6, 2005; as applicable. Instead of inspecting the left and right engine fire handles, a review of airplane maintenance records is acceptable if the P/Ns of the left and right engine fire handles can be determined conclusively from that review. If left and right engine fire handles, P/Ns 1–7054–1 and 2–7054–1, respectively, are found installed on the airplane, then no further action is required by this paragraph. If any engine fire handle having P/N 1–7054–2 or 2–7054–2 is found installed on the airplane, before further flight, replace the engine fire handle with an engine fire handle having P/N 1–7054–1 or 2–7054–1, as applicable, in accordance with the service bulletin.

Parts Installation

(g) As of the effective date of this AD, no person may install left or right engine fire handles, P/Ns 1–7054–2 and 2–7054–2, on any airplane.

Credit for Previous Service Bulletin

(h) Actions done before the effective date of this AD in accordance with EMBRAER Service Bulletin 145–26–0012, dated October 6, 2004; or EMBRAER Service Bulletin 145LEG–26–0003, dated October 6, 2004; as applicable; are acceptable for compliance with the requirements of paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Related Information

(j) Brazilian airworthiness directive 2004–10–01, dated October 30, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on March 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–6348 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20732; Directorate Identifier 2004–NM–278–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 777–200 and –300 series airplanes. This proposed AD would require replacing the battery packs of the emergency power assist system (EPAS) of the left and right non-overwing exit doors with new or modified battery packs. This proposed AD is prompted by intermittent failures of the EPAS battery pack found during testing, which are due to switch contamination, cam alignment problems, and inadequate self-test capability. We are proposing this AD to prevent failure of the EPAS, which could result in the inability to open the exit door during an emergency evacuation.

DATES: We must receive comments on this proposed AD by May 16, 2005.

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

- 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, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (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 service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–20732; the directorate identifier for this docket is 2004–NM–278–AD.

FOR FURTHER INFORMATION CONTACT: Georgios Roussos, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6482; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–20732; Directorate Identifier 2004–NM–278–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

We have received a report indicating that, during testing on Boeing Model 777–200 and –300 series airplanes, several intermittent failures of the battery packs of the emergency power assist system (EPAS) of the left and right non-overwing exit doors occurred. Investigation revealed that the failures are due to switch contamination, cam alignment problems, and inadequate self-test capability in the exit door. These problems could cause loss of the power that is necessary to operate the EPAS. These conditions, if not corrected, could result in failure of the EPAS and consequent inability to open the exit door during an emergency evacuation.

Relevant Service Information

We have reviewed Boeing Service Bulletin 777–52–0033, Revision 1, dated June 12, 2003. The service bulletin describes procedures for replacing the battery packs of the EPAS of the left and right non-overwing exit doors with new battery packs for Group 1 and 2 airplanes. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

Boeing has also issued Component Service Bulletin 285W0955–24–01, dated November 21, 2002, which describes procedures for modifying the battery packs of the EPAS. This is an optional modification for Group 2 airplanes and may be done in lieu of the replacement specified in Boeing Service Bulletin 777–52–0033, Revision 1.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 348 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 134 airplanes of U.S. registry.

For all affected airplanes: The proposed replacement would take about 8 work hours per airplane (1 work hour per battery pack), at an average labor rate of $65 per work hour. Required parts would cost about $29,058 per airplane. Based on these figures, the estimated cost of the proposed replacement for U.S. operators is $29,578 per airplane.

For Group 2 airplanes: The optional modification, if accomplished, would take about 16 work hours per airplane (2 work hours per battery pack), at an average labor rate of $65 per work hour. Required parts would cost about $789 per airplane. Based on these figures, the estimated cost is $1,829 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2005–20732; Directorate Identifier 2004–NM–278–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by May 16, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 777–200 and –300 series airplanes; certificated in any category; as identified in Boeing Service Bulletin 777–52–0033, Revision 1, dated June 12, 2003.

Unsafe Condition

(d) This AD was prompted by intermittent failures of the emergency power assist system (EPAS) battery pack found during testing, which are due to switch contamination, cam alignment problems, and inadequate self-test capability. We are issuing this AD to prevent failure of the EPAS, which could result in the inability to open the exit door during an emergency evacuation.

Compliance

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

Replacement

(f) For Group 1 airplanes, as identified in Boeing Service Bulletin 777–52–0033, Revision 1, dated June 12, 2003: Within 24 months after the effective date of this AD, replace the battery packs of the EPAS of the left and right non-overwing exit doors with new battery packs by doing all the actions specified in Boeing Service Bulletin 777–52–0033, Revision 1, dated June 12, 2003.

Replacement or Modification

(g) For Group 2 airplanes, as identified in Boeing Service Bulletin 777–52–0033, Revision 1, dated June 12, 2003: Within 24 months after the effective date of this AD, accomplish the actions specified in either paragraph (g)(1) or (g)(2) of this AD.

(1) Replace the battery packs as required by paragraph (f) of this AD.

(2) Modify the battery packs by doing all the actions specified in Boeing Component

Service Bulletin 285W0955–24–01, dated November 21, 2002.

Credit for Actions Accomplished Previously

(h) Accomplishing the actions required by paragraph (f) or (g) before the effective date of this AD, in accordance with Boeing Service Bulletin 777–52–0033 dated November 21, 2002, is considered acceptable for compliance with the corresponding actions in this AD. The manufacturer issued Information Notice (IN) 777–52–0033 IN 01 dated January 9, 2003, to inform operators of an error in the part number for a 9-volt alkaline battery as specified in Paragraph 2.C.2. of the original issue of the service bulletin.

Parts Installation

(i) As of the effective date of this AD, no person may install a EPAS battery pack, part number (P/N) S283W203–1 or P/N 285W0955–101, on any airplane.

Alternative Methods of Compliance (AMOCs)

(j) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on March 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–6349 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

RIN 1513–AA92

[Notice No. 36]

Proposed Establishment of the Calistoga Viticultural Area (2003R–496P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the ''Calistoga'' viticultural area in Napa County, California. The proposed area surrounds the town of Calistoga and is entirely within the existing Napa Valley viticultural area. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed addition to our regulations.

DATES: We must receive written comments on or before May 31, 2005.

ADDRESSES: You may send comments to any one of the following addresses:

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 36, P.O. Box 14412, Washington, DC 20044–4412.
- 202–927–8525 (facsimile).
- *nprm@ttb.gov* (e-mail).
- *http://www.ttb.gov/alcohol/rules/index.htm* (an online comment form is posted with this notice on our Web site).
- *http://www.regulations.gov* (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive on this proposal by appointment at the TTB Library, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400. You may also access copies of the notice and comments online at *http://www.ttb.gov/alcohol/rules/index.htm.*

See the Public Participation section of this notice for specific instructions and requirements for submitting comments and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 128 Morganza, MD 20660; (301) 290–1460.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, elevation, physical features, and soils, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Calistoga Petition

TTB received a petition from James P. ''Bo'' Barrett of Chateau Montelena, a Calistoga, California, winery and vineyard, on behalf of interested parties in the Calistoga viticultural community proposing to establish ''Calistoga'' as an American viticultural area. Located in northwestern Napa County, California, the proposed viticultural area surrounds the town of Calistoga and is entirely within the existing Napa Valley viticultural area (27 CFR 9.23). Below, we summarize the evidence presented in the petition.

Name Evidence

The petitioner submitted the following as evidence that the proposed

Calistoga viticultural area is locally and nationally know as Calistoga:

• Excerpts from Charles L. Sullivan's book, ''Napa Wine: A History from Mission Days to Present,'' which explains that Sam Brannan founded the town of Calistoga in 1857 and established vineyards there in 1862. Sullivan's book includes viticultural and winery census data circa 1880, which all report Calistoga separately from other Napa County grape-growing regions. Sullivan's map of Napa wineries in 1893 shows a significant clustering of wineries near Calistoga distinctly separate from the wineries found in surrounding areas.

• Excerpts from ''The University of California/Sotheby Book of California Wine,'' which note Sam Brannan's first vineyard planting in Calistoga.

• Excerpts from an 1881 book, ''History of Napa and Lake Counties,'' which shows three Napa County viticultural districts—Calistoga, St. Helena, and Napa.

• Excerpts from Leon Adams' 1973 book, ''The Wines of America,'' which refer to Calistoga as a specific grape growing area.

• Excerpts from Hugh Johnson's 1983 book, ''Hugh Johnson's Modern Encyclopedia of Wine,'' which lists Calistoga among his list of ''unofficially recognized appellations or sub-areas.'' The petitioner explains that 10 of the 12 defined sub-areas listed in this book are now designated as American viticultural areas.

• Excerpts from André Dominé's book, ''Wine,'' recognizes Calistoga as a distinct region within Napa Valley, noting that ''the bay influences the weather less as the valley rises up toward Calistoga, which is classified as a Region III area.''

• Excerpts from James Laube's 1989 book, ''California's Great Cabernets,'' which explain that for the purposes of the book, ''a 'commune' system within Napa Valley is utilized to differentiate where grapes are grown within the valley as well as to analyze regional styles of wines.'' In his list, Laube includes Calistoga equally among the other nine Napa Valley ''communes.'' The petition notes that 9 of the 10 communes listed are now TTB-approved viticultural areas.

• Excerpts from James Halliday's book, ''Wine Atlas of California,'' which, the petitioner states, ''so definitively covers the Calistoga area that the chapter in his book could provide most of the evidential requirements for this entire petition.''

• A brief summary of ''Calistoga's Wine History'' by Calistoga Winery proprietor Jim Summers, which, the petitioner states, ''includes a more historical perspective in the long recognition of Calistoga as a viticultural area.''

Boundary Evidence

The petition states that the established viticultural areas surrounding the proposed Calistoga area easily define a portion of its proposed boundaries. The existing St. Helena viticultural area's northwestern boundary defines Calistoga's southeastern boundary, while the existing Diamond Mountain area's northeastern boundary defines Calistoga's southwestern boundary. The petitioner uses the Napa-Sonoma county line, which is the Napa Valley viticultural area's boundary in the northwestern corner of Napa County, to also define Calistoga's western and northern boundaries. The 880-foot elevation line, beyond which lies rugged, unplantable terrain, defines Calistoga's eastern limit and returns the proposed boundary to its starting point.

Distinguishing Features

The petition includes, as evidence of the area's unique growing conditions, a report written by Jonathan Swinchatt, Ph.D., of EarthVision, Inc.

Geologic and Geographic Features

Dr. Swinchatt's report indicates that the proposed Calistoga viticultural area is distinguished from surrounding areas by its geographic and geologic features. Dr. Swinchatt explains:

The entirety of the proposed viticultural area is underlain by volcanic bedrock, part of the more widespread Sonoma Volcanics that occur in the Vaca Mountains, in the northern Mayacama Mountains, bordering the lower slopes of the southern Mayacamas Mountains, and in Sonoma County. All the rock materials in the proposed viticultural area—bedrock and sediments—are part of, or derived from, the Sonoma Volcanics. These rocks comprise lava flows, ash-fall tuffs, welded tuffs, pyroclastic flows, mudflows, and ignimbrites. Their composition is largely andesitic with some rhyolitic rocks admixed. AVAs [American Viticultural Areas] farther to the south'St. Helena, Rutherford, and Oakville, in particular'exhibit significantly greater geologic diversity across their width, being underlain primarily by marine sedimentary rocks on the west side of the valley but by volcanic rocks on the east. In addition, these AVAs contain alluvial fan environments on their edges, and fluvial (river) environments in their more central parts. The proposed Calistoga AVA is topographically more diverse but geologically more uniform than these other AVAs that include valley floor environments. The mineralogy and chemistry of the substrate throughout the proposed viticultural area reflects the common source of the granular materials in the Sonoma Volcanics.

In the mountains, vineyards are planted in colluvium-sedimentary particles that have been transformed from the parent bedrock through weathering processes and have accumulated either in place or moved only a short distance. The upland soils are dominantly excessively drained, gravelly loams, very stony loams, and loams, on steep slopes. Most of the breakdown products of weathering have been transported by streams into the valley; much of the finer material has been transported from the area by the Napa River, leaving coarser sediments behind throughout much of the proposed viticultural area.

Alluvial fans have formed at the mouths of most of the drainages, particularly along the northeast side of the valley at Dutch Henry Canyon, Simmons Canyon, Jericho Canyon, and north of Tubbs Lane at the headwaters of the Napa River in Kimball Canyon. At all these locations, cobbly and gravelly loams extend well out onto the valley floor, mixed here and there with finer-grained sediments. On the southwest side, small fans occur at the mouths of Diamond Creek, Nash Creek and Ritchie Creek. These locations are characterized by cobbly and gravelly loams. Coarse sediments characterize the valley floor throughout the extent of the proposed viticultural area, the finer-grained materials having been transported out of the region by the waters of the Napa River. Soils throughout the proposed viticultural area are loams, gravelly loams, cobbly loams, often with boulders, some with admixtures of silt and clay-clay-rich soils are of limited distribution. These sediments are well-drained, with admixtures of clay providing water-holding capacity that Further south in the Napa Valley, gravelly loams and loams are characteristic only of the upper reaches of the alluvial fans that line the valley, while the valley center is often covered by much finer, clay-rich, material.

Climatic Features

In addition to the proposed area's unique geographic and geologic features, Dr. Swinchatt's report indicates that its unique climatic features further distinguish the proposed Calistoga viticultural area from surrounding areas. Dr. Swinchatt explains:

Climatic information in our report for the Napa Valley Vintners' Association is based on data from DAYMET.org, a website that provides climatic information throughout the United States. DAYMET data is based on a computer algorithm that allows the extension of data from scattered weather stations into areas of complex topography. The algorithm was tested over 400,000 square kilometers in Washington State and found to be accurate within 1.2 degrees centigrade for temperature prediction and to be able to predict rainfall with an 83 percent accuracy.

Heat summation in degree days, defined as the total number of hours above 50 degrees Fahrenheit, is the accepted general measure of temperature and solar insolation in the wine industry. While heat summation is only a general indicator of regional temperature, it

provides a more useful view than the limited temperature data from one or two available weather stations. Temperature—climate in general—can vary over distances of a few hundred feet or less, so that temperature measurements at one or two locations mean little within a regional context. Under these conditions, DAYMET heat summation data provides as good a measure of regional conditions as is available.

Examination of DAYMET data indicates that most of the proposed viticultural area-mountain slopes and valley floor alike-lies within Region III, defined as the range of 3000 to 3500 degree days. Only a small area of the valley floor in the proposed viticultural district—east of the restriction in the valley formed by the ridge just west of the mouth of Dutch Henry Creek—lies within low region IV. The difference is well within the limits of accuracy of the data, indicating that the entire proposed viticultural area has a similar temperature profile. Farther south, valley floor vineyards are exposed to significantly different temperature conditions than those in the hills; in the Calistoga region, valley floor and hills appear to be part of a single climatic regime. This regime is characterized by hot days and cool nights, conditions ideal for a combination of ripening grapes but maintaining good acid balance.

One of the long-standing climatic assumptions in the Napa Valley is that Calistoga has the highest temperatures of any location within the valley. Temperature data and anecdotal evidence, however, dispute this assumption, both indicating that the hottest part of the valley is a small region just west closer of Bale Lane. Hottest average temperatures in August (over the 18 year period from 1980 ton 1997) occur from Stags Leap District to south of Dutch Henry Canyon, along the base of the Vaca Mountains.

The Calistoga AVA is cooled by air currents drawn in from the Russian River through the northwestern comer of the mountain heights. These are drawn in to replace hot air rising from the valley, currents that used to support sailplanes headquartered at the Gliderport at Calistoga. In addition, cooling breezes flow down the slopes of both the Vaca and Mayacamas Mountains in the later afternoon. Daytime peak temperatures reach about 100 degrees at mid-day. The heated air rises by convection, drawing in cooler air form the Russian River, the breezes continuing after sunset, cooling the valley floor to about 65 degrees. Further cooling occurs, on fog free nights, driven by cool air moving down slope from the mountains, providing additional cooling of 12 to 15 degrees.

Minimum nighttime temperatures often average about 50 degrees, giving a diurnal temperature range that sometimes is greater than 50 degrees. Vintners in the proposed viticultural areas hold that this large diurnal variation is one of the main influences on the character of wines from the region. The hot daytime temperatures provide color and big berry fruit, while the cool nights provide good acid balance for structure and develop power in the wines. The character of wines in the southeastern-most corner of the proposed viticultural district, south of the ''Sterling Hill'' between Maple and Dunaweal Lanes is somewhat softer due to higher nighttime temperatures.

In its southern and central portions, the Napa Valley trends northwest-southeast, with slopes facing mainly northeast and southwest, modified by the drainages that cut the WI slopes that add diversity to the aspect presented by vineyards to the sun. In its northern portions, however, the trend of the valley is closer to west-east, with the major slopes facing just east of north (in the Mayacamas Mountains) and just west of south (in the Vaca Mountains). A slope aspect map indicates also that the valley floor has very little flat ground, most of it reflects the slopes of alluvial fans, gentle on the north (such as at Dutch Henry Canyon) and steeper on the south. Slope aspect and exposure to the sun in the Calistoga region thus is quite distinct from that in any other AVA within the Napa Valley region.

Rain fall in the Calistoga region is typically higher than elsewhere in the area, with the highest rainfall recorded just outside the northern perimeter of the proposed viticultural area, on Mount St. Helena. Precipitation is highest in the mountains, up to 60 plus inches per year, and lowest in the valley, but year-to-year variation is large, as it is elsewhere in the Napa Valley region. DAYMET data for the years 1990 to 1997 indicate that precipitation ranged from just over 20 inches to over 55 inches on the valley floor, and from about 25 inches to over 65 inches in the surrounding mountains. Measures of average rainfall thus have little meaning.

Boundary Description

See the narrative boundary description of the petitioned-for viticultural area in the proposed regulatory text published at the end of this notice.

Maps

The petitioner(s) provided the required maps, and we list them in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If we establish this proposed viticultural area, its name, ''Calistoga,'' will be recognized as a name of viticultural significance. Consequently, wine bottlers using ''Calistoga'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's name as an appellation of origin. The proposed part 9 regulatory text set forth in this document specifies the ''Calistoga'' name as a term of viticultural significance for purposes of part 4 of the TTB regulations.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name as an appellation of origin and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Accordingly, if a new label or a previously approved label uses the name ''Calistoga'' for a wine that does not meet the 85 percent standard, the new label will not be approved, and the previously approved label will be subject to revocation, upon the effective date of the approval of the Calistoga viticultural area.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Public Participation

Comments Invited

We invite comments from interested members of the public on whether we should establish the proposed viticultural area. We are also interested in receiving comments on the sufficiency and accuracy of the name, boundary, climactic, and other required information submitted in support of the petition. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Calistoga viticultural area on brand labels that include the words ''Calistoga'' as discussed above under Impact on Current Wine Labels, we are particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. We are also interested in receiving suggestions for ways to avoid any conflicts, for example by adopting a modified or different name for the viticultural area.

Submitting Comments

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals. You may submit comments in one of five ways:

• *Mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.

• *Facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—

(1) Be on 8.5- by 11-inch paper;

(2) Contain a legible, written signature; and

(3) Be no more than five pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

• *E-mail:* You may e-mail comments to *nprm@ttb.gov*. Comments transmitted by electronic mail must—

(1) Contain your e-mail address;

(2) Reference this notice number on the subject line; and

(3) Be legible when printed on 8.5- by 11-inch paper.

• *Online form:* We provide a comment form with the online copy of this notice on our Web site at *http://www.ttb.gov/alcohol/rules/index.htm*. Select the ''Send comments via e-mail'' link under this notice number.

• *Federal e-Rulemaking Portal:* To submit comments to us via the Federal e-rulemaking portal, visit *http://www.regulations.gov* and follow the instructions for submitting comments.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine, in light of all circumstances, whether to hold a public hearing.

Confidentiality

All submitted material is part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider confidential or inappropriate for public disclosure.

Public Disclosure

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Library at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact our librarian at the above address or telephone 202–927–2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and any comments we receive on this proposal on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Library. To access the online copy of this notice, visit *http://www.ttb.gov/alcohol/rules/index.htm*. Select the ''View Comments'' link under this notice number to view the posted comments.

Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

Lisa M. Gesser of the Regulations and Procedures Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend title 27, chapter 1, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

2. Amend subpart C by adding § 9.__ to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.__ Calistoga.

(a) *Name.* The name of the viticultural area described in this section is ''Calistoga''. For purposes of part 4 of this chapter, ''Calistoga'' is a term of viticultural significance.

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Calistoga viticultural area are the following four United Stages Geological Survey (USGS) 7.5 minute series, 1:24000 scale topographic maps. They are titled:

(1) Mark West Springs, Calif. (1993);

(2) Calistoga, CA (1997);

(3) St. Helena, Calif. (1960, revised 1993); and

(4) Detert Reservoir, CA (1997).

(c) *Boundary.* The Calistoga viticultural area is located in northwestern Napa County, California. The boundary's beginning point is on the Mark West Springs map at the point where the Napa-Sonoma county line intersects Petrified Forest Road in section 3, T8N/R7W. From this point, the boundary:

(1) Continues northeasterly along Petrified Forest Road approximately 1.9 miles to the road's intersection with the 400-foot contour line near the north bank of Cyrus Creek approximately 1,000 feet southwest of the intersection of Petrified Forest Road and State Route 128 on the Calistoga map;

(2) Proceeds generally east-southeast (after crossing Cyrus Creek) along the 400-foot contour line to its intersection with Ritchey Creek in section 16, T8N/R6W;

(3) Follows Ritchey Creek northeast approximately 0.3 miles to its intersection with State Route 29 at the 347-foot benchmark;

(4) Proceeds east-southeast along State Route 29 approximately 0.3 miles to its intersection with a light-duty road labeled Bale Lane;

(5) Follows Bale Lane northeast approximately 0.7 miles to its intersection with the Silverado Trail;

(6) Proceeds northwest along the Silverado Trail approximately 1,500 feet to its intersection with an unmarked driveway on the north side of the Silverado Trail near the 275-foot benchmark;

(7) Continues northeasterly along the driveway for 300 feet to and beyond its intersection with another driveway, and continues north-northeast in a straight line to the 400-foot contour line;

(8) Follows the 400-foot contour line easterly approximately 0.7 miles to its intersection with an unimproved dirt road (an extension of a road known locally as the North Fork of Crystal Springs Road), which lies in the Carne Humana Land Grant approximately 1,400 feet southwest of the northwest corner of section 11, T8N/R6W on the St. Helena map;

(9) Continues northerly along the unimproved dirt road approximately 2,700 feet to its intersection with the

880-foot contour line in section 2, T8N/R6W;

(10) Follows the meandering 880-foot contour line northwesterly, crossing onto the Calistoga map in section 2, T8N/R6W, and continues along the 880-foot contour line through section 3, T8N/R6W, sections 34 and 35 T9N/R6W, (with a brief return to the St. Helena map in section 35), to the 880-contour line's intersection with Biter Creek in the northeast quadrant of section 34, T9N/R6W;

(11) Continues westerly along the meandering 880-foot contour line around Dutch Henry Canyon in section 28, T9N/R6W, and Simmons Canyon in section 29, T9N/R6W, to the contour line's first intersection with the R7W/R6W range line in section 30, T9N/R6W;

(12) Continues northerly along the meandering 880-foot contour line across the two forks of Horns Creek and through Hoisting Works Canyon in section 19, T9N/R6W, crossing between the Calistoga and Detert Reservoir maps, to the contour line's intersection with Garnett Creek in section 13, T9N/R7W, on the Detert Reservoir map;

(13) Continues westerly along the meandering 880-foot contour line, crossing between the Calistoga and Detert Reservoir maps in sections 13 and 14, T9N/R7W, and in the region labeled ''Mallacomes or Moristul y Plan De Aguacaliente,'' to the contour line's intersection with the Napa-Sonoma county line approximately 1.1 miles northeast of State Route 128 in the ''Mallacomes or Moristul y Plan De Aguacaliente'' region, T9N/R7W, of the Mark Springs West map; and

(14) Proceeds southerly along the Napa-Sonoma county line to the beginning point at the intersection of the county line and Petrified Forest Road, section 3, T8N/R7W.

Signed: March 8, 2005.

John J. Manfreda,

Administrator.

[FR Doc. 05–6350 Filed 3–30–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 37]

RIN 1513–AA95

Proposed Establishment of the Dos Rios Viticultural Area (2004R–0173P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the ''Dos Rios'' viticultural area in Mendocino County, California. This proposed 15,500-acre viticultural area is about 150 miles north of San Francisco, California. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed addition to our regulations.

DATES: We must receive written comments on or before May 31, 2005.

ADDRESSES: You may send comments to any of the following addresses:

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 37, P.O. Box 14412, Washington, DC 20044–4412.
- 202–927–8525 (facsimile).
- *nprm@ttb.gov* (e-mail).
- *http://www.ttb.gov/alcohol/rules/index.htm.* An online comment form is posted with this notice on our Web site.
- *http://www.regulations.gov* (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive about this proposal by appointment at the TTB Library, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400. You may also access copies of the notice and comments online at *http://www.ttb.gov/alcohol/rules/index.htm.*

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, AVA Program Manager, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville Street, No. 158, Petaluma, CA 94952; telephone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, elevation, physical features, and soils, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Dos Rios Petition

TTB received a petition from Ralph Jens Carter of Sonoma, California,

proposing a new viticultural area to be called ''Dos Rios'' in northern Mendocino County, California. Located at the confluence of the Eel River and the Middle Fork of the Eel River, the proposed 15,500-acre Dos Rios viticultural area is about 40 miles north of Ukiah, 25 miles east of the Pacific Ocean, and about 5 miles north of the established North Coast viticultural area's northern boundary (see 27 CFR 9.30). The proposed area encompasses portions of the canyons containing the two rivers. According to the petition, the area's canyon-created wind patterns, river-reflected sunlight, soils, and transitional climate distinguish it from surrounding grape-growing regions. The petitioner states that, currently, six acres of commercial vineyards are planted within the proposed area's boundaries, with the potential for additional plantings.

Name Evidence

''Dos Rios'' is Spanish for ''two rivers,'' according to the Harper Collins Spanish College Dictionary, Fourth Edition, published in 2002. The United States Geological Survey (USGS) Dos Rios Quadrangle map shows the village of Dos Rios at the confluence of the Middle Fork of the Eel River and the main channel of the Eel River. The November 2002 California State Automobile Association map and the 2003 California Compass Map show Dos Rios village along State Highway 162 east of Laytonville, California.

The local GTE telephone directory lists Dos Rios and includes its 95429 zip code. The local Vin DeTevis winery letterhead lists its location on Covelo Road in Dos Rios. The petition also included a copy of a 1982 photograph from a book entitled ''The Northwestern Pacific Railroad and Its Successors,'' by Wesley Fox (Fox Publications, Arvada, Colorado), which shows, according to its caption, a southbound freight train ''rolling along the rocky edges of the Eel River, south of Dos Rios.''

Boundary Evidence

The proposed Dos Rios viticultural area encompasses the confluence of the Eel and the Middle Fork of the Eel Rivers, portions of the Eel River canyon to the north and south of the confluence, and a portion of the Middle Fork's canyon east of the confluence. The proposed area also includes portions of the side canyons of several seasonal tributaries. The proposed viticultural area covers about 15,500 acres, and its boundary outlines an irregular shape about 12 miles long east to west and 4 miles wide north to south.

As shown on the USGS maps provided with the petition, the petitioner uses the 2,000-foot contour line to define the outer limits of the proposed viticultural area. Section lines shown on the USGS maps of the proposed area connect the 2,000 foot contour lines across the two rivers as the contour lines pass out of the Dos Rios area. The petition and letters from local residents state that the 2,000-foot contour line marks the upper limit of the microclimate created by the proposed area's canyon geography. Above the 2,000-foot contour line, the climate becomes colder and less conducive to viticulture, according to the petition, which cites the ''Sunset Western Garden Book'' (7th edition, 2001).

As shown on the provided USGS maps, the northern boundary of the proposed Dos Rios viticultural area coincides with the Round Valley Indian Reservation's southern boundary where it crosses the Eel River, about 6 miles north of the village of Dos Rios. According to the petition, which cites a copy of the 1971 Hubbard Scientific 3-dimensional map of the Ukiah, California, region, this portion of the proposed area includes windy and gentler, less eroded slopes.

The eastern region of the proposed viticultural area includes mildly steep slopes close to the Middle Fork of the Eel River, as noted on the Hubbard Scientific Ukiah map and the USGS Dos Rios maps. This portion of the proposed area has warmer temperatures due to sunlight reflected from the Middle Fork of the Eel River onto the surrounding steep slopes and canyon walls, according to the petition. The eastern boundary line is about 4 miles east of the village of Dos Rios. Beyond the proposed eastern boundary the higher, colder elevations of the Mendocino National Forest dominate the landscape.

The proposed area's southern boundary line is about 3 miles south of the village of Dos Rios. The petition describes this portion of the proposed area as having significant winds and light reflection from the rivers, which modifies its climate.

The western boundary of the proposed Dos Rios viticultural area coincides with the steep ''Windy Point'' geographical feature shown on the USGS Laytonville map. The proposed area's western boundary is about a mile west of the village of Dos Rios. The narrow canyon walls found here constricts the marine air flowing inland and creates a windy environment, the petition explains.

Geography

The significant physical features of the proposed Dos Rios viticultural area include the Eel River and the Middle Fork of the Eel River and their surrounding canyons, which join within the proposed area. The petition describes the canyon surrounding the confluence of the two rivers as a ''land trough,'' a half-mile deep and three miles wide. This land trough is shown on the provided USGS area maps and in multiple dimensions on the Hubbard Scientific Ukiah region topographic map.

As land troughs, the Eel and Middle Fork river canyons are the only significant gaps in the Coast Range in this region of Mendocino County, according to the petition, which cites the Hubbard Scientific Ukiah region topographic map. The petition states that these gaps allow the Pacific Ocean's marine air to blow inland, or east, through the canyons and into the proposed Dos Rios viticultural area.

As the petition notes, the names of several prominent geographic features reflect the strength of the wind blowing through the canyons. The USGS maps for the proposed area show two geographic features named ''Windy Point'' within the proposed viticultural area boundaries and another named ''Windy Ridge'' close to the proposed area's eastern boundary. On the USGS Laytonville map, Windy Point is near the 1,800-foot elevation in the southwest corner of section 36, T22, R14W. On the USGS Dos Rios map, Windy Point is near the 1,400-foot elevation line between State Highway 162 and the Middle Fork of the Eel River, T21N, R13W. ''Windy Ridge,'' with elevations between 2,600 feet and 3,200 feet, is immediately outside of the proposed area's eastern boundary on the USGS Covelo West map, section 18, T22N, R13W.

The canyon walls and hillsides surrounding the Eel River and the Middle Fork of the Eel River incline from 30 to 75 percent, according to the United States Department of Agriculture (USDA) Soil Survey of Mendocino County, Eastern Part and Trinity Southwest Part, California, January 1991, pages 23–126. In addition to the climate-moderating marine winds, sunlight reflects off the rivers onto the steep sides of the canyons, helping to warm the climate of the canyons below the 2,000-foot contour line, according to the petition.

Climate

The marine winds blowing through the canyons within the proposed Dos

Rios viticultural area, direct and reflected solar radiation, and temperature are the factors that distinguish the proposed area from the surrounding regions of Mendocino County, the petition states. The ''Sunset Western Garden Book'' (7th edition, 2001), which divides much of the western United States into growing zones, includes the proposed Dos Rios viticultural area in California's Zone 14, Northern California's Inland Areas with Some Ocean Influence, a transitional climate area. The Sunset book depicts this zone as a narrow geographic region surrounded by three cooler zones. The close proximity of the four climate zones to the proposed Dos Rios viticultural area also helps create a unique transitional microclimate within the proposed area, according to the petition.

Wind: As noted above, the Eel River and Middle Fork of the Eel River canyons create a gap in the Coast Range, which lies between the moderating Pacific Ocean climate to the west and the more continental climate found at the higher elevations and in the interior valleys to the east. According to the petition, which cites the Sunset Western Garden Book and the Hubbard Scientific Ukiah region topographic map, these canyons act as wind funnels that bring moderating Pacific marine air into the Dos Rios region, affecting the proposed area's climate. The Sunset book explains the gaps in the Coast Range create funnels for the marine air to blow further inland than it would without these low-elevation entrances. Geographic slopes also affect airflow, according to Sunset's description of how the local terrain can affect wind flow and solar heat. Warm air rises and cold air sinks, which, the petition notes, creates vertical wind movements on the 800-foot to 2,000-foot sloping elevations found within the proposed viticultural area.

As noted above, the presence of strong winds in the proposed Dos Rios viticultural area is reflected in the ''windy'' names given to several geographic features within or near its boundary. Local residents also confirm the existence of these winds within the proposed area. During the summer months the proposed area has brisk afternoon breezes that intensify at sunset, according to correspondence from Steve DeTevis, a local resident and vineyard owner living close to Windy Point along the Middle Fork of the Eel River. Mr. DeTevis explains that the winds blow north to south, from the higher hillside to the lower elevations along the river. He added that at sunset the breezes intensify, and after dark the winds subside and temperatures cool. Also, he notes that during the winter the winds create a downdraft from the hilltops to the canyon floor and help to lessen the effects of freezing temperatures and frost in the vineyards.

Greta and Chris Harper, residents of Dos Rios, explain in their June 23, 2004 correspondence that, ''In Dos Rios we are also greatly influenced by the * * * winds that regularly move through the canyons cut by the Eel River and its numerous tributaries.'' They note the winds are strongest in the spring and summer, especially in the afternoon and early evening hours. The Harpers explain that the winds help disperse the morning coastal fog that reaches over the surrounding mountain ranges, giving the Dos Rios region sunny mornings that contrast with the foggier mornings found in the surrounding Covelo and Willits regions.

Greg Kanne, a resident of Dos Rios since 1985, states in his June 3, 2004 correspondence that, ''Yes, it does get quite windy here (Dos Rios).'' Mr. Kanne explains that a river canyon is a wind tunnel and the Dos Rios area has two tunnels that collide and push strong breezes up the canyon walls. He also confirms the presence of the afternoon breezes. Mel Black, a Dos Rios residence since 1987, explains in a July 8, 2004 letter that his 1,350-foot elevation ranch extends from Poonkinny Creek westward over a ridge and down the hillside, crossing the Eel River, into Dos Rios. Mr. Black states that the brisk afternoon and evening breezes are a daily occurrence combining with the sun exposures and soils to create an ideal grape-growing region.

Solar Radiation

Reflective sunlight off the water in the two rivers provides additional warming to the hillside vineyards, according to the petition, which cites the 2002 ''Great Grape Varieties'' publication (page 57). Greta and Chris Harper note in their June 2004 letter that, ''In Dos Rios we are also greatly influenced by the river itself as it reflects light * * *.'' The intensity of the reflected sunlight dissipates above 2,000 feet in elevation, according to the petition, which coincides with the proposed area's boundary line.

Temperature

Temperatures annually average 52 to 58 degrees, with warm, dry summers and cool, wet winters, according to the petition, citing the 1991 USDA Soil Survey of Mendocino Trinity Counties. The Sunset Western Garden Book, as cited in the petition, describes the marine breezes blowing through the proposed area's canyons as a moderating influence making the Dos Rios region cooler in the summer and warmer in the winter than regions to the east with a more continental climate. The frost-free growing season varies from 125 days to 250 days annually.

According to the Sunset book, three cooler Sunset climate zones surround the proposed area and its transitional Zone 14 climate. These three climates include Zone 1, Coldest Winters in the West, Zone 2, Second Coldest Western Climate, and Zone 7, California's Digger Pine Belt. Zones 1 and 2 are the snowiest and coldest parts of the West. Zone 7, found at lower mountain elevations, has hot summers and mild, but pronounced, winters. The higher elevations, according to the Sunset climate zone map, have generally colder climates and a shorter growing season than the lower elevations.

Rainfall

The proposed Dos Rios viticultural area averages 30 to 60 inches of rainfall each year, according to the 1991 USDA Soil Survey of Mendocino and Trinity Counties. Most of this rainfall occurs between October and April each year. The proposed area gets occasional light snow, as the petitioner documents with photographs. The surrounding higher elevations receive more snow, according to the Sunset Western Garden Book.

Soils

Soils of the proposed Dos Rios viticultural area are well-drained to excessively well-drained loams, sandy loams, and gravelly loams that are deep to very deep, according to the 1991 USDA Soil Survey for Mendocino and Trinity Counties, pages 23–126. These soils are categorized as poor, with coarse texture and limited water retention. They are weathered from sandstone, siltstone, schist, and greywacke, which are rich in mineral nutrients. In comparison, the petition notes that soils within the proposed Dos Rios viticultural area differ from other nearby grape-growing regions such as the Potter Valley viticultural area (27 CFR 9.82), which the 1991 USDA Soil Survey described as having Cole series soils that are poorly drained, nearly level clay loams.

Boundary Description

See the narrative boundary description of the petitioned-for viticultural area in the proposed regulatory text published at the end of this notice.

Maps

The petitioner(s) provided the required maps, and we list them below in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If we establish this proposed viticultural area, its name, ''Dos Rios,'' will be recognized as a name of viticultural significance. Consequently, wine bottlers using ''Dos Rios'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's name as an appellation of origin. The proposed part 9 regulatory text set forth in this document specifies the ''Dos Rios'' name as a term of viticultural significance for purposes of part 4 of the TTB regulations.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name as an appellation of origin and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Accordingly, if a new label or a previously approved label uses the name ''Dos Rios'' for a wine that does not meet the 85 percent standard, the new label will not be approved, and the previously approved label will be subject to revocation, upon the effective date of the approval of the Dos Rios viticultural area.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Public Participation

Comments Invited

We invite comments from interested members of the public on whether we should establish the proposed viticultural area. We are also interested in receiving comments on the sufficiency and accuracy of the name, boundary, climatic, and other required information submitted in support of the petition. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Dos Rios viticultural area on brand labels that include the words ''Dos Rios'' as discussed above under Impact on Current Wine Labels, we are particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. We are also interested in receiving suggestions for ways to avoid any conflicts, for example by adopting a modified or different name for the viticultural area.

Submitting Comments

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals. You may submit comments in one of five ways:

- *Mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *Facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—

(1) Be on 8.5- by 11-inch paper;

(2) Contain a legible, written signature; and

(3) Be no more than five pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

- *E-mail:* You may e-mail comments to *nprm@ttb.gov*. Comments transmitted by electronic mail must—

(1) Contain your e-mail address;

(2) Reference this notice number on the subject line; and

(3) Be legible when printed on 8.5- by 11-inch paper.

- *Online form:* We provide a comment form with the online copy of this notice on our Web site at *http://www.ttb.gov/alcohol/rules/index.htm*. Select the ''Send comments via e-mail'' link under this notice number.
- *Federal e-Rulemaking Portal:* To submit comments to us via the Federal e-rulemaking portal, visit *http://www.regulations.gov* and follow the instructions for submitting comments.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine, in light of all circumstances, whether to hold a public hearing.

Confidentiality

All submitted material is part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider confidential or inappropriate for public disclosure.

Public Disclosure

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Library at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5 x 11-inch page. Contact our librarian at the above address or telephone 202–927–2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and any comments we receive on this proposal on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Library. To access the online copy of this notice, visit *http://www.ttb.gov/alcohol/rules/index.htm*. Select the ''View Comments'' link under this notice number to view the posted comments.

Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N. A. Sutton of the Regulations and Procedures Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend title 27, chapter 1, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

2. Amend subpart C by adding § 9.____ to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.____ Dos Rios.

(a) *Name.* The name of the viticultural area described in this section is ''Dos Rios''. For purposes of part 4 of this chapter, ''Dos Rios'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Dos Rios viticultural area are four United States Geological Survey (USGS) 1:24,000 scale topographic maps. They are titled:

(1) Dos Rios, California—Mendocino County, 1967 edition, revised 1994;

(2) Laytonville, California—Mendocino County, 1967 edition, revised 1994;

(3) Iron Peak, California—Mendocino County, 1967 edition, revised 1994; and

(4) Covelo West, California—Mendocino County, 1967 edition, photoinspected 1973.

(c) *Boundary.* The Dos Rios viticultural area is located in northern Mendocino County, California, at the confluence of the Eel River and the Middle Fork of the Eel River. The area's boundaries are defined as follows—

(1) Beginning in the northwestern quarter of the Dos Rios map in section 32, T22N, R13W, at the intersection of the 2,000-foot contour line and Poonkinny Road, proceed southerly and then easterly along the meandering 2,000-foot contour line to its intersection with the eastern boundary of section 2, T21N, R13W (immediately south of State Route 162) (Dos Rios Quadrangle); then

(2) Proceed straight south along the section line, crossing the Middle Fork of the Eel River, to the southeast corner of section 11, T21N, R13W (Dos Rios Quadrangle); then

(3) Proceed 0.9 mile straight west along the southern boundary of section 11 to its intersection with the 2,000-foot elevation line, T21N, R13W (Dos Rios Quadrangle); then

(4) Proceed northerly then westerly along the meandering 2,000-foot contour line, crossing Big Water Canyon, Doghouse Creek, and Eastman Creek, to the contour line's intersection with the southern boundary of section 17, T21N, R13W (Dos Rios Quadrangle); then

(5) Proceed 2.1 miles straight west along the section line, crossing the Eel River, to the section line's intersection with the 2,000-foot contour line along the southern boundary of section 18, T21N, R13W (Dos Rios Quadrangle); then

(6) Proceed northerly along the meandering 2,000-foot contour line, crossing from and to the Dos Rios map (passing around the Sims 2208 benchmark near the southeast corner of section 36, T22N, R14W), and, returning to the Laytonville map, continuing westerly to the contour line's intersection with the southwest corner of section 36, T22N, R14W, at Windy Point (Laytonville Quadrangle); then

(7) Proceed 1.2 miles straight north along the section line to its intersection with the 2,000-foot elevation line, section 25, T22N, R14W (Laytonville Quadrangle); then

(8) Proceed northerly along the meandering 2,000-foot elevation, crossing over to and back from the Iron Peak map and returning to the Iron Peak map, to the contour line's intersection with the western boundary of section 14 (immediately south of an unnamed unimproved road), T22N, R14W (Iron Peak Quadrangle); then

(9) Proceed straight north along the section line to the southeast corner of section 3, T22N, R14W (Iron Peak Quadrangle); then

(10) Proceed straight west along the section line to the southwest corner of section 3, T22N, R14W (Iron Peak Quadrangle); then

(11) Proceed straight north along the section line to the northwest corner of section 3, T22N, R14W (Iron Peak Quadrangle); then

(12) Proceed straight east along the section line, crossing the Eel River, to the northeast corner of section 2, which coincides with the Round Valley Indian Reservation's southern boundary, T22N, R14W (Iron Peak Quadrangle); then

(13) Proceed straight south along the section line to the southeast corner of section 2, T22N, R14W (Iron Peak Quadrangle); then

(14) Proceed 0.3 mile straight east to the section line's intersection with the 2,000-foot elevation line along the northern boundary of section 12, T22N, R14W, west of Eberle Ridge, (Iron Peak Quadrangle); then

(15) Proceed generally southeast along the meandering 2,000-foot elevation, crossing onto the Covelo West map and continuing southerly along the 2,000-foot contour line from Stoner Creek in section 18, T22N, R13W, return to the Dos Rios map, continue southeasterly along the 2,000-foot contour line (crossing Goforth and Poonkinny Creeks), and return to the beginning point at the contour line's intersection with Poonkinny Road.

Signed: March 7, 2005.

John J. Manfreda,

Administrator.

[FR Doc. 05–6351 Filed 3–30–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 38]

RIN 1513–AA94

Proposed Establishment of the Ramona Valley Viticultural Area (2003R–375P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the 89,000-acre Ramona Valley viticultural area in central San Diego County, California. The proposed area is entirely within the established South Coast viticultural area. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed addition to our regulations.

DATES: We must receive written comments on or before May 31, 2005.

ADDRESSES: You may send comments to any of the following addresses:

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 38, P.O. Box 14412, Washington, DC 20044–4412.
- 202–927–8525 (facsimile).
- *nprm@ttb.gov* (e-mail).
- *http://www.ttb.gov/alcohol/rules/index.htm.* An online comment form is posted with this notice on our Web site.
- *http://www.regulations.gov* (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this notice, the petition, the appropriate maps, and

any comments we receive about this notice by appointment at the TTB Library, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400. You may also access copies of the notice and comments online at *http://www.ttb.gov/alcohol/rules/index.htm.*

See the *Public Participation* section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT:

N. A. Sutton, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Procedures Division, 925 Lakeville St., # 158, Petaluma, California 94952; telephone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on such labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Ramona Valley Petition

TTB received a petition from the Ramona Vineyard Association of Ramona, California, proposing to establish the Ramona Valley viticultural area in central San Diego County, California. Surrounding the town of Ramona, the proposed viticultural area is located 28 miles northeast of the city of San Diego, and is entirely within the established, multi-county South Coast viticultural area (27 CFR 9.104). It is also south of two other established viticultural areas located within the South Coast area, Temecula Valley (27 CFR 9.50) and San Pasqual Valley (27 CFR 9.25). The proposed 89,000-acre Ramona Valley viticultural area contains approximately 17 vineyards currently cultivating an estimated 45 acres of wine grapes.

The distinguishing factors of the proposed Ramona Valley viticultural area, according to the petitioners, include its elevation, which contrasts with the surrounding areas, and climatic factors related to its elevation and inland location. Oriented west-southwest to east-northeast, the proposed area is roughly centered on the town of Ramona and is about 14.5 miles long and 9.5 miles wide.

Below, we summarize the evidence presented in the petition.

Name Evidence

Californians have used the ''Ramona Valley'' name for at least a century, according to information provided by the petitioners. For example, the petitioners supplied several articles and book excerpts showing the name's historical use. In 1906, historian Ed Fletcher wrote ''An Auto Trip Through San Diego's Back Country.'' As published in volume 15, number 2, spring 1969, of the Journal of San Diego History, the article makes several references to Ramona Valley and its geography, climate, and agricultural potential. Mr. Fletcher states, ''The higher valley lands can easily be covered with water from the mountain streams, but a railroad is absolutely necessary, and when it does come, Ramona Valley will be heard from.''

In 1963, Richard F. Pourade wrote ''The Silver Dons 1833–1865,'' which is in volume three of ''The History of San Diego.'' He describes the difficulty of reaching the Ramona Valley by different routes during the area's settlement. Mr. Pourade writes, ''Both routes had difficult climbs, the San Pasqual route at the San Pasqual hill and the Lakeside route in the last mile before reaching the Ramona Valley.''

In 1961, Clarence Woodson wrote ''Tea-Kettle Days,'' published in the San Diego Historical Society Quarterly, volume 7, number 4, October 1961. He explains, ''My grandfather, Dr. M. C. Woodson served as a surgeon in the Confederate Army, and a few years after the Civil War he brought my father and the rest of the family out to California from Paducah, Ky. He homesteaded land in the Ramona Valley in 1873 * * *.''

In addition, the proposed Ramona Valley viticultural area surrounds the San Diego County town of Ramona, which lies in a flat, broad valley largely isolated by the surrounding hills and moutains. Several businesses within the proposed area use ''Ramona Valley'' in their names, including the Ramona Valley Inn, which was established in 1981 on Main Street in Ramona.

Boundary Evidence

To outline the boundary of the proposed Ramona Valley viticultural area, the petitioners use a series of mountain peaks around the valley in which the town of Ramona lies. This boundary also incorporates several smaller side valleys and canyons, especially to the east and south of the town, within the proposed area. According to the petitioners, the proposed Ramona Valley viticultural area boundary is based on historical and current viticulture within the area, and on the area's geographical features.

The history of Ramona Valley viticulture, the petitioners explain,

began with the arrival of Spanish missionaries in 1769. American viticulture is documented as early as 1889, with wine grapes grown at Rancho Bernardo for use at the Bernardo Winery. In modern times, Ross Rizzo, the master vintner at Bernardo Winery, recalls that there may have been up to a thousand acres of wine grapes in Ramona Valley between the 1940s and the 1950s. Finally, the Schwaesdall Winery, which opened in 1993, uses grape vines planted in the Ramona Valley in the 1950s, as well as their own plantings, begun in 1989.

The proposed Ramona Valley viticultural area's elevation, which is between that of the lower coastal valleys to the north, south, and west, and that of the surrounding mountains and the higher desert-like areas to the west, also distinguishes the valley from surrounding areas, according to the petitioners. Climatic factors related to the valley's elevation and its inland location also distinguish the proposed viticultural area from nearby grape-growing regions, the petitioners add. These factors are discussed in more detail below.

Distinguishing Features

Geography

The proposed Ramona Valley viticultural area encompasses a fairly flat, broad valley and several of its side valleys and canyons in central San Diego County. A ring of hills and mountains around the valley largely isolate it from surrounding regions of the county. Santa Maria Creek flows west through the proposed area before passing through a narrow gap in the hills near the area's northwestern corner. The unincorporated town of Ramona, with a population of about 40,000, lies within the proposed area at the junction of State Routes 67 and 78.

The lowest elevation within the area, 650 feet, is at the San Vicente Reservoir at the proposed area's southwestern corner. Elevations within the northern, southern, and western portions of the area run between 650 and 1,600 feet, with an average base elevation of about 1,400 feet. The proposed area climbs to more than 3,000 feet in the east in the foothills of the Cuyamaca Mountains. According to the petitioners, the highest elevation suitable for viticulture within the proposed area is 2,640 feet.

To the south, west and north of the proposed Ramona Valley viticultural area are lower coastal valleys with elevations of 500 feet or less, according to the petitioner and USGS maps. The proposed Ramona Valley area is lower in elevation than the Cuyamaca Mountain range to the east, which has peaks of approximately 6,200 feet, according to the submitted USGS maps.

Climate

The proposed Ramona Valley's elevation, between that of the lower coastal valleys and the higher surrounding mountains, and its inland location, distinguish the proposed Ramona Valley viticultural area climate from those of surrounding regions, the petitioners state. The petitioners also note that, with the Anza-Borrego Desert 25 miles to the east and the Pacific Ocean 25 miles to the west, a combination of desert and ocean influences affect the proposed area's climate during the growing season.

Also known locally as ''the Valley of the Sun'' due to its lack of coastal morning fog, the proposed Ramona Valley viticultural area is warmer than the coastal areas and valleys to its north, south, and west. The proposed area enjoys up to 320 frost-free days and has a heat summation of 3,470 degree days annually, according to the petitioner. (During the growing season, one degree day accumulates for each degree Fahrenheit that a day's average temperature is above 50 degrees, which is the minimum temperature required for grapevine growth. See ''General Viticulture,'' by Albert J. Winkler, University of California Press, 1974.) However, the proposed area is cooler in the summer, but warmer in the winter, than the higher Cuyamaca Mountains to its east. A comparison of daily temperature variations between Ramona and Poway, Escondido, and Julian indicates that Ramona also has greater daily temperature fluctuations than the surrounding areas, according to data provided by the petitioner.

The Ramona Valley area receives an annual average rainfall total of 16.5 inches, according to the Navigation Technologies data provided with the petition. This rainfall total is more than that of the lower coastal valleys, but less than the 31-inch average received at Julian in the higher mountains to the proposed area's east according to Navigation Technologies data.

Soils

The proposed Ramona Valley viticultural area has a variety of soil types due to the differing landforms, slopes, and geology found within it, according to the petitioners. While the petitioners did provide information on the proposed area's soils, they do not use soils as a distinguishing factor for the proposed area. The mountains surrounding the proposed area, the petitioners state, consist of igneous rock. Also, the mid-slopes to the east and west of the Ramona Valley floor have the reddish coloration of San Marcos Gabbro, a mafic rock type. Mafic rock formations, the petitioners explain, are known to generate nutrient-rich soil, which is ideal for agriculture.

The proposed Ramona Valley viticultural area's soil series include Ramona, Visalia, Los Posas, and Fallbrook loams, according to the petitioners. The Ramona soil series, as documented in the 1973 U.S. Soil Conservation Service Soil Survey for San Diego County consists of well-drained, very deep sandy loams with sandy clay loam subsoil. This series is found between the 200-foot and 1,800-foot elevations on terraces and alluvial fans, sloping up to 30 percent, according to the soil survey.

Boundary Description

See the narrative boundary description of the petitioned-for viticultural area in the proposed regulatory text published at the end of this notice.

Maps

The petitioner provided the required maps, and we list them below in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If we establish this proposed viticultural area, its name, ''Ramona Valley,'' will be recognized as a name of viticultural significance. Consequently, wine bottlers using ''Ramona Valley'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's name as an appellation of origin. On the other hand, we do not believe that ''Ramona'' standing alone would have viticultural significance if the new area were established. We note in this regard that while searches of the Geographic Names Information System maintained by the U.S. Geological Survey show no entries for ''Ramona Valley,'' there are entries for ''Ramona'' standing alone or in conjunction with words other than ''Valley'' in 18 States, including 8 different California counties. Accordingly, the proposed part 9 regulatory text set forth in this document specifies only the full ''Ramona Valley'' name as a term of viticultural significance for purposes of part 4 of the TTB regulations.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name. If the wine is not eligible to use the viticultural area name as an appellation of origin and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Accordingly, if a new label or a previously approved label uses the name ''Ramona Valley'' for a wine that does not meet the 85 percent standard, the new label will not be approved, and the previously approved label will be subject to revocation, upon the effective date of the approval of the Ramona Valley viticultural area.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Public Participation

Comments Invited

We invite comments from interested members of the public on whether we should establish the proposed viticultural area. We are also interested in receiving comments on the sufficiency and accuracy of the name, climatic, boundary and other required information submitted in support of the petition. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Ramona Valley viticultural area on brand labels that include the words ''Ramona Valley'' as discussed above under *Impact on Current Wine Labels,* we are particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. We are also interested in receiving suggestions for ways to avoid any conflicts, for example by adopting a modified or different name for the viticultural area.

Although TTB believes that only the full name ''Ramona Valley'' should be considered to have viticultural significance upon establishment of the proposed new viticultural area, we also invite comments from those who believe that ''Ramona'' standing alone would have viticultural significance upon establishment of the area. Comments in this regard should include documentation or other information supporting the conclusion that use of ''Ramona'' on a wine label could cause consumers and vintners to attribute to the wine in question the quality, reputation, or other characteristic of wine made from grapes grown in the proposed Ramona Valley viticultural area.

Submitting Comments

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals. You may submit comments in one of five ways:

- *Mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *Facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—
  (1) Be on 8.5- by 11-inch paper;
  (2) Contain a legible, written signature; and
  (3) Be no more than five pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.
- *E-mail:* You may e-mail comments to *nprm@ttb.gov*. Comments transmitted by electronic mail must—
  (1) Contain your e-mail address;
  (2) Reference this notice number on the subject line; and
  (3) Be legible when printed on 8.5- by 11-inch paper.
- *Online form:* We provide a comment form with the online copy of this notice on our Web site at *http://www.ttb.gov/alcohol/rules/index.htm*. Select the ''Send comments via e-mail'' link under this notice number.
- *Federal e-rulemaking portal:* To submit comments to us via the Federal e-rulemaking portal, visit *http://www.regulations.gov* and follow the instructions for submitting comments.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine, in light of all circumstances, whether to hold a public hearing.

Confidentiality

All submitted material is part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider confidential or inappropriate for public disclosure.

Public Disclosure

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Library at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact our librarian at the above address or by telephone at 202–927–2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and any comments we receive on this proposal on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Library. To access online copies of this notice and the posted comments, visit *http://www.ttb.gov/alcohol/rules/index.htm*. Select the ''View Comments'' link under this notice number to view the posted comments.

Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N.A. Sutton of the Regulations and Procedures Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend 27 CFR, chapter 1, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

2. Amend subpart C by adding § 9.____ to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.____ Ramona Valley.

(a) *Ramona Valley.* The name of the viticultural area described in this section is ''Ramona Valley''. For purposes of part 4 of this chapter, ''Ramona Valley'' is a term of viticultural significance.

(b) *Approved Maps.* The two United States Geological Survey (USGS) 1:100,000 scale topographic (30 x 60 Minute Quadrangle) maps used to determine the boundaries of the Ramona Valley viticultural area are titled—

(1) Borrego Valley, California, 1982 edition; and

(2) El Cajon, California, 1979 edition.

(c) *Boundary.* The Ramona Valley viticultural area is located in central San Diego County, California. The area's boundaries are defined as follows—

(1) Beginning in the southwest corner of the Borrego Valley map at the 882-meter (2,894-foot) peak of Woodson Mountain, T13S, R1W, proceed straight north-northwest approximately 3.25 miles to the 652-meter (2,140-foot) peak of Starvation Mountain, T13S, R1W (Borrego Valley map); then

(2) Proceed straight east-northeast approximately 12.5 miles to the Gaging Station on the northwest shoreline of Sutherland Lake, T12S, R2E (Borrego Valley map); then

(3) Proceed straight southeast approximately 4.4 miles to the 999-meter (3,278-foot) peak of Witch Creek Mountain, T13S, R2E, east of Ballena Valley (Borrego Valley map); then

(4) Proceed straight south-southeasterly approximately 6.6 miles, crossing onto the El Cajon map, to the summit of Eagle Peak (3,166 feet), T14S, R3E, northeast of the El Capitan Reservoir (El Cajon map); then

(5) Proceed straight west-southwest approximately 12.7 miles, passing through Barona Valley, to the peak (1002 feet) near the center of the unnamed island in the San Vicente Reservoir, T14S, R1E (El Cajon map); then

(6) Proceed straight northwesterly approximately 3.9 miles to the 822-meter (2,697-foot) peak of Iron Mountain, T14S, R1W (El Cajon map); then

(7) Proceed straight north-northwest approximately 2.8 miles, crossing onto the Borrego Valley map, and return to the beginning point at the peak of Woodson Mountain.

Signed: March 7, 2005.

John J. Manfreda,

Administrator.

[FR Doc. 05–6352 Filed 3–30–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–05–013]

RIN 1625–AA00

Safety Zones; Fireworks Displays Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish 34 permanent safety zones for fireworks displays at various locations within the geographic boundary of the Fifth Coast Guard District. This action is necessary to protect the life and property of the maritime public from the hazards posed by fireworks displays. Entry into or movement within these proposed zones during the enforcement periods is prohibited without approval of the appropriate Captain of the Port.

DATES: Comments and related material must reach the Coast Guard on or before May 2, 2005.

ADDRESSES: You may mail comments and related material to Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or hand-deliver them to Room 119 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398–6203. The Auxiliary and Recreational Boating Safety Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–05–013), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to establish 34 permanent safety zones that will be enforced for fireworks displays occurring throughout the year that are held on an annual basis and normally held in one of these 34 locations. The 34 locations are: Patuxent River Solomons Island, MD; Middle River, MD; Northeast River, MD; Potomac River, Charles County, MD; Baltimore Inner Harbor, Patapsco River, MD; Northwest Harbor (Western Section), Patapsco River, MD; Northwest Harbor (East Channel), Patapsco River, MD; Washington Channel, Upper Potomac River, Washington, DC; Dukeharts Channel, Potomac River, Coltons Point, MD; Severn River and Spa Creek, Annapolis, MD; Miles River, St. Michaels, MD; Chesapeake Bay, Chesapeake Beach, MD; Choptank River, Cambridge, MD; Chester River, Kent Island Narrows, MD; Atlantic Ocean, Ocean City, MD; Isle of Wight Bay, MD; Assawoman Bay, Fenwick Island, MD; Atlantic Ocean, Rehoboth Beach, DE; Indian River Bay, DE; Little Egg Harbor, NJ; Barnegat Bay, NJ; Delaware Bay, North Cape May, NJ; Delaware River, Philadelphia, PA; Morehead City Harbor Channel, Morehead City, NC; Green Creek and Smith Creek, Oriental, NC; Pamlico River, Washington, NC; Neuse River, New Bern, NC; Cape Fear River,

Southport, NC; Cape Fear River, Wilmington, NC; Upper Potomac River, Alexandria, VA; Potomac River, Prince William County, VA; Chincoteague Channel, Chincoteague, VA; Atlantic Ocean, Virginia Beach, VA; and Elizabeth River, Southern Branch, Norfolk, VA. The Coast Guard received over 50 applications in these areas between January 2004 and January 2005. Previously a temporary safety zone was typically established on an emergency basis for each display. This limited the opportunity for public comment. Establishing 34 permanent safety zones through notice and comment rulemaking provides the public the opportunity to comment on the zone locations, size and length of time the zones will be enforced.

Each year organizations in the Fifth Coast Guard District sponsor fireworks displays in the same general location and time period. Each event uses a barge or an on-shore site as the fireworks launch platform. A safety zone is used to control vessel movement within a specified distance surrounding the launch platforms to ensure the safety of persons and property. Coast Guard personnel on scene could allow persons within the safety zone if conditions permit. The Coast Guard would publish notices in the **Federal Register** if an event sponsor reported a change to the listed event venue or date. Coast Guard Captains of the Port would give notice of the enforcement of each safety zone by all appropriate means to provide the widest publicity among the affected segments of the public. This would include publication in the Local Notice to Mariners and Marine Information Broadcasts. Marine information and facsimile broadcasts may also be made for these events, beginning 24 to 48 hours before the event is scheduled to begin, to notify the public. Fireworks barges or launch sites on land used in the locations stated in this rulemaking would also have a sign on the port and starboard side of the barge or mounted on a post 3 foot above ground level when on land and facing the water labeled ''FIREWORKS—DANGER—STAY AWAY''. This would provide on scene notice that the safety zone will be enforced on that day. This notice will consist of a diamond shaped sign 4 foot by 4 foot with a 3-inch orange retroreflective border. The word ''DANGER'' shall be 10 inch black block letters centered on the sign with the words ''FIREWORKS'' and ''STAY AWAY'' in 6 inch black block letters placed above and below the word ''DANGER'' respectively on a white background. There would also be a Coast Guard patrol vessel on scene 30 minutes before the display is scheduled to start until 30 minutes after its completion to enforce the safety zone.

The enforcement period for these proposed safety zones is from 5:30 p.m. (e.s.t.) to 1 a.m. (e.s.t.). However, vessels may enter, remain in, or transit through these safety zones during this timeframe if authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene, as provided for in 33 CFR 165.23.

This rule is being proposed to provide for the safety of life on navigable waters during the event and to give the marine community the opportunity to comment on the proposed zone locations, size, and length of time the zone will be active.

Discussion of Proposed Rule

Patuxent River, Solomons Island, MD, Safety Zone

The proposed safety zone includes all waters of Patuxent River in an area bound by the following points: 38°19″42′ N, 076°28″02′ W; thence to 38°19″26′ N, 076°28″18′ W; thence to 38°18″48′ N, 076°27″42′ W; thence to 38°19″06′ N, 076°27″25′ W; (Datum NAD 1983), thence to the point of origin.

Middle River, Baltimore County, MD, Safety Zone

The proposed safety zone includes all waters of the Middle River within a 300 yard radius of the fireworks barge in approximate position 39°17′45″ N, 076°23′49″ W (Datum NAD 1983), about 300 yards east of Rockaway Beach, near Turkey Point.

Northeast River, North East, MD, Safety Zone

The proposed safety zone includes all waters of the Northeast River within a 300 yard radius of the fireworks barge in approximate position 39°35′26″ N, 075°57′00″ W (Datum NAD 1983), approximately 400 yards south of North East Community Park.

Potomac River, Charles County, MD, Safety Zone

The proposed safety zone includes all waters of the Potomac River within a 250 yard radius of the fireworks barge in approximate position 38°20′30″ N, 077°14′30″ W (Datum NAD 1983), located near Fairview Beach, Virginia.

Baltimore Inner Harbor, Patapsco River, MD, Safety Zone

The proposed safety zone includes all waters of the Patapsco River within a 150 yard radius of the fireworks barge in approximate position 39°16′55″ N, 076°36′17″ W (Datum NAD 1983), located at the entrance to Baltimore Inner Harbor, approximately 150 yards southwest of pier 6.

Northwest Harbor, (Western Section) Patapsco River, MD, Safety Zone

The proposed safety zone includes all waters of the Patapsco River within a 250 yard radius of the fireworks barge in approximate position 39°16′37″ N, 076°35′54″ W (Datum NAD 1983), located near the western end of Northwest Harbor.

Northwest Harbor (East Channel), Patapsco River, MD, Safety Zone

The proposed safety zone includes all waters of the Patapsco River within a 300 yard radius of the fireworks barge in approximate position 39°15′55″ N, 076°34′35″ W (Datum NAD 1983), located adjacent to the East Channel of Northwest Harbor.

Washington Channel, Upper Potomac River, Washington, DC, Safety Zone

The proposed safety zone includes all waters of the Upper Potomac River within a 150 yard radius of the fireworks barge in approximate position 38°52′09″ N, 077°01′13″ W (Datum NAD 1983).

Dukeharts Channel, Potomac River, MD, Safety Zone

The proposed safety zone includes all waters of the Potomac River within a 150 yard radius of the fireworks barge in approximate position 38°13′48″ N, 076°44′37″ W (Datum NAD 1983), located adjacent to Dukeharts Channel near Coltons Point, Maryland.

Severn River and Spa Creek, Annapolis, MD, Safety Zone

The proposed safety zone includes all waters of the Severn River and Spa Creek within an area bounded by a line drawn from 38°58′39.6″ N, 076°28′49″ W; thence to 38°58′41″ N, 076°28′14″ W; thence to 38°59′01″ N, 076°28′37″ W; thence to 38°58′57″ N, 076°28′40″ W (Datum NAD 1983), located near the entrance to Spa Creek in Annapolis, Maryland.

Miles River, St. Michaels, MD, Safety Zone

The proposed safety zone includes all waters of the Miles River within a 200 yard radius of the fireworks barge in approximate position 38°47′42″ N, 076°12′23″ W (Datum NAD 1983), located near the waterfront of St. Michaels, Maryland.

Chesapeake Bay, Chesapeake Beach, MD, Safety Zone

The proposed safety zone includes all waters of the Chesapeake Bay within a 150 yard radius of the fireworks barge in approximate position 38°41′33″ N, 076°31′48″ W (Datum NAD 1983), located near Chesapeake Beach, Maryland.

Choptank River, Cambridge, MD, Safety Zone

The proposed safety zone includes all waters of the Choptank River within a 300 yard radius of the fireworks launch site at Great Marsh Point, located at 38°35′06″ N, 076°04′46″ W (Datum NAD 1983).

Chester River, Kent Island Narrows, MD, Safety Zone

The proposed safety zone includes all waters of the Chester River within a 250 yard radius of the fireworks barge in approximate position 38°58′51.6″ N, 076°14′49.8″ W (Datum NAD 1983), about 500 yards west of the northern approach to Kent Island Narrows channel.

Atlantic Ocean, Ocean City, MD, Safety Zone

The proposed safety zone includes all waters of the Atlantic Ocean in an area bound by the following points: 38°19′39.9″ N, 075°05′03.2″ W; thence to 38°19′36.7″ N, 075°04′53.5″ W; thence to 38°19′45.6″ N, 075°04′49.3″ W; thence to 38°19′49.1″ N, 075°05′00.5″ W (Datum NAD 1983), thence to point of origin. The size of the proposed zone extends approximately 300 yards offshore from the fireworks launch area located at the High Water mark on the beach.

Isle of Wight Bay, Ocean City, MD, Safety Zone

The proposed safety zone includes all waters of Isle of Wight Bay within a 350 yard radius of the fireworks barge in approximate position 38°22′32″ N, 075°04′30″ W (Datum NAD 1983). The proposed safety zone extends approximately 700 yards west of 49th Street, Ocean City, MD.

Assawoman Bay, Fenwick Island—Ocean City, MD, Safety Zone

The proposed safety zone includes all waters of Assawoman Bay within a 360 yard radius of the fireworks launch location on the pier at the West end of Northside Park, in approximate position 38°25′57.6″ N, 075°03′55.8″ W (Datum NAD 1983).

Atlantic Ocean, Rehoboth Beach, DE, Safety Zone

The proposed safety zone includes all waters of the Atlantic Ocean within a 360 yard radius of the fireworks barge in approximate position 38°43′01.2″ N, 075°04′21″ W (Datum NAD 1983), about 400 yards east of Rehoboth Beach, DE.

Indian River Bay, DE, Safety Zone

The proposed safety zone includes all waters of the Indian River Bay within a 360 yard radius of the fireworks launch location on the pier in approximate position 38°36′42″ N, 075°08′18″ W (Datum NAD 1983), about 700 yards east of Pots Net Point, DE.

Little Egg Harbor, Parker Island, NJ, Safety Zone

The proposed safety zone includes all waters of Little Egg Harbor within a 500 yard radius of the fireworks barge in approximate position 39°34′18″ N, 074°14′43″ W (Datum NAD 1983), about 100 yards north of Parkers Island.

Barnegat Bay, Ocean Township, NJ, Safety Zone

The proposed safety zone includes all waters of Barnegat Bay within a 500 yard radius of the fireworks barge in approximate position 39°47′33″ N, 074°10′46″ W (Datum NAD 1983).

Delaware Bay, North Cape May, NJ, Safety Zone

The proposed safety zone includes all waters of the Delaware Bay within a 500 yard radius of the fireworks barge in approximate position 38°58′00″ N, 074°58′30″ W (Datum NAD 1983).

Delaware River, Philadelphia, PA, Safety Zone

The proposed safety zone includes all waters of Delaware River, adjacent to Penns Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline at 39°56′31.2″ N, 075°08′28.1″ W; thence to 39°56′29.1″ N, 075°07′56.5″ W, and bounded on the north by the Benjamin Franklin Bridge (Datum NAD 1983). The size of the zone to be enforced during any fireworks display would be within 500 yards of the fireworks barge.

Morehead City Harbor Channel, NC, Safety Zone

The proposed safety zone includes all waters of Morehead City Harbor Channel that fall within a 360 yard radius of latitude 34°43′01″ N, 076°42′59.6″ W, a position located at the west end of Sugar Loaf Island. The fireworks display is launched from Sugar Loaf Island and the hazardous fallout area extends over Morehead City Harbor Channel.

Cape Fear River, Wilmington, NC, Safety Zone

The proposed safety zone includes all waters of the Cape Fear River within an area bound by a line drawn from the following points: 34°14′12″ N, 077°57′07.2″ W; thence to 34°14′12″ N, 077°57′06″ W; thence to 34°13′54″ N, 077°57′00″ W; thence to 34°13′54″ N, 077°57′06″ W; thence to the point of origin, (Datum NAD 1983), located 500 yards north of Cape Fear Memorial Bridge.

Cape Fear River, Southport, NC, Safety Zone

The proposed safety zone includes all waters of the Cape Fear River within a 600 yard radius of the fireworks barge in approximate position 33°54′40″ N, 078°01′18″ W (Datum NAD 1983), about 600 yards south of the waterfront at Southport, NC.

Green Creek and Smith Creek, Oriental, NC, Safety Zone

The proposed safety zone includes all waters of Green Creek and Smith Creek that fall within a 300 yard radius of the fireworks launch site at 35°01′29.6″ N, 076°42′10.4″ W (Datum NAD 1983), located near the entrance to the Neuse River in the vicinity of Oriental, NC.

Pamlico River, Washington, NC, Safety Zone

The proposed safety zone includes all waters of the Pamlico River that fall within a 300 yard radius of the fireworks launch site at 35°32′19″ N, 077°03′20.5″ W (Datum NAD 1983), located 500 yards north of Washington railroad trestle bridge.

Neuse River, New Bern, NC, Safety Zone

The proposed safety zone includes all waters of the Neuse River within a 360 yard radius of the fireworks barge in approximate position 35°06′07.1″ N, 077°01′35.8″ W (Datum NAD 1983), located 420 yards north of the New Bern, Twin Span, high rise bridge.

Upper Potomac River, Alexandria, VA, Safety Zone

The proposed safety zone includes all waters of the Upper Potomac River within a 300 yard radius of the fireworks barge in approximate position 38°48′37″ N, 077°02′02″ W (Datum NAD 1983), located near the waterfront of Alexandria, Virginia.

Potomac River, Prince William County, VA, Safety Zone

The proposed safety zone includes all waters of the Potomac River within a 200 yard radius of the fireworks barge in approximate position 38°34′08″ N, 077°15′34″ W (Datum NAD 1983), located near Cherry Hill, Virginia.

Chincoteague Channel, Chincoteague, VA, Safety Zone

The proposed safety zone includes all waters of the Chincoteague Channel within a 360 yard radius of the fireworks launch location at the Chincoteague carnival waterfront in approximate position 37°55′40.3″ N, 075°23′10.7″ W (Datum NAD 1983), about 900 yards southwest of Chincoteague Swing Bridge.

Atlantic Ocean, Virginia Beach, VA, Safety Zone

The proposed safety zone includes all waters of the Atlantic Ocean enclosed within a 360 yard radius of the center located on the beach at approximate position 36°51′34.8″ N, 075°58′30″ W (Datum NAD 1983).

Elizabeth River, Southern Branch, Norfolk, VA, Safety Zone

The proposed safety zone includes all waters of Elizabeth River Southern Branch in an area bound by the following points: 36°50′54.8″ N, 076°18′10.7″ W; thence to 36°51′7.9″ N, 076°18′01″ W; thence to 36°50′45.6″ N, 076°17′44.2″ W; thence to 36°50′29.6″ N, 076°17′23.2″ W; thence to 36°50′7.7″ N, 076°17′32.3″ W; thence to 36°49′58″ N, 076°17′28.6″ W; thence to 36°49′52.6″ N, 076°17′43.8″ W; thence to 36°50′27.2″ N, 076°17′45.3″ W thence to the point of origin,(Datum NAD 1983). The size of the zone to be enforced during any fireworks display would be within 500 yards of the fireworks barge.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This finding is based on the short amount of time that vessels would be restricted from the zones, and the small zone sizes positioned in low vessel traffic areas. Vessels would not be precluded from getting underway, or mooring at any piers or marinas currently located in the vicinity of the proposed safety zones. Advance notifications would also be made to the local maritime community by issuing Local Notice to Mariners. Marine information and facsimile broadcasts may also be made to notify the public. Additionally, the Coast Guard anticipates that these safety zones will only be enforced 2 to 3 times per year.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule will effect the following entities some of which may be small entities: The owners and operators of vessels intending to transit or anchor in the proposed safety zones during the times these zones are enforced.

These proposed safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The enforcement period will be short in duration and in many of the zones vessels can transit safely around the safety zones. Generally, blanket permission to enter, remain in, or transit through these safety zones will be given except during the period that the Coast Guard patrol vessel is present. Before the enforcement period, we will issue maritime advisories widely.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from

Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(g), as it would establish 34 safety zones.

A draft ''Environmental Analysis Check List'' and a draft ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.506 to read as follows:

§ 165.506 Safety Zones; Fifth Coast Guard District Fireworks Displays.

(a) *Locations.* (1) Patuxent River, Solomons Island, MD, Safety Zone. All waters of Patuxent River within a 300 yard radius of the fireworks barge in an area bound by the following points: 38° 19′42″ N, 076° 28′02″ W; thence to 38° 19′26″ N, 076° 28′18″ W; thence to 38° 18′48″ N, 076° 27′42″ W; thence to 38° 19′06″ N 076° 27′25″ W; (Datum NAD 1983), thence to the point of origin, located near Solomons Island, MD.

(2) Middle River, Baltimore County, MD, Safety Zone. All waters of the Middle River within a 300 yard radius of the fireworks barge in approximate position 39° 17′45″ N, 076° 23′49″ W (Datum NAD 1983), approximately 300 yards east of Rockaway Beach, near Turkey Point.

(3) Northeast River, North East, MD, Safety Zone. All waters of the Northeast River within a 300 yard radius of the fireworks barge in approximate position 39° 35′26″ N, 075° 57′00″ W (Datum NAD 1983), approximately 400 yards south of North East Community Park.

(4) Potomac River, Charles County, MD, Safety Zone. All waters of the Potomac River within a 250 yard radius of the fireworks barge in approximate position 38° 20′30″ N, 077° 14′30″ W (Datum NAD 1983), located near Fairview Beach, Virginia.

(5) Baltimore Inner Harbor, Patapsco River, MD, Safety Zone. All waters of the Patapsco River within a 150 yard radius of the fireworks barge in approximate position 39° 16′55″ N, 076° 36′17″ W (Datum NAD 1983), located at the entrance to Baltimore Inner Harbor, approximately 150 yards southwest of pier 6.

(6) Northwest Harbor, (Western Section) Patapsco River, MD, Safety Zone. All waters of the Patapsco River within a 250 yard radius of the fireworks barge in approximate position 39° 16′37″ N, 076° 35′54″ W (Datum NAD 1983), located near the western end of Northwest Harbor.

(7) Northwest Harbor (East Channel), Patapsco River, MD, Safety Zone. All waters of the Patapsco River within a 300 yard radius of the fireworks barge in approximate position 39° 15′55″ N, 076° 34′35″ W (Datum NAD 1983), located adjacent to the East Channel of Northwest Harbor.

(8) Washington Channel, Upper Potomac River, Washington, DC, Safety Zone. All waters of the Upper Potomac River within a 150 yard radius of the fireworks barge in approximate position 38° 52′09″ N, 077° 01′13″ W (Datum NAD 1983), located within the Washington Channel in Washington Harbor, DC.

(9) Dukeharts Channel, Potomac River, MD, Safety Zone. All waters of the Potomac River within a 150 yard radius of the fireworks barge in approximate position 38° 13′48″ N, 076° 44′37″ W (Datum NAD 1983), located adjacent to Dukeharts Channel near Coltons Point, Maryland.

(10) Severn River and Spa Creek, Annapolis, MD, Safety Zone. All waters of the Severn River and Spa Creek within an area bounded by a line drawn from 38°58′39.6″ N, 076° 28′49″ W; thence to 38° 58′41″ N, 076° 28′14″ W; thence to 38° 59′01″ N, 076° 28′37″ W; thence to 38° 58′57″ N, 076° 28′40″ W (Datum NAD 1983), located near the entrance to Spa Creek in Annapolis, Maryland.

(11) Miles River, St. Michaels, MD, Safety Zone. All waters of the Miles River within a 200 yard radius of the fireworks barge in approximate position 38° 47′42″ N, 076° 12′23″ W (Datum NAD 1983), located near the waterfront of St. Michaels, Maryland.

(12) Chesapeake Bay, Chesapeake Beach, MD, Safety Zone. All waters of the Chesapeake Bay within a 150 yard radius of the fireworks barge in approximate position 38° 41′33″ N, 076° 31′48″ W (Datum NAD 1983), located near Chesapeake Beach, Maryland.

(13) Choptank River, Cambridge, MD, Safety Zone. All waters of the Choptank River within a 300 yard radius of the fireworks launch site at Great Marsh Point, located at 38° 35′06″ N, 076° 04′46″ W (Datum NAD 1983).

(14) Chester River, Kent Island Narrows, MD, Safety Zone. All waters of the Chester River within a 250 yard radius of the fireworks barge in approximate position 38° 58′51.6″ N, 076° 14′49.8″ W (Datum NAD 1983), approximately 500 yards west of the northern approach to Kent Island Narrows channel.

(15) Atlantic Ocean, Ocean City, MD, Safety Zone. All waters of the Atlantic Ocean in an area bound by the following points: 38° 19′39.9″ N, 075° 05′03.2″ W; thence to 38° 19′36.7″ N, 075° 04′53.5″ W; thence to 38° 19′45.6″ N, 075° 04′49.3″ W; thence to 38° 19′49.1″ N, 075° 05′00.5″ W; (Datum NAD 1983), thence to point of origin. The size of the proposed zone extends approximately 300 yards offshore from the fireworks launch area located at the High Water mark on the beach.

(16) Isle of Wight Bay, Ocean City, MD, Safety Zone. All waters of Isle of Wight Bay within a 350 yard radius of the fireworks barge in approximate position 38° 22′32″ N, 075° 04′30″ W (Datum NAD 1983).

(17) Assawoman Bay, Fenwick Island—Ocean City, MD, Safety Zone. All waters of Assawoman Bay within a 360 yard radius of the fireworks launch location on the pier at the West end of Northside Park, in approximate position 38° 25′57.6″ N, 075° 03′55.8″ W (Datum NAD 1983).

(18) Atlantic Ocean, Rehoboth Beach, DE, Safety Zone. All waters of the Atlantic Ocean within a 360 yard radius of the fireworks barge in approximate position 38° 43′01.2″ N, 075° 04′21″ W (Datum NAD 1983), approximately 400 yards east of Rehoboth Beach, DE.

(19) Indian River Bay, DE, Safety Zone. All waters of the Indian River Bay within a 360 yard radius of the fireworks launch location on the pier in approximate position 38° 36′42″ N, 075° 08′18″ W (Datum NAD 1983), about 700 yards east of Pots Net Point, DE.

(20) Little Egg Harbor, Parker Island, NJ, Safety Zone. All waters of Little Egg Harbor within a 500 yard radius of the fireworks barge in approximate position 39° 34′18″ N, 074° 14′43″ W (Datum NAD 1983), approximately 100 yards north of Parkers Island.

(21) Barnegat Bay, Ocean Township, NJ, Safety Zone. All waters of Barnegat Bay within a 500 yard radius of the fireworks barge in approximate position 39° 47′33″ N, 074° 10′46″ W (Datum NAD 1983).

(22) Delaware Bay, North Cape May, NJ, Safety Zone. All waters of the Delaware Bay within a 500 yard radius of the fireworks barge in approximate position 38° 58′00″ N, 074° 58′30″ W (Datum NAD 1983).

(23) Delaware River, Philadelphia, PA, Safety Zone. All waters of Delaware River, adjacent to Penns Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline at 39° 56′31.2″ N, 075° 08′28.1″ W; thence to 39° 56′29.1″ N, 075° 07′56.5″ W, and bounded on the north by the Benjamin Franklin Bridge, (Datum NAD 1983).

(24) Morehead City Harbor Channel, NC, Safety Zone. All waters of Morehead City Harbor Channel that fall within a 360 yard radius of latitude 34° 43′01″ N, 076° 42′59.6″ W, a position located at the west end of Sugar Loaf Island, NC.

(25) Cape Fear River, Wilmington, NC, Safety Zone. All waters of the Cape Fear River within an area bound by a line drawn from the following points: 34° 14′12″ N, 077° 57′07.2″ W; thence to 34° 14′12″ N, 077° 57′06″ W; thence to 34°13′54″ N, 077° 57′00″ W;, thence to 34° 13′54″ N, 077° 57′06″ W; thence to the point of origin, (Datum NAD 1983), located 500 yards north of Cape Fear Memorial Bridge.

(26) Cape Fear River, Southport, NC, Safety Zone. All waters of the Cape Fear River within a 600 yard radius of the fireworks barge in approximate position 33° 54′40″ N, 078° 01′18″ W (Datum NAD 1983), approximately 700 yards south of the waterfront at Southport, NC.

(27) Green Creek and Smith Creek, Oriental, NC, Safety Zone. All waters of Green Creek and Smith Creek that fall within a 300 yard radius of the fireworks launch site at 35° 01′29.6″ N, 076° 42′10.4″ W (Datum NAD 1983), located near the entrance to the Neuse River in the vicinity of Oriental, NC.

(28) Pamlico River, Washington, NC, Safety Zone. All waters of the Pamlico River that fall within a 300 yard radius of the fireworks launch site at 35° 32′19″ N, 077° 03′20.5″ W (Datum NAD 1983), located 500 yards north of Washington railroad trestle bridge.

(29) Neuse River, New Bern, NC, Safety Zone. All waters of the Neuse River within a 360 yard radius of the fireworks barge in approximate position 35° 06′07.1″ N, 077° 01′35.8″ W (Datum NAD 1983), located 420 yards north of the New Bern, Twin Span, high rise bridge.

(30) Upper Potomac River, Alexandria, VA, Safety Zone. All waters of the Upper Potomac River within a 300 yard radius of the fireworks barge in approximate position 38° 48′37″ N, 077° 02′02″ W (Datum NAD 1983), located near the waterfront of Alexandria, Virginia.

(31) Potomac River, Prince William County, VA, Safety Zone. All waters of the Potomac River within a 200 yard radius of the fireworks barge in approximate position 38° 34′08″ N, 077° 15′34″ W (Datum NAD 1983), located near Cherry Hill, Virginia.

(32) Chincoteague Channel, Chincoteague, VA, Safety Zone. All waters of the Chincoteague Channel within a 360 yard radius of the fireworks launch location at the Chincoteague carnival waterfront in approximate position 37° 55′40.3″ N, 075° 23′10.7″ W (Datum NAD 1983), approximately 900 yards southwest of Chincoteague Swing Bridge.

(33) Atlantic Ocean, Virginia Beach, VA, Safety Zone. All waters of the Atlantic Ocean enclosed within a 360 yard radius of the center located on the beach at approximate position 36° 51′34.8″ N, 075° 58′30″ W (Datum NAD 1983).

(34) Elizabeth River, Southern Branch, Norfolk, VA, Safety Zone: All waters of Elizabeth River Southern Branch in an area bound by the following points: 36° 50′54.8″ N, 076° 18′10.7″ W; thence to 36° 51′7.9″ N, 076° 18′01″ W; thence to 36° 50′45.6″ N, 076° 17′44.2″ W; thence to 36° 50′29.6″ N, 076° 17′23.2″ W; thence to 36° 50′7.7″ N, 076° 17′32.3″ W; thence to 36° 49′58″ N, 076° 17′28.6″ W; thence to 36° 49′52.6″ N, 076° 17′43.8″ W; thence to 36° 50′27.2″ N, 076° 17′45.3″ W thence to the point of origin,(Datum NAD 1983).

(b) Notification. (1) Fireworks barges and launch sites on land in paragraph (a) of this section will have a sign on the port and starboard side of the barge or mounted on a post 3 foot above ground level when on land and facing the water labeled FIREWORKS—DANGER—STAY AWAY''. This will provide on scene notice that the safety zone will be enforced on that day. This notice will consist of a diamond shaped sign 4 foot by 4 foot with a 3-inch orange retro reflective border. The word ''DANGER'' shall be 10 inch black block letters centered on the sign with the words ''FIREWORKS'' and ''STAY AWAY'' in 6 inch black block letters placed above

and below the word ''DANGER'' respectively on a white background.

(2) Coast Guard Captains of the Port in the Fifth Coast Guard District will notify the public of the enforcement of these safety zones by all appropriate means to effect the widest publicity among the affected segments of the public, including publication in the local notice to mariners, marine information broadcasts, and facsimile broadcasts may be made for these events, beginning 24 to 48 hours before the event is scheduled to begin, to notify the public.

(c) *Enforcement Period.* This safety zones in paragraph (a) of this section will be enforced from 5:30 p.m. to 1 a.m. each day a barge with a ''FIREWORKS—DANGER—STAY AWAY'' sign on the port and starboard side is on-scene or a ''FIREWORKS—DANGER—STAY AWAY'' sign is posted on land, in a location listed in paragraph (a) of this section. Vessels may not enter, remain in, or transit through the safety zones during these enforcement periods unless authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. Those personnel are compromised of commissioned, warrant, and petty officers of the Coast Guard. Other Federal, State and local agencies may assist these personnel in the enforcement of the safety zone. Upon being hailed by the U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(e) Definitions.

The Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his or her behalf.

State and/or local law enforcement officers are any State or local government law enforcement officer who has the authority to enforce State criminal laws.

Dated: March 7, 2005.

Sally Brice-O'Hara,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 05–6140 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2005–PA–0008; FRL–7893–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eleven Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for eleven major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X). In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 2, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2005–PA–0008 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *morris.makeba@epa.gov.*

D. Mail: R03–OAR–2005–PA–0008, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2005–PA–0008. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov websites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, PO Box

8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Pauline De Vose, (215) 814–2186, or by e-mail at *devose.pauline@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, Approval of Pennsylvania's VOC and NO_X RACT Determinations for Eleven Individual Sources, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: March 24, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 05–6371 Filed 3–30–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2005–PA–0003; FRL–7893–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Seven Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for seven major sources of volatile organic compounds (VOC). In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 2, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2005–PA–0003 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *morris.makeba@epa.gov.*

D. Mail: R03–OAR–2005–PA–0003, Makeba Morris, Chief, Air Quality Planning, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2005–PA–0003. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov websites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection Bureau of Air Quality Control, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Amy Caprio, (215) 814–2156, or by e-mail at *caprio.amy@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: March 24, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 05–6374 Filed 3–30–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2005–PA–0007; FRL–7892–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Determinations for Fifteen Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for fifteen sources of nitrogen oxides. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 2, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2005–PA–0007 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *morris.makeba@epa.gov*.

D. Mail: R03–OAR–2005–PA–0007, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2005–PA–0007. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov websites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: LaKeshia Robertson, (215) 814–2113, or by e-mail at *robertson.lakeshia@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: March 24, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 05–6375 Filed 3–30–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and 70

[R07–OAR–2005–NE–0001; FRL–7893–9]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revisions to the State Implementation Plan (SIP) and Operating Permits Program submitted by the state of Nebraska. These revisions provide or incorporate rules for Predictive Emissions Monitoring Systems (PEMS) in Chapter 34, delete obsolete footnotes from Appendix III (relating to emissions inventories for hazardous air pollutants under the state's operating permit program), correct a mistakenly worded rule in Chapter 20 (relating to process weight rates for particulate matter from certain sources), and improve understanding of Chapter 20 by consolidating the process weight rates into a single table. Approval of these revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's revised air program rules.

DATES: Comments on this proposed action must be received in writing by May 2, 2005.

ADDRESSES: Comments may be mailed to Shelly Rios-LaLuz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th

Street, Kansas City, Kansas 66101. Comments may also be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the Addresses section of the direct final rule which is located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Shelly Rios-LaLuz at (913) 551–7296, or by e-mail at *rios.shelly@epa.gov*.

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: March 21, 2005.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 05–6368 Filed 3–30–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R07–OAR–2005–MO–0003; FRL–7894–2]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve an amendment to the statewide NO_X rule for the state of Missouri. This document summarizes the changes to the rule. This rule is a critical element in the state's plan to maintain the 1-hour ozone standard in the St. Louis maintenance area and will help reduce ozone concentrations in the area in the future. This action is necessary to begin the process of incorporating the amended rule into Missouri's ozone SIP.

DATES: Comments must be received on or before May 2, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2005–MO–0003, by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. Agency Web site: *http://docket.epa.gov/rmepub/.* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: *jay.michael@epa.gov.*

4. Mail: Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. Hand Delivery or Courier. Deliver your comments to Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to RME ID Number R07–OAR–2005–MO–0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://docket.epa.gov/rmepub,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the Federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Michael Jay at (913) 551–7460 or by e-mail at *jay.michael@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?
What Is the Federal Approval Process for a SIP?
What Does Federal Approval of a State Regualtion Mean to Me?
What Is Being Addressed in This Document?
How Does the Statewide NO_X Rule Relate to the NO_X SIP Call?
What Changes Has Missouri Made to the Statewide Rule and What Are EPA's Analyses of Them?
Have the Requirements for Approval of a SIP Revision Been Met?
What Action Is EPA Taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under

section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

We are proposing to approve the Missouri Department of Natural Resources' (MDNR) request to include, as a revision to Missouri's ozone SIP, an amendment to rule 10 CSR 10–6.350, ''Emissions Limitations and Emissions Trading of Oxides of Nitrogen'' (known hereafter as ''statewide NO_X rule'') which was incorporated into the SIP on December 28, 2000 (65 FR 82285). The amended rule was adopted by the Missouri Air Conservation Commission on April 24, 2003. The rule became effective under state law on June 23, 2003. The rule was submitted to EPA on September 18, 2003, and included the comments on the rule during the state's adoption process, and the state's response to comments, and other information necessary to meet EPA's completeness criteria. For additional information on the completeness criteria, the reader should refer to 40 CFR part 51, appendix V.

How Does the Statewide NO_X Rule Relate to the NO_X SIP Call?

As stated previously, the statewide NO_X rule is designed to achieve emissions reductions to improve air quality in the St. Louis area. Missouri is also subject to a requirement to achieve certain NO_X reductions to eliminate its significant contribution to ozone nonattainment problems in other areas relating to NO_X emissions transported from Missouri to other states. (See, 69 FR 21604, April 21, 2004.) Missouri is in the process of developing separate rules to meet this additional requirement.

What Changes Has Missouri Made to the Statewide Rule and What Are EPA's Analyses of Them?

The amended rule modifies the existing compliance date in the original rule. The original statewide NO_X rule (65 FR 82285) had a compliance date of May 1, 2003, whereas the revised rule has a compliance date of May 1, 2004. Due to the uncertainty related to the inclusion of Missouri in Phase II of the NO_X SIP Call, which was not resolved until April 2004, EPA believes that the delayed compliance date is appropriate to assist affected utilities in planning to meet their NO_X reduction obligations. The deferral also did not impact Missouri's ability to maintain the 1-hour ozone standard in St. Louis.

The amended rule also modifies the emissions limitations established in the original rule. The original state rule limited electrical generation units (EGUs) in the eastern one-third of Missouri to an emission rate of 0.25 pounds of NO_X per million British thermal units per hour (lbs. NO_X/mmBtu) of heat input during the control period and EGUs in the western two-thirds to a rate of 0.35 lbs. NO_X/mmBtu. The amended rule established a more restrictive emission limitation of 0.18 lbs. NO_X/mmBtu for affected sources in the city of St. Louis and additional counties of Franklin, Jefferson and St. Louis, which are areas that are part of the St. Louis current 1-hour maintenance and 8-hour nonattainment area. The remainder of the eastern one-third of Missouri is still subject to the 0.25 lbs. NO_X/mmBtu. The limit for the western two-thirds of Missouri remains the same as in the original rule at 0.35 lbs. NO_X/mmBtu, with the exception that in the amended rule affected facilities with cyclone boilers that burn tire-derived fuel are allowed an emissions rate of 0.68 lbs. NO_X/mmBtu. The MDNR has submitted documentation that supports the conclusion that the revised emissions limitations will achieve a greater overall emissions reduction when compared to the original rule (see Technical Support Document (TSD) prepared for this rule). Moreover, the additional emissions reductions in the eastern one-third of Missouri will likely provide for lower 1-hour and 8-hour ozone concentrations in the St. Louis area as these emissions are more proximate to the metropolitan area when compared to the more distant western two-thirds of Missouri.

The amended rule also modifies the dates for generation and use of early reduction credits (ERCs). In the original rule, affected units that had reduced emissions rates in the years 2000, 2001, and 2002 would be able to generate ERCs. The amended rule added the year 2003 for generating ERCs. Accordingly, the retirement date for all ERCs has been extended from January 31, 2005, to January 31, 2006, in the amended rule. Therefore, all ERCs are restricted for use in the control periods of 2004 and 2005 in the amended rule. The modifications to the generation and use of ERCs were made to be consistent with the compliance date extension from May 1, 2003, to May 1, 2004. Due to the revised emissions rates for the aforementioned counties in the eastern one-third of Missouri, the MDNR submitted documentation that 2003 ERCs earned between 0.25 lbs. NO_X/mmBtu and the required limit of 0.18 lbs. NO_X/mmBtu were permanently retired (see TSD). This action eliminated ERCs that were not surplus.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the TSD which is part of this rule, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are proposing to approve as an amendment to the Missouri SIP amended rule 10 CSR 10–6.350, ''Emissions Limitations and Emissions Trading of Oxides of Nitrogen,'' submitted to us on September 18, 2003. We are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: March 21, 2005.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 05–6370 Filed 3–30–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AT88

Endangered and Threatened Wildlife and Plants; Extension of the Comment Period on Proposed Designation of Critical Habitat for the Southwestern Willow Flycatcher

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the extension of the public comment period for the proposal to designate critical habitat for the southwestern willow flycatcher (*Empidonax extimus traillii*) to allow all interested parties to comment on the proposed critical habitat designation under the Endangered Species Act of 1973, as amended. The proposed rule was published and the public comment period initially opened on October 12, 2004 (69 FR 60706). The comment period was extended to March 31, 2005 (December 13, 2004; 69 FR 72161) and is being extended again with this notice.

DATES: The deadline for submitting comments on this proposal is extended from March 31, 2005, to May 31, 2005. Comments must be submitted directly to the Service (see **ADDRESSES** section) on or before May 31, 2005. Any comments received after the closing date may not be considered in the final determination on the proposal.

ADDRESSES: If you wish to comment, you may submit your comments and materials by any one of several methods:

1. You may submit written comments and information by mail or hand-delivery to Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021.

2. Written comments may be sent by facsimile to (602) 242–2513.

3. You may send your comments by electronic mail (e-mail) to *WIFLcomments@fws.gov.*

The critical habitat proposal and supporting maps are available for viewing by appointment during regular business hours at the above address or on the Internet at *http://arizonaes.fws.gov/SWWF_PCH_Oct.htm.* All comments and materials received, as well as supporting documentation used in preparation of the proposed rule, will be available for public inspection, by

appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, Arizona Ecological Services Office (telephone 602–242–0210, facsimile 602–242–2513).

SUPPLEMENTARY INFORMATION:

Background

We proposed to designate for the southwestern willow flycatcher 376,095 acres (ac) (152,124 hectares (ha)) [including approximately 1,556 stream miles (2,508 stream kilometers)] of critical habitat, which includes various stream segments and their associated riparian areas, not exceeding the 100-year floodplain or flood prone area, on a combination of Federal, State, Tribal, and private lands in southern California, southern Nevada, southwestern Utah, south-central Colorado, Arizona, and New Mexico. The proposed rule was published in the **Federal Register** (69 FR 60706) on October 12, 2004, pursuant to a court order.

On September 30, 2003, in a complaint brought by the Center for Biological Diversity, the U.S. District Court of New Mexico instructed us to propose critical habitat by September 30, 2004, and publish a final rule by September 30, 2005. Additional background information is available in the October 12, 2004, proposal to designate critical habitat.

Critical habitat identifies specific areas that are essential to the conservation of a listed species and that may require special management considerations or protection. If the proposed rule is made final, section 7 of the Act will prohibit adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act.

Section 4 of the Act requires that we consider economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat. We are currently developing a draft economic analysis and draft environmental assessment for the proposal to designate certain areas as critical habitat for the southwestern willow flycatcher and will announce their availability at a later date. We may revise the proposal, or its supporting documents, to incorporate or address new information received during the comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

Pursuant to 50 CFR 424.16(c)(2), we may extend or reopen a comment period upon finding that there is good cause to do so. We are currently developing a draft economic analysis and draft environmental assessment for the proposal and will announce the availability of those documents and solicit data and comments from the public on these draft documents at a later date. We will also announce hearing dates concurrently with the availability of the draft documents. However, it is our intention to leave the public comment period open and uninterrupted until those documents are available for public consideration and comment. We believe that allowing the comment period to expire before the full set of supporting draft analytical documents is available could result in hurried and incomplete comments on our proposed rule and could also unnecessarily frustrate respondents. We deem these considerations as sufficient cause to extend the comment period.

We are required by court order to complete the final designation of critical habitat for the southwestern willow flycatcher by September 30, 2005. To meet this date, all comments on or proposed revisions to the proposed rule need to be submitted to us during the comment period as extended by this document (*see* **DATES**).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address, which we will honor to the extent 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. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for public inspection, by appointment, during normal business hours at the Arizona Ecological Services Office (*see* **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: March 25, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–6413 Filed 3–28–05; 3:51 pm]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 70, No. 61

Thursday, March 31, 2005

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

Commodity Credit Corporation

Farm Service Agency Information Collection; Noninsured Crop Disaster Assistance Program

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commodity Credit Corporation (CCC) and the Farm Service Agency (FSA) are seeking comments from all interested individuals and organizations on the extension of an approved information collection associated with the acreage report for the Noninsured Crop Disaster Assistance Program (NAP). This information collection is needed to administer the program.

DATES: Comments on this notice must be received on or before May 31, 2005 to be assured consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments must be addressed to Farm Service Agency, USDA, Attn: John Newcomer, Agriculture Program Specialist, NAPB/PECD, 1400 Independence Avenue, SW., Washington, DC 20250–0540. Comments may be also submitted by e-mail to: *John.Newcomer@usda.gov*. The comments must also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Comments must include the OMB number and title of the information collection.

FOR FURTHER INFORMATION CONTACT: John Newcomer, Agriculture Program Specialist, (202) 720–6157 and *John.Newcomer@usda.gov*.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Report of Acreage for the Noninsured Crop Disaster Assistance Program (NAP).

OMB Number: 0560–0004.

Expiration Date: April 30, 2005.

Type of Request: Extension with revision.

Abstract: NAP provides financial assistance to producers who have suffered a production loss of an eligible crop or were prevented from planting an eligible crop as a result of natural disasters. Eligible crops are commercial crops or other agricultural commodities for which catastrophic risk protection under 7 U.S.C. 1508(b) is not available and that are produced for food or fiber; and includes floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), sea grass and sea oats, and industrial crops. The information collected for the administration of NAP includes identities of the crops and commodities (including species, type, variety, etc.), practices, intended uses, planting patterns, and predominant species of forage vegetation (including intended method of harvest, i.e. mechanically harvested or grazed); dates crops were planted or planting was completed (including age of perennial crops); number of acres of each planting of the eligible crop in which the producer has a share in the administrative county; number of acres intended but prevented from being planted; zero acres planted when the crop for which a NAP application for coverage was filed, is not planted; and shares and identities of all producers sharing in the crop at the time a NAP application for coverage was filed. Finally, the information collected includes the FSA farm serial number or the location of commodities not necessarily associated with an FSA farm serial number such as colonies of bees for honey production (including the number of colonies belonging to the unit); ponds and waterbeds for production of aquaculture; ornamental nursery (including the size and origin, i.e. container or field grown, of plants belonging to the unit); mushroom facilities; turfgrass sod (including the average number of square yards per acre and all unharvested acres); and trees for maple sap production (including number of eligible trees, average size and age of producing trees, and total number of taps placed or anticipated for the tapping season). NAP operates under the regulations at 7 CFR part 1437.

Respondents: Producers.

Estimated Annual Number of Respondents: 437,250.

Estimated Annual Number of Forms per person: 1.5.

Estimated Average Time to Respond: 1.25 hours.

Estimated Total Annual Burden Hours: 601,219.

Comments are invited regarding (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumption used: (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for OMB approval.

Signed in Washington, DC on March 25, 2005.

Thomas B. Hofeller,

Acting Administrator, Farm Service Agency and Executive Vice-President, Commodity Credit Corporation.

[FR Doc. 05–6360 Filed 3–30–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Request for Revision and Extension of a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the

Commodity Credit Corporation (CCC) to request a revision and extension of a currently approved information collection. This collection is necessary to support the procurement of agricultural commodities for CCC's domestic and export food donation programs. CCC issues invitations to purchase or process commodities for food donation programs on a monthly, multi-month, quarterly, and yearly basis. Special invitations, however, are issued throughout the month.

DATES: Comments on this notice must be received on or before May 31, 2005 to be assured consideration.

ADDITIONAL INFORMATION OR COMMENTS: Comments regarding this information collection requirement may be directed to Penny Carlson, Acting Chief, Planning and Analysis Division, Kansas City Commodity Office (KCCO), 6501 Beacon Drive, Kansas City, Missouri 64133–4676, telephone (816) 926–6509, fax (816) 926–1648; e-mail *PKCARLSON@kcc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Offer Forms.

OMB Number: 0560–0177.

Expiration Date: 9/30/2005.

Type of Request: Revision and Extension of a currently approved information collection.

Abstract: The United States donates agricultural commodities domestically and overseas to meet famine or other relief requirements, to combat malnutrition, and sells or donates commodities to promote economic development. CCC issues invitations to purchase or sell agricultural commodities and services or use in domestic and export programs. Vendors respond by making offers using various CCC commodity offer forms. The Export Offer forms and the KC–333, Annual Certification are prepared and received electronically through the Electronic Bid Entry System (EBES). Most of the Domestic Offer forms (KC–327) are prepared and received electronically through the Domestic Bid Entry System (DEBES) via the Internet. Vendors can access EBES or DEBES on-line to see the date/time the system shows for receipt of bid, bid modification, or bid cancellation. At bid opening date/time, the bids are system evaluated. Acceptance wires are sent to the successful offerors. Awarded contracts are posted on our Web site.

Estimate of Burden: Public reporting burden for collecting information under this notice is estimated to average 15–30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Business and other for profit organizations.

Respondents: 2,030.

Estimated Number of Annual Responses per Respondent: 36,333.

Estimated Total Annual Burden on Respondents: 6,356 hours.

Proposed topics for comment include: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) enhancing the quality, utility and clarity of the information collected; or (d) minimizing the burden of the collection of the 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. Comments should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, Washington, DC 20503, and to Penny Carlson, Acting Chief, Planning and Analysis Division, Kansas City Commodity Office, 9200 Ward Parkway, Kansas City, Missouri 64114, telephone (816) 926–6509, fax (816) 926–1648.

All comments will become a matter of public record.

Signed at Washington, DC, on March 25, 2005.

Thomas B. Hofeller,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 05–6362 Filed 3–30–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Commodity Credit Corporation

Tree Assistance Program, Forest Timber Program, Pecan Tree Program; Notice of Fund Availability and Proposed Fund Availability

AGENCY: Commodity Credit Corporation, Farm Service Agency, USDA.

ACTIONS: Notice of fund availability and proposed fund availability.

SUMMARY: This document announces assistance under the Farm Service Agency's Tree Assistance Program (TAP) regulations in 7 CFR part 783 as authorized by the Military Construction and Appropriations Act, 2005. The first part of this notice announces the availability of assistance for claims under TAP related to Orchardists and Forest Land Owners. The second part proposes funding for special Tree Assistance Program benefits with respect to Pecan Tree Producers. The provisions in this notice for orchard and forest timber assistance are final. For pecan tree assistance, a period is allowed for comments since it is proposed that ''other appropriate activities'' allowed for assistance would only include those related to pruning and tree rehabilitation. This notice is intended to provide notice to those producers who may qualify for this assistance, and provide conditions for eligibility required by the Act under which it is funded.

DATES: 1. Comments: For special assistance for pecan tree producers, comments on this notice must be received by May 2, 2005.

2. Applications: Unless otherwise announced by the Farm Service Agency, orchard and forest land assistance applications may be submitted when available from the local Farm Service Agency office through April 14, 2005.

ADDRESSES: Interested persons are invited to submit written comments concerning the provisions in this notice for special assistance for pecan tree producers. Comments should reference the volume, date and page number of this issue of the **Federal Register**. Comments may be submitted by any of the following methods:

E-Mail: Send comments to: *Eloise.Taylor@usda.gov.*

Fax: Submit comments by facsimile transmission to (202) 720–4941.

Mail: Send comments the on the special assistance for pecan tree producers provisions in this notice to Eloise Taylor, Chief, Compliance Branch, Production, Emergencies and Compliance Divisions, FSA/USDA, Stop 0517, 1400 Independence Avenue SW., Washington, DC 20250–0517.

Hand Delivery or Courier: Deliver comments to 1400 Independence Avenue SW., Washington, DC 20250–0517, room 3645–S during normal business hours.

Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

All comments and supporting documents on this notice may be viewed by contacting the information contact listed below. All comments received, including names and addresses, will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Helen Mathew, telephone (202) 720–9878. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

The current TAP as codified in regulations in 7 CFR Part 783 was authorized by section 10201 *et seq* of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171, 7 U.S.C. 8201 *et seq.*) (the 2002 Act), to assist eligible orchardists, as defined in that Act, to replant trees, bushes and vines grown for the production of an annual crop but lost due to a natural disaster. Orchardists are defined in the 2002 Act to be persons who produce annual crops from trees for commercial purposes. However, the 2002 Act did not provide TAP funding and the 2002 Act TAP has been operated only to the extent that funding has been provided for limited purposes in subsequent legislation. Regulations governing the 2002 Act TAP were published at 69 FR 9744, March 2, 2004. Enactments funding the 2002 Act TAP have included the Consolidated Appropriations Act, 2004 (Pub. L. 108–199) (for certain losses to fruit trees due to wild fires in California and an ice storm in New York), and the Emergency Supplemental Appropriations Act, 2003 (Pub. L. 108–83) (for certain fire blight losses in Michigan). Notice of the availability of funds and limitations related to those enactments were provided in notices, like this one, published in the **Federal Register** (69 FR 11584, March 11, 2004; 69 FR 20589, April 16, 2004; 69 FR 29686, May 25, 2004).

This notice announces assistance under the 2002 Act TAP, as provided for in section 101 of Division B of the Military Construction, Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005 (Pub. L. 108–324, 118 Stat. 1220, October 13, 2004) (the 2004 Act). The 2004 Act provides for making TAP assistance available for eligible orchardists and for eligible forest land owners (who must, under the 2004 Act, produce periodic crops of timber from trees for commercial purposes) for losses that occurred in the period beginning December 1, 2003, and ending December 31, 2004. The 2002 Act itself provides, normally, where there is funding made available, for the claims of orchardists. The provisions regarding forest land owners (who produce periodic crops of timber from trees for commercial purposes) expand eligibility but only for losses in the time period indicated and only with a dollar limit, for the total claims under the forest land program, of $15 million. In both cases, the losses must meet the criteria set out above and the additional criteria of the existing regulations. Funding is provided from the Commodity Credit Corporation (CCC). For orchardists, no limit is set on the CCC funds that may be utilized for claims that otherwise fit the statutory criteria of the 2004 Act, and other eligibility conditions. For claims of forest land owners, as indicated, only $15 million is allowed. A rulemaking exception is provided for the Section 101 provisions in the 2004 Act by Section 101(g) of Division B.

In addition, Section 111 of Division B of the 2004 Act sets out special provisions with respect to pecan trees. That section provides that ''in addition to amounts provided in this Act for the tree assistance program, $8,500,000, shall be made available to the Secretary of Agriculture, to remain available until expended, to provide assistance under the tree assistance program * * * to pecan tree producers in counties declared a disaster by the President of the United States who suffered tree loss or damage due to damaging weather related to any hurricane or tropical storm of the 2004 hurricane season: Provided, that the funds made available under this section shall also be made available to cover costs associated with pruning, rehabilitation, and other appropriate activities as determined by the Secretary.'' Section 105 of Division B provides that the funds and facilities of the CCC be used to carry out Sections 101 and 111. Because of the language of Section 111 and because the pecan tree provisions go beyond the normal cost-coverage of the 2002 Act TAP, it has been determined to be in the public interest to seek comments on these special pecan tree provisions. It has been determined however, subject to comment, that since the pecan tree funding is to be in addition to that provided elsewhere, actual tree losses in the period covered in Section 101 will be considered under Section 101. However, FSA has determined, subject to comment, that ''other appropriate activities'' will be limited to those related to pruning and rehabilitation, given the nature of the enactment, and that the normal qualifying loss rules and reimbursement limits apply since the pecan tree provisions have been included as part of the tree assistance program. However, claimants can petition for inclusion of other claims. Further, because of the nature of the relief, it has been determined under 5 U.S.C. 808 to be contrary to the public interest to delay implementation of the pecan tree provisions pending Congressional review of regulations. Instead, upon the closure of the comment period, claims will be handled as proposed subject to such modifications or extensions as the Deputy Administrator may announce. Further information will be available from the relevant county offices of the Farm Service Agency.

Set out below are the general conditions for these ''programs'' although they are in essence subprograms of the 2002 Act TAP. Basically, all of the normal 2002 Act TAP limitations apply. Under TAP regulations, as published, claims are limited to the lesser of the established practice rates or 75 percent of the actual costs for eligible replantings, and reimbursement cannot exceed the reasonable cost of the replantings as determined by FSA. These same standards will be applied to the special pecan tree provisions in this notice. Also, the special pecan tree provisions will be subject to a 75 percent reimbursement rate and cannot exceed the reasonable cost of the work performed as estimated by FSA. Additional specifications are set out below and, as indicated, comment is requested on the provisions that deal with pecan tree.

As noted below, reference is made to payments made under a special program operated for 2004 hurricane losses under Section 32 of the Act of August 24, 1935. In relation to those payments and this notice, there is a difference in treatment for, on the one hand, the orchard claims and the forest land claims, and on the other, the special pecan tree provisions. That difference comes from the legislation. Basically, a person who received Section 32 monies under the hurricane program, for any purpose, cannot receive orchard or forest land claims under this notice. For pecan tree producers under the special pecan tree provisions, that disqualification will only apply if the Section 32 payment was for the same loss. Accordingly, and subject to comment with respect to the pecan tree provisions, notice is given of the availability of limited 2002 Act TAP benefits as follows:

I. Application Process

No payment may be made except upon a timely application for payment as provided for in this notice. Producers wishing to receive benefits under any of these programs must submit an

application to FSA at their local FSA Service Center during the signup period by, with respect to the relief for orchardists and forest land owners, April 14, 2005, and for pecan producers seeking compensation under the special pecan provisions by the Date announced by the Deputy Administrator for Farm Programs of the Farm Service Agency (''Deputy Administrator''). With respect to the special pecan provisions, to be assured of consideration an application for assistance must be submitted by May 31, 2005. Dates may be extended by announcement of the Deputy Administrator. Applications for assistance will be available at local FSA Service Centers.

II. Eligibility Provisions

(a) *Limitations.* The payment limitations and other conditions for eligibility provided for in 7 CFR part 783 shall apply as shall any other conditions for payment as the Deputy Administrator may deem appropriate in implementing these programs.

(1) Persons receiving benefits at any time under the 2002 Act TAP program and its subprograms cannot receive a total payment over time, irrespective of the year, of more than $75,000 or its equivalent (counting in the value in the case of provided seedlings). Thus for example, to the extent that a person has already received funds under the 2002 Act TAP for fire blight losses in Michigan those payments will reduce that person's eligibility under this notice for further 2002 Act TAP program payments.

(2) All payments under this notice are subject to the availability of funds, and the percentage limitation on reimbursable costs provided for in the 2002 Act TAP regulations or in this notice.

(3) No person can receive program benefits on more than 500 acres over the life of the 2002 TAP provisions. Thus, for example, if a person received 2002 TAP benefits on 500 fire blight acres in the Michigan subprogram, that person would not be eligible for payments under this notice.

(4) A ''Person'' shall be as defined in 7 CFR part 1400.

(5) As provided in the 2002 Act, claims relating to tree losses are coverable only to the extent that the loss exceeds 15% after taking into account normal mortality. In the case of pecan trees and the allowances for pruning and rehabilitation, costs may only be paid to the extent that the expenses are for damage to trees where the damage is greater than 15% taking into account normal tree damage.

(6) No claim may be paid under this notice except for losses related to a natural disaster.

(7) Definitions and terms of the 2002 Act TAP will govern on qualifying natural disasters subject to other conditions in the 2004 Act and this notice.

(b) *Prohibition on duplicate payments.* Producers who receive payments under any other program for the same loss are not eligible for payment under this program. For example:

(1) Producers who received payment for specific procedures under the FSA Emergency Conservation Program (ECP) provided for in 7 CFR part 701 are not eligible for payments for the same procedures under the 2002 Act TAP and this notice.

(2) Producers who receive payments for timber losses under any program administered by the Forest Service, either authorized by the 2004 Act or otherwise, are not eligible for payments on the same losses under TAP and this notice.

(3) Orchardists and forest land owners who received payments of any kind for any loss, tree related or not, under Section 32 of the Act of August 24, 1935, with respect to 2004 hurricane losses are not eligible for a TAP payment under this notice.

(4) Claims under the pecan tree provisions at paragraph (f) of this section may be allowed despite a payment being received by the same producer under the Section 32 program so long as the payment was not for the same loss. However, pecan tree claims made under the orchard provision (the normal TAP provisions of Section 101 of Division B of the 2004 Act), will not be eligible for payment, as applies to other orchardists, as provided in paragraph (3) of this section, with respect to 2004 hurricane losses.

(c) *Additional restrictions.* All of the normal 2002 Act TAP restrictions apply. Thus, the highly erodible land conservation and wetland conservation rules in 7 CFR part 12, the controlled substance rules in 7 CFR part 718, and the mortality requirements of § 783.4(a)(2) of 7 CFR part 783 apply to this notice as indicated above and as modified with respect to the special pecan tree provisions. Additional limits apply as are, or may be, provided for by regulation or by the Deputy Administrator acting under those regulations.

(d) *Eligible dates for orchardists.* For eligible orchardists, as defined in the 2002 Act TAP regulations, who otherwise meet the existing eligibility criteria in the existing 2002 Act TAP regulations for replantings of lost trees, claims may be made under this notice for losses that were due to natural disasters and that occurred in the period beginning December 1, 2003, and ending December 31, 2004, for replantings that otherwise qualify for assistance under the 2002 Act TAP regulations and the provisions of this notice.

(e) *Eligible dates for forest land owners.* For eligible forest land owners, claims that would otherwise qualify under the existing TAP regulations may be paid under this notice for losses due to natural disasters that occurred in the period beginning December 1, 2003, and ending December 31, 2004, for replantings that otherwise qualify under the 2002 Act TAP regulations and the provisions of this notice.

(1) Total claims by all claimants under this paragraph shall not exceed $15 million and shall be made using the funds of the Commodity Credit Corporation. If eligible claims exceed available funds, then either the proration provisions of 7 CFR 783.6(g) will apply or some other method of adjusting claims shall be established by the Deputy Administrator.

(2) Forest land owners need not be ''orchardists'' as defined in the 2002 Act TAP regulations. However, to be eligible, forest land owners must produce periodic crops of timber from trees for commercial purposes. Compensation may only be for losses that were due to natural disasters and that occurred in the period beginning December 1, 2003 and ending December 31, 2004.

(f) *Pecan tree assistance.* Funds may be paid under this notice to eligible pecan tree producers in counties declared a disaster by the President who produced pecan trees for commercial use and suffered tree loss or damage due to damaging weather related to any hurricane or tropical storm of the 2004 hurricane seasons.

(1) Funds under paragraph (f) are limited to $8.5 million from funds of the Commodity Credit Corporation. If eligible claims exceed available funds, § 783.6(g) of 7 CFR part 783 will apply unless some other method of adjusting claims is provided for by the Deputy Administrator. Persons submitting claims under the special provisions for pecan trees in this paragraph may petition for additional coverage of claims that they believe meet the statutory criteria set out above.

(2) Funds may be used to cover costs associated with pruning, rehabilitation and related costs.

(3) To be eligible, the producer and the loss must otherwise meet the

eligibility criteria for orchardists in the TAP regulations at 7 CFR part 783, and the other limitations set out in this notice, except as specified in this notice.

(4) The Deputy Administrator may allow exceptions to procedures regarding the special pecan tree provisions of this paragraph II.(f) of this notice as may be determined appropriate based on comments received on this notice.

(5) Payments for tree damage may only be made for tree damage which exceeds more than 15%, after accounting for normal tree damage.

(6) Persons receiving payment cannot exceed the higher of 75% of the actual amount spent on the eligible losses by the claimant for eligible damage or the reasonable cost, as determined by the Farm Service Agency, of the measures undertaken on the eligible damage. ''Eligible damage'' means the damage in excess of the qualifying amount.

III. Appeals

Any person who is dissatisfied with a determination made with respect to these programs may make a request for reconsideration or appeal of such determination in accordance with the regulations set forth in 7 CFR parts 11 and 780. A reserve may be created to handle claims to payments that extend beyond the conclusion of the application period, but claims shall not be payable once the available funding is expended.

IV. Paperwork Reduction Act

The information collections associated with TAP have been approved by the Office of Management and Budget (OMB) under 5 CFR 1320.13(a)(2)(iii) and were assigned OMB control number 0560–0247.

V. Environmental Review

The environmental impacts of this rule have been considered consistent with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.,* the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR part 799. FSA has initiated the completion of an environmental assessment (EA) to determine the potential impacts of this action upon the human and natural environments. A copy of the draft EA will be made available to the public upon its completion.

Signed in Washington, DC, March 25, 2005.

Thomas B. Hofeller,

Acting Administrator, Farm Service Agency.

[FR Doc. 05–6364 Filed 3–30–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection: United States Warehouse Act

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Farm Service Agency's (FSA) intention to request an extension from the Office of Management and Budget (OMB) for an information collection process currently in effect with respect to regulations, licensing and electronic provider agreements issued under the United States Warehouse Act (USWA).

DATES: Comments must be received on or before May 31, 2005 to be assured consideration. Comments may be submitted by mail, fax, e-mail or Internet to the applicable address below.

ADDRESSES: Comments should be sent to Roger Hinkle, USWA Program Manager, Warehouse and Inventory Division, Farm Service Agency (FSA), United States Department of Agriculture, STOP 0553, 1400 Independence Avenue, SW., Washington, DC 20250–0553, telephone (202) 720–7433, FAX (202) 690–1323, e-mail address, *Roger.Hinkle@usda.gov.* Persons with disabilities who require alternative means for communication of regulatory information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

FOR FURTHER INFORMATION CONTACT: Roger Hinkle, (202) 720–8433 or e-mail *Roger.Hinkle@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: United States Warehouse Act.

OMB Control Number: 0560–0120.

Expiration Date of Approval: August 31, 2005.

Type of Request: Extension of a Currently Approved Information Collection

Abstract: The USWA authorizes the Secretary of Agriculture to license public warehouse operators that are in the business of storing agricultural products; to examine such federally-licensed warehouses; and to license qualified persons to sample, inspect, weigh, and grade agricultural products. USDA is also authorized to issue regulations which govern the establishment and maintenance of electronic systems under which electronic documents including title documents related to the shipment, payment and financing may be issued or transferred for any agricultural product. The USWA licenses over 50 percent of all commercial grain and cotton warehouse capacities in the United States.

The information collected under OMB Number 0560–0120, as identified above, allows FSA to effectively administer the regulations, licensing and electronic provider agreements and related reporting and recordkeeping requirements under the USWA. USWA activities are administered by the FSA and also encompass examination of warehouses operated under the Standards for Approval of Warehouses Under the Commodity Credit Corporation (CCC) Charter Act. Although there are several types of warehouses covered by USWA and CCC functions, the reporting requirements for a particular type of warehouse are essentially the same. With some exceptions, the same forms are used for both USWA licensing and CCC purposes. These forms are furnished to interested warehouse operators or used by warehouse examiners employed by FSA to secure and record information about the warehouse operator and the warehouse. The general purpose of the forms are identical, *i.e.*, to provide those charged with issuing licenses under the USWA or executing contracts for CCC with a basis to determine whether the warehouse and the warehouse operator meet application standards to receive a license or contract, and to determine compliance once the license is issued or the contract approved.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 0.41 hours per response.

Respondents: Warehouse operators and electronic providers.

Estimated Number of Respondents: 4,000.

Estimated Number of Responses Per Respondent: 1 or on occasion.

Estimated Total Annual Responses: 25,613.

Estimated Total Annual Burden on Respondents: 10,516 Hours.

Comments are invited on these requirements including: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have

practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information technology; or (d) ways to minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques) or other forms of information technology; *e.g.*, permitting electronic submission response. The information collection package may be obtained from Roger Hinkle, at the address listed below. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, DC 20503, and to Roger Hinkle, USWA Program Manager, Warehouse and Inventory Division, FSA, USDA, STOP 0553, 1400 Independence Avenue, SW., Washington, DC 20250–0553.

Comments received in response to this notice will be made a matter of public record. Comments will be summarized and included in the submission for approval by OMB.

Signed in Washington, DC on March 25, 2005.

Thomas B. Hofeller,

Administrator, Farm Service Agency.

[FR Doc. 05–6361 Filed 3–30–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection; Transfer of Farm Records Between Counties

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is seeking comments from interested individuals and organizations on a new information collection associated with transferring of farm records from one administrative county office to another.

DATES: Comments on this notice must be received on or before May 31, 2005 to be assured consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Farm Service Agency, USDA, Attn: Alison Groenwoldt, Agricultural Program Specialist, Common Provisions Branch, 1400 Independence Ave, SW. Washington, DC 20250. Comments should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Comments also may be submitted by e-mail to: *alison.groenwoldt@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Alison Groenwoldt, Agricultural Program Specialist, (202) 720–4213 and *alison.groenwoldt@usda.gov.*

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Transfer of Farm Records Between Counties.

OMB Control Number: 0560–NEW.

Type of Request: New.

Abstract: Farm owners or operators may elect to transfer farm records between counties when the principal dwelling of the farm operator has changed, a change has occurred in the operation of the land, or there has been a change that would cause the receiving administrative county office to be more accessible such as a new highway, relocation of the county office building site, etc. The transfer of farm records is also required when an FSA county office closes. The FSA County Committees from both the transferring and receiving county must approve or disapprove all proposed farm transfers. In some cases, the State Committee and/or the National Office must also approve or disapprove proposed farm transfers.

Estimate of Burden: Average 10 minutes per response.

Type of Respondents: Owners and operators.

Estimated Number of Respondents: 25,000.

Estimated Number of Responses per Respondents: 1.

Estimated Total Annual Burden on Respondents: 2,500 hours.

Comment is invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information from those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget Approval.

Signed at Washington, DC, on March 25, 2005.

Thomas B. Hofeller,

Acting Administrator, Farm Service Agency.

[FR Doc. 05–6363 Filed 3–30–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request; Form FNS–674, Computer System Access Request

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collections. The FNS–674 Form is a standard form used by the Food and Nutrition Service (FNS) to collect information necessary to grant access to FNS computer systems. The collected data will be used to identify all users granted access to FNS internal systems as required by USDA and FNS Security Policy.

DATES: Comments on this notice must be received by May 31, 2005.

ADDRESSES: 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 has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Juanita Makuta, Information Systems Security Officer, Information Technology Division, Food and Nutrition Service, U. S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the FNS–674 form and instructions should be directed to: Juanita Makuta, (703) 305–2241.

SUPPLEMENTARY INFORMATION:

Title: FNS Computer System Access Request, Form FNS–674.

OMB Number: 0584–NEW.

Expiration Date: Not Yet Determined.

Type of Request: New Collection.

Abstract: The Office of Management and Budget Circular No. A–130, Appendix III Revised, dated February 8, 1996, requires that the information be collected. The FNS Computer System Access Request Form, FNS–674, is designed for use in all situations where access to an FNS computer system is required, where current access is required to be modified, or where access is no longer required and must be deleted. Users who access FNS systems are: State agencies, other Federal agencies, and FNS Regional Office, FNS Field Office and FNS Compliance Office users.

In State agencies, the State Coordinators provide a liaison between the State agency and the Deputy Regional Information Systems Security Officers (DRISSO), in the FNS Regional Offices, and the Information Systems Security Office in FNS Headquarters. The State Coordinator is responsible for ensuring that State users and entities comply with the FNS Information Systems Security Policy Handbook 701 and the FNS Information Systems Security Standards and Procedures Handbook 702 developed for State systems and that they maintain proper controls over FNS security features used by State clients.

The DRISSOs act on behalf of the Headquarters Information Systems Security Office to ensure that Regional, Field Office, and Compliance Office users comply with FNS handbook security policies developed for the regional environment.

Affected Public: FNS Headquarters, FNS Regional, Field Office and Compliance Office users, State agencies, other Federal agencies, and Trust Territories.

Estimated Number of Respondents: 5,000 (includes the 50 States and Trust Territories).

Estimate of Burden:

Number of responses per respondent—One.

Estimated total annual responses—5000.

Hours per response—.16666.

Total annual reporting burden—833.3.

Number of record keepers—5000.

Estimated annual hours per record keeper—.03333.

Total annual record keeping hours—166.5.

Total annual reporting and record keeping hours—999.5.

Dated: March 24, 2005.

Jerome A. Lindsay,

Acting Administrator.

[FR Doc. 05–6330 Filed 3–30–05; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section 4 of the Iowa State Technical Guide

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in the Iowa NRCS State Technical Guide for review and comment.

SUMMARY: It has been determined by the NRCS State Conservationist for Iowa that changes must be made in the NRCS State Technical Guide specifically in Section 4, Practice Standards and Specifications #328, Conservation Crop Rotation; #330, Contour Farming; and #332, Contour Buffer Strips, to account for improved technology. These practices can be used in systems that treat highly erodible land.

DATES: Comments will be received for a 30-day period commencing with this date of publication.

FOR FURTHER INFORMATION CONTACT: Richard Van Klaveren, State Conservationist, Natural Resources Conservation Service, Federal Building, 210 Walnut Street, Suite 693, Des Moines, Iowa 50309; at (515) 284–6655; fax (515) 284–4394.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS regarding disposition of those comments and a final determination of change will be made.

Dated: March 21, 2005.

Richard Van Klaveren,

State Conservationist.

[FR Doc. 05–6366 Filed 3–30–05; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Strengthening America's Communities Advisory Committee

AGENCY: Office of the Secretary, Department of Commerce

ACTION: Reopening of nomination period.

SUMMARY: On March 1, 2005, the Department of Commerce (the ''Department'') published a notice in the **Federal Register** (70 FR 9916) announcing the formation of the Strengthening America's Communities Advisory Committee (the ''Committee'') and soliciting nominations for persons to serve on the Committee. The March 1, 2005 notice provides that all nominations of potential members must be received by the Department no later than 4 p.m. (EST) on March 11, 2005. The March 1, 2005 notice also provides additional information concerning the Committee and membership on the Committee. On March 11, 2005, the Department published a notice in the **Federal Register** (70 FR 12180) extending the deadline for submitting nominations of potential members until 4 p.m. (EST) on March 25, 2005. This notice reopens the nomination period from 4:01 p.m. (EST) on March 25, 2005 until 4 p.m. (EST) on April 1, 2005, in order to provide the public with a final opportunity to submit nominations. Other than extending the deadline for submitting nominations, the evaluation criteria for selecting members and the specific instructions for submitting nominations contained in the March 1, 2005 notice shall continue to apply.

DATES: The Department will accept nominations received between 4:01 p.m. (EST) on March 25, 2005 and 4 p.m. (EST) on April 1, 2005. Nomination materials received after 4 p.m. (EST) on April 1, 2005 will not be accepted. Please note that nominations previously submitted at any time prior to the date of this notice (including those submitted after 4:01 p.m. (EST) on March 25, 2005) should not be resubmitted.

ADDRESSES: Nominations of potential members may be submitted by (i) postal mail, (ii) facsimile, or (iii) e-mail. Please submit nominations by postal mail to David A. Sampson, Assistant Secretary for Economic Development, Economic

Development Administration, Department of Commerce, Room 7800, 1401 Constitution Avenue, NW., Washington, DC 20230. Nominations may be submitted via facsimile to (202) 273–4723; all facsimiles should be addressed to the attention of Assistant Secretary for Economic Development David A. Sampson. E-mail submissions must be addressed to *saci@eda.doc.gov* and should include all nomination materials (including attachments) in a single transmission. The Department strongly encourages applicants to submit nominations by facsimile or e-mail. Nominations sent by postal mail may be suspended or substantially delayed in delivery, since all postal mail sent to the Department is subject to extensive security screening.

FOR FURTHER INFORMATION CONTACT: The Office of Chief Counsel, Economic Development Administration, Department of Commerce, Room 7005, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–4687.

SUPPLEMENTARY INFORMATION: On February 3, 2005, the Secretary of Commerce (the ''Secretary'') and the Secretary of Housing and Urban Development jointly announced the President's Strengthening America's Communities Initiative (the ''Initiative''). The Initiative proposes to transfer and consolidate 18 Federal economic and community development programs from the Departments of Agriculture, Commerce, Health and Human Services, Housing and Urban Development and Treasury within the Department, ultimately comprising a $3.71 billion unified grant program.

On February 9, 2005, the President's Domestic Policy Council requested the Secretary to form the Committee. The objectives and duties of the Committee will be to provide advice and recommendations to the Secretary, and to develop a comprehensive written report of policy parameters to assist in implementing the Initiative, including advising on its legislation, regulations and other guidance. The Committee's report will encompass all aspects of the envisioned Initiative, including policy findings and declarations, organizational structure, eligibility, program delivery, monitoring and performance measures. The Committee is expected to deliver its report to the Secretary by May 31, 2005. Thereafter, the Committee may be asked to advise the Secretary on additional issues relating to the Initiative.

The Committee is intended to have a balanced membership from diverse backgrounds and geographical regions, including the private sector, state, local and tribal government officials, community-based organizations, academia and the research community. Nominees should possess an extensive knowledge of, and background in, the fields of rural or urban economic or community development. Nominees should also possess recognized development policy expertise and excellent leadership, communication and organizational skills. The evaluation criteria for selecting members and the specific instructions for submitting nominations contained in the March 1, 2005 notice shall continue to apply. Additional information on the Initiative is available on the Department's Web site at *http://www.commerce.gov/SACI/index.htm*.

Privacy Act

Section 301 of Title 5 United States Code and 15 CFR Part 4, Subpart B authorize and govern collection of this information. The primary use of this information is to allow officials of the Department and its operating units to review applications and to conduct vetting of applicants to make decisions concerning the nomination or re-nomination of candidates for membership on the Committee. Records may be disclosed under the following routine use circumstances: (1) To any Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information, if necessary to obtain information relevant to a Department decision concerning the assignment, hiring, or retention of an individual; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or benefit. (2) To any Federal, state, local, or foreign agency charged with the responsibility of investigating or prosecuting any violation or potential violation of law or contract, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or contract, rule, regulation, or order, to protect the interests of the Department. (3) To any Federal, state, local, or international agency, in response to its request, in connection with the assignment, hiring, or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or any other benefit of the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decisions on the matter. (4) To a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record. (5) To the Department of Justice in connection with determining whether disclosure is of the record is required under the Freedom of Information Act.

Collection of this information, including your Social Security number is voluntary but failure to furnish it will result in your application not being considered. Collection of your Social Security number is authorized under Executive Order No. 9397. The Department will use this number to distinguish you from other members of the public who may have the same or similar name.

Dated: March 29, 2005.

David A. Sampson,

Assistant Secretary for Economic Development.

[FR Doc. 05–6512 Filed 3–30–05; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Office of the Secretary

Strengthening America's Communities Advisory Committee

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Strengthening America's Communities Advisory Committee (the ''Committee'') will hold its first meeting on April 15, 2005 in Fresno, California. At this meeting, the Committee will discuss topics relating to the successful implementation of the President's Strengthening America's Communities Initiative (the ''Initiative''). The objectives and duties of the Committee are to provide advice and recommendations to the Secretary of Commerce (the ''Secretary''), and to develop a comprehensive written report of policy parameters to assist in implementing the Initiative, including advising on its legislation, regulations and other guidance.

DATES: Friday, April 15, 2005; beginning at approximately 9 a.m. (p.s.t.) and ending at approximately 4 p.m. (p.s.t.).

ADDRESSES: The meeting will take place at Fresno City Hall, City Council Chamber Room, 2600 Fresno Street, Fresno, California 93721–3600. Requests for sign language interpretation and other auxiliary aids must be transmitted by facsimile or e-mail to the contact person listed below no later than April 5, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Jedd Vertman, Attorney Advisor, Economic Development Administration, Department of Commerce, Room 7005,

1401 Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–4687, facsimile (202) 482–5671, e-mail: *jvertman@eda.doc.gov*. Please note that any correspondence sent by regular mail may be substantially delayed or suspended in delivery, since all regular mail sent to the Department is subject to extensive security screening. For information about the Initiative, please visit the Department of Commerce's (the ''Department's'') Web site at *http://www.commerce.gov/SACI/index.htm*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public and seating will be available, but may be limited. Reservations are not accepted. The prospective agenda for the Committee meeting is as follows:

Agenda

1. Opening remarks and introductions.
2. General discussion of the Initiative and the operations of, and the issues to be addressed by, the Committee.
3. Assignments of members to subcommittees.
4. Working lunch & subcommittee break-out sessions. The lunch and subcommittee sessions will run concurrently and are expected to last approximately three hours. Subcommittee sessions are not open to the public.
5. The full Committee will convene to discuss a summary of the individual subcommittee sessions.

This agenda is subject to change and a copy of the agenda will be made available to the public the morning of the Committee meeting. Members of the public may submit written statements to the Committee by submitting them to the contact person listed above at any time before or after the Committee meeting.

Dated: March 28, 2005.

David A. Sampson,

Assistant Secretary for Economic Development, Economic Development Administration.

[FR Doc. 05–6395 Filed 3–30–05; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–848

Freshwater Crawfish Tail Meat from the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: In response to a request from Qingdao Jinyongxiang Aquatic Foods Co., Ltd., the Department of Commerce initiated an administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China for exports of subject merchandise by Qingdao Jinyongxiang Aquatic Foods Co., Ltd. The period of review is September 1, 2003, through August 31, 2004. The Department of Commerce is now rescinding the administrative review with respect to Qingdao Jinyongxiang Aquatic Foods Co., Ltd. because Qingdao Jinyongxiang Aquatic Foods Co., Ltd. made no exports of subject merchandise into the United States during the period of review.

EFFECTIVE DATE: March 31, 2005.

FOR FURTHER INFORMATION CONTACT: Scot Fullerton or Benjamin Kong, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1386 and (202) 482–7907, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 27, 2004, Qingdao Jinyongxiang Aquatic Foods Co., Ltd. (''JYX Aquatic'') requested an administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (''PRC'') for subject merchandise exported during the period September 1, 2003, through August 31, 2004. On October 22, 2004, the Department of Commerce (''the Department'') initiated an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC with respect to, among other companies, JYX Aquatic. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 69 FR 62022 (October 22, 2004).

On October 29, 2004, the Department issued its antidumping questionnaire to JYX Aquatic. On December 13, 2004, Qingdao Jinyongxiang Trade Co., Ltd. (''JYX Trade''), a party that did not request an administrative review, submitted what it stated was its response to the Department's questionnaire of October 29, 2004. In this submission at page A–3, JYX Trade stated that JYX Aquatic did not export subject merchandise to the United States during the period of review (''POR''). The Department confirmed through import data from U.S. Customs and Border Protection (''CBP'') that JYX Aquatic indeed made no exports of subject merchandise during the POR.

On February 9, 2005, the Department issued a letter to JYX Aquatic stating its intention to rescind the review with respect to JYX Aquatic because it did not export subject merchandise to the United States during the POR. In its comments filed on February 22, 2005, JYX Aquatic agreed that it had made no U.S. sales during the POR and the Department should rescind the review with respect to JYX Aquatic. On February 25, 2005, the Crawfish Processors Alliance (''Petitioner'') filed rebuttal comments. In its comments, Petitioner asserts that the review with respect to JYX Aquatic should be rescinded for lack of a qualifying sale during the POR.

Scope of the Order

The product covered by this antidumping duty order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the new HTS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by the U.S. Customs Service in 2000, and HTS items 0306.19.00.10 and 0306.29.00, which are reserved for fish and crustaceans in general. The HTS subheadings are provided for convenience and customs purposes only. The written description of the scope of this order is dispositive.

Rescission of Review

We find it appropriate to rescind the review with respect to JYX Aquatic as it made no qualifying sales during the POR. Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review ''with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise, as the case may be.'' JYX Aquatic states that it did not export subject merchandise to the United States during the POR and agrees that the review with respect to JYX Aquatic should be rescinded. Import

data obtained from CBP also supports a finding that JYX Aquatic did not export subject merchandise to the United States during the POR. Accordingly, the Department is rescinding the administrative review with respect to JYX Aquatic.

Notification to Interested Parties

This notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). The Department hereby requests timely written notification of the return or destruction of APO materials or of the conversion to judicial protective order. Failure to comply with the regulations and terms of an APO is a sanctionable violation. This determination is issued in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: March 24, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–1434 Filed 3–30–05; 8:45 am]

BILLING CODE: 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032405B]

Fisheries of the Northeastern United States; Final Environmental Impact Statement for Minimizing Impacts of the Atlantic Herring Fishery on Essential Fish Habitat

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

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, NMFS announces the availability of a Record of Decision (ROD) regarding a final environmental impact statement(FEIS) that was prepared to determine whether future action is needed to minimize to the extent practicable possible adverse effects of fishing, that are more than minimal and not temporary in nature, on Atlantic herring essential fish habitat (EFH) and of Atlantic herring fishing on the EFH of other managed species. The FEIS was prepared to address EFH requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). This ROD documents the decision by NMFS that No Action is required at this time to minimize potential adverse effects of fishing on EFH.

ADDRESSES: Copies of the ROD and the FEIS can be obtained from Peter D. Colosi, Assistant Regional Administrator for Habitat Conservation, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930; telephone 978–281–9102; fax 978–281–9301. Also available on the internet at *http://www.nero.noaa.gov/nero/regs/com.html*.

FOR FURTHER INFORMATION CONTACT: Peter D. Colosi, 978–281–9102; or Louis A. Chiarella, 978–281–9277; email *Lou.Chiarella@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS Northeast Region was the lead agency responsible for preparing the FEIS for Minimizing Impacts of the Atlantic Herring Fishery on Essential Fish Habitat. The FEIS evaluates the potential adverse effects of fishing on Atlantic herring EFH, including the effects of the Atlantic herring fishery on the EFH of other species, and evaluates management measures to minimize to the extent practicable any adverse effects by the Atlantic herring fishery on EFH that is more than minimal and not temporary in nature. The notice of availability of the FEIS was published on January 28, 2005 (70 FR 4119).

The ROD documents NMFS' decision to adopt the No Action Alternative. The ROD identifies all alternatives considered in reaching the decision, specifies the alternatives, which were considered to be environmentally preferable, and identifies and discusses relevant factors, which were balanced by NMFS in making its decision. A copy of the ROD will be mailed to individuals, agencies, or companies that commented on the draft and final EISs. In addition, copies of the ROD and FEIS are available from NMFS (see **ADDRESSES**).

Dated: March 25, 2005.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 05–6386 Filed 3–30–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

National Security Education Board Group of Advisors Meeting

AGENCY: National Defense University.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a forthcoming meeting of the National Security Education Board Group of Advisors. The purpose of the meeting is to review and make recommendations to the Board concerning requirements established by the David L. Boren National Security Education Act, Title VIII of Public Law 102–183, as amended.

DATES: April 28–29, 2005.

ADDRESSES: The Bechtel International Center, Stanford University, 422 Lagunita Drive, Stanford, CA 94305.

FOR FURTHER INFORMATION CONTACT: Dr. Edmond J. Collier, Director for Programs, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Rosslyn P.O. Box 20010, Arlington, Virginia 22209–2248; (703) 696–1991. Electronic mail address: *colliere@ndu.edu.*

SUPPLEMENTARY INFORMATION: The National Security Education Board Group of Advisors meeting is open to the public.

Dated: March 25, 2005.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–6326 Filed 3–30–05; 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 25 and 26, 2005. The mission of the SAG is to provide timely advice on scientific, intelligence, technical, 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, as amended March 25, 2003. Access to this information must be strictly limited to personnel having the requisite security clearances and the specific need-to-know. Unauthorized disclosure of the information to be discussed at the TAG meetings could cause serious damage to our national defense.

In accordance with Section 10(d) of the Federal Advisory Committee Act (5 U.S.C. app. 2), it has been determined that this SAG meeting concerns matters listed in 5 U.S.C. section 552b(c), and that, accordingly, this meeting will be closed to the public.

DATES: April 25–26, 2005.

ADDRESSES: USSTRATCOM, 901 Sac Blvd., Ste 1F7, Offutt AFB, NE 68113–6030.

FOR FURTHER INFORMATION CONTACT: Ms. Connie Druskis, Executive Director, (402) 294–4102.

SUPPLEMENTARY INFORMATION: Jerome Mahar, Joint Staff, (703) 614–6465.

Dated: March 25, 2005.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–6327 Filed 3–30–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Office of Innovation and Improvement (OII)

Notice Reopening the Excellence in Economic Education Program Fiscal Year (FY) 2005 Competition

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215B.

SUMMARY: On January 28, 2005, we published in the **Federal Register** (70 FR 4107) a notice inviting applications for the Excellence in Economic Education program's FY 2005 competition. The original notice for this FY 2005 competition established a March 23, 2005, deadline date for eligible applicants to apply for funding under this program.

In order to afford as many eligible applicants as possible an opportunity to receive funding under this program, we are reopening the Excellence in Economic Education program FY 2005 competition. The new application deadline date for the competition is April 8, 2005.

DATES: Deadline for Transmittal of Applications: April 8, 2005 (applications must be received at the Grants.gov/Apply Web site by 4:30 p.m., Washington, DC time).

Note: Applications for grants under the Excellence in Economic Education program must be submitted electronically using the Grants.gov Apply site. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us. For information about how to submit your application electronically, please refer to Section IV. 6. *Other Submission Requirements* in the January 28, 2005, notice (70 FR 4109). We have not extended the deadline for submitting a statement that an applicant qualifies for an exception to the electronic submission requirement.

Deadline for Intergovernmental Review: The deadline date for Intergovernmental Review under Executive Order 12732 is extended to June 7, 2005.

FOR FURTHER INFORMATION CONTACT: Carolyn J. Warren, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W209, Washington, DC 20202–5930. Telephone: (202) 205–5443 or by e-mail: *carolyn.warren@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

SUPPLEMENTARY INFORMATION: Any eligible applicant may apply for funding under this program by the deadline date in this notice. Eligible applicants that submitted their applications in a timely manner for the Excellence in Economic Education program FY 2005 competition to the Department prior to the competition's original deadline date of March 23, 2005, are not required to re-submit their applications or re-apply in order to be considered for FY 2005 awards under this program. We encourage eligible applicants to submit their applications as soon as possible to avoid any problems with filing electronic applications on the last day. The deadline for submission of applications will not be extended any further.

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: *http://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: *http://www.gpoaccess.gov/nara/index.html*.

Dated: March 28, 2005.

Michael J. Petrilli,

Acting Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 05–6394 Filed 3–30–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Rehabilitation Continuing Education Programs; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.264D.

DATES: *Applications Available:* March 31, 2005.

Deadline for Transmittal of Applications: May 2, 2005.

Deadline for Intergovernmental Review: June 29, 2005.

Eligible Applicants: States and public or nonprofit agencies and organizations, including Indian tribes and institutions of higher education.

Estimated Available Funds: $100,000.

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 support training centers that serve either a Federal region or another geographical area and provide for a broad, integrated sequence of training activities that focus on meeting recurrent and common training needs of employed rehabilitation personnel throughout a multi-State geographical area.

Priorities: This notice contains one absolute priority and one invitational priority. In accordance with 34 CFR 75.105(b)(2)(ii), the absolute priority is from the regulations for this program (34 CFR 389.10).

Absolute Priority: For FY 2005 this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Projects must—

(a) Train newly employed State agency staff at the administrative, supervisory, professional, subprofessional, or clerical levels in order to develop needs skills for effective agency performance;

(b) Provide training opportunities for experienced State agency personnel at

all levels of State agency practice to upgrade their skills and to develop mastery of new program developments dealing with significant issues, priorities, and legislative thrusts of the State/Federal vocational rehabilitation program; and

(c) Develop and conduct training programs for staff of—

(1) Private rehabilitation agencies and facilities which cooperate with State vocational rehabilitation units in providing vocational rehabilitation and other rehabilitation services;

(2) Centers for independent living; and

(3) Client assistance programs.

Within this absolute priority, we are particularly interested in applications that address the following invitational priority.

Invitational Priority: Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Rehabilitation Technology

Projects that offer certificate training to rehabilitation personnel on rehabilitation technology as it applies to the needs of customers of the public vocational rehabilitation (VR) program.

Rehabilitation technology is defined in 34 CFR 385.4 as follows: ''[T]he systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.''

Program authority: 29 U.S.C. 772.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, and 99. (b) The regulations for this program in 34 CFR parts 385 and 389.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $100,000.

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:* States and public or nonprofit agencies and organizations, including Indian tribes and institutions of higher education.

2. *Cost Sharing or Matching:* The Secretary has determined that a grantee must provide a match of at least 10 percent of the total cost of the project (34 CFR 389.40).

Note: Under 34 CFR 75.562(c), an indirect cost reimbursement on a training grant is limited to the recipient's actual indirect cost, as determined by its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. Indirect costs in excess of the eight percent limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. Fax: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify the competition as follows: CFDA number 84.264D.

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 Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

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 competition. *Page Limit:* Part III of the application, 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 45 pages, using the following standards:

- A page is 8.5″ by 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, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

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:* March 31, 2005.

Deadline for Transmittal of Applications: May 2, 2005.

Applications for grants under these competitions may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: June 29, 2005.

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 competition.

5. *Funding Restrictions*: We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

We have been accepting applications electronically through the Department's e-Application system since FY 2000. In

order to expand on those efforts and comply with the President's Management Agenda, we are continuing to participate as a partner in the new governmentwide Grants.gov Apply site in FY 2005. Rehabilitation Continuing Education Programs—CFDA Number 84.264D is one of the programs included in this project.

If you choose to submit your application electronically, you must use the Grants.gov Apply site (Grants.gov). Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us. We request your participation in Grants.gov.

You may access the electronic grant application for Rehabilitation Continuing Education Programs at: *http://www.grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- Your participation in Grants. gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted with a date/time received by the Grants. gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. We will not consider your application if it was received by the Grants.gov system later than 4:30 p.m. on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was submitted after 4:30 p.m. on the application deadline date.
- If you experience technical difficulties on the application deadline date and are unable to meet the 4:30 p.m., Washington, DC time, deadline, print out your application and follow the instructions in this notice for the submission of paper applications by mail or hand delivery.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that your application is submitted timely to the Grants.gov system.
- To use Grants.gov, you, as the applicant, must have a D–U–N–S Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five business days to complete the CCR registration.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- You may submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Any narrative sections of your application should be attached as files in a .DOC (document), .RTF (rich text) or .PDF (Portable Document) format.
- Your electronic application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.264D), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier:

U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.264D), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.264D), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 202020–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date,

you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and 34 CFR 389.30 and are in the application package.

2. *Review and Selection Process:* Additional factors we consider in selecting an application for an award are the past performance of the applicant in carrying out similar training activities under previously awarded grants, as indicated by factors such as compliance with grant conditions, soundness of programmatic and financial management practices, and attainment of established project objectives (34 CFR 385.33(b)).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representatives and U.S. Senators and send you a Grant Award Notice. 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.

4. *Performance Measures:* The Government Performance and Results Act (GPRA) of 1993 directs Federal departments and agencies to improve the effectiveness of their programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

The goal of continuing education (CE) projects is to upgrade the skills of personnel currently employed in the public VR system, centers for independent living, client assistance programs, and private rehabilitation agencies and facilities that cooperate with State vocational rehabilitation units in providing vocational rehabilitation and other rehabilitation services and to develop their mastery of new program developments dealing with significant issues, priorities, and legislative thrusts of the public rehabilitation program.

In order to measure the success of the project in meeting this goal, the CE grantee is required to conduct an evaluation of CE training activities. In annual performance reports, the CE project is required to provide specific information on the number of training activities, the topics of each training program, the number of participants served, the target groups represented by participants, and summary data from participant evaluations. This information allows the CE project to measure results against the needs assessment conducted by the project and against the goal of upgrading the skills of personnel currently employed in the public VR system, centers for independent living, client assistance programs, and private rehabilitation agencies and facilities that cooperate with State vocational rehabilitation units in providing vocational rehabilitation and other rehabilitation services and their mastery of new program developments, priorities, and legislative thrusts. The Rehabilitation Services Administration is in the process of developing a uniform data collection instrument for future use to collect these data directly from the grantee.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Beverly Steburg, U.S. Department of Education, 61 Forsyth Street, SW., suite 18T91, Atlanta, GA 30303–8934. Telephone; (404) 562–6336.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the 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: *http://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: *http://www.gpoaccess.gov/nara/index.htm.*

Dated: March 28, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–6392 Filed 3–30–05; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitation Services; Overview Information; Rehabilitation Continuing Education Programs (RCEP)—Regional Rehabilitation Continuing Education Projects (RRCEP); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.264A and B.

Dates:

Application Available: March 31, 2005.

Deadline for Transmittal of Applications: May 16, 2005.

Deadline for Intergovernmental Review: July 14, 2005.

Eligible Applicants: States and public or nonprofit agencies and organizations, including Indian tribes and institutions of higher education.

Note: We are inviting applications for two competitions—CFDA number 84.264A for Department of Education Region V only and CFDA number 84.264B for Department of Education Regions I, III, VI, and VIII only.

Estimated Available Funds: $2,551,000.

Estimated Range of Awards: $450,000–$551,000.

Estimated Average Size of Award: $500,000.

Maximum Level of Awards:
CFDA number 84.264A: $551,000.
CFDA number 84.264B: $500,000.

Estimated Number of Awards:
CFDA number 84.264A: 1.
CFDA number 84.264B: 4.

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 support training centers that serve either a Federal region or another geographical area and provide for a broad, integrated sequence of training activities that focus on meeting recurrent and common training needs of employed rehabilitation personnel throughout a multi-State geographical area.

Priorities: In accordance with 34 CFR 75.105(b)(2)(ii), these priorities are from the regulations for this program (34 CFR 389.10).

Absolute Priorities: For FY 2005 these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet one or more of these priorities.

These priorities are:

Absolute Priority 1 (CFDA Number 84.264A)

Projects must—

(a) Train newly employed State agency staff at the administrative, supervisory, professional, subprofessional, or clerical levels in order to develop needs skills for effective agency performance; and

(b) Provide training opportunities for experienced State agency personnel at all levels of State agency practice to upgrade their skills and to develop mastery of new program developments dealing with significant issues, priorities and legislative thrusts of the State/Federal vocational rehabilitation program.

Absolute Priority 2 (CFDA Number 84.264B)

Projects must develop and conduct training programs for staff of—

(a) Private rehabilitation agencies and facilities which cooperate with State vocational rehabilitation units in providing vocational rehabilitation and other rehabilitation services; and

(b) Centers for independent living.

Program Authority: 29 U.S.C. 772.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, and 99. (b) The regulations for this program in 34 CFR parts 385 and 389.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Cooperative agreements.

Estimated Available Funds: $2,551,000.

Estimated Range of Awards: $450,000–$551,000.

Estimated Average Size of Award: $500,000.

Maximum Level of Awards:
CFDA 84.264A: $551,000.
CFDA 84.264B: $500,000.

Estimated Number of Awards:
CFDA number 84.264A: 1.
CFDA number 84.264B: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* States and public or nonprofit agencies and organizations, including Indian tribes and institutions of higher education.

Note: We are inviting applications for two competitions—CFDA number 84.264A for Department of Education Region V only and CFDA number 84.264B for Department of Education Regions I, III, VI, and VIII only.

2. *Cost Sharing or Matching:* The Secretary has determined that a grantee must provide a match of at least 10 percent of the total cost of the project (34 CFR 389.40).

Note: Under 34 CFR 75.562(c), an indirect cost reimbursement on a training grant is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. Indirect costs in excess of the eight percent limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

IV. Application and Submission Information

1. *Address To Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or your may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.264A or CFDA number 84.264B.

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 Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

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 these competitions.

Page Limit: The application narrative (Part III of the application) 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 45 pages, using the following standards:

- A page is 8.5″ by 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, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

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*:

Deadline for Transmittal of Applications: May 16, 2005.

Applications for grants under these competitions may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

Deadline for Intergovernmental Review: July 14, 2005.

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 these competitions.

5. *Funding Restrictions*: We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements*. Applications for grants under these competitions may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications*.

We have been accepting applications electronically through the Department's E-Application system since FY 2000. In order to expand on those efforts and comply with the President's Management Agenda, we are continuing to participate as a partner in the new governmentwide Grants.gov Apply site in FY 2005. Rehabilitation Continuing Education Programs (RCEP)—Regional Rehabilitation Continuing Education Projects (RRCEP)—CFDA Number 84.264A and CFDA Number 84.264B is one of the programs including in this project.

If you choose to submit your application electronically, you must use the Grants.gov Apply site (Grants.gov). Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us. We request your participation in Grants.gov.

You may access the electronic grant application for Rehabilitation Continuing Education Programs—Regional Rehabilitation Continuing Education Projects at: *http://www.grants.gov*. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted with a date/time received by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. We will not consider your application if it was received by the Grants.gov system later than 4:30 p.m. on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was submitted after 4:30 p.m. on the application deadline date.
- If you experience technical difficulties on the application deadline date and are unable to meet the 4:30 p.m., Washington, DC time, deadline, print out your application and follow the instructions in this notice for the submission of paper applications by mail or hand delivery.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for these competitions to ensure that your application is submitted timely to the Grants.gov system.
- To use Grants.gov, you, as the applicant, must have D–U–N–S Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five business days to complete the CCR registration.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- You may submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Any narrative sections of your application should be attached as files in a .DOC (document), .RTF (rich text) or .PDF (Portable Document) format.
- Your electronic application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.264A or CFDA Number 84.264B), 400 Maryland Avenue, SW., Washington, DC 20202–4260.

or

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center,—Stop 4260, Attention: (CFDA Number 84.264A or CFDA Number 84.264B), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education,

Application Control Center, Attention: (CFDA Number 84.264A or CFDA Number, 84.264B), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for these competitions are from 34 CFR parts 385 and 389 of the program regulations and 34 CFR part 75.210 of EDGAR and are in the application package.

2. Review and Selection Process: Additional factors we consider in selecting an application for an award are in 34 CFR parts 385 and 389.30.

VI. Award Administration Information

1. *Award Notices:* If our 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 incorporated 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.

4. *Performance Measures:* The Government Performance and Results Act (GPRA) of 1993 directs Federal departments and agencies to improve the effectiveness of their programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

The goal of the RRCEP is to upgrade the skills of personnel currently employed in the public vocational rehabilitation (VR) system, centers for independent living, and private rehabilitation agencies and facilities (CRPs) that cooperate with State vocational rehabilitation units in providing vocational rehabilitation and other rehabilitation services and to develop their mastery of new program developments dealing with significant issues, priorities, and legislative thrusts of the public VR program.

In order to measure the success of RRCEPs in meeting this goal, each RRCEP grantee is required to conduct an evaluation of RRCEP training activities. In annual performance reports, RRCEPs are required to provide specific information on the number of training activities, the topics of each training program, the number of participants served, the target groups represented by participants, and summary data from participant evaluations. This information allows the RRCEP to measure results against the regional needs assessment conducted by the RRCEP and against the goal of upgrading the skills of personnel currently employed in the public VR system, centers of independent living, or CRPs that cooperate with State vocational rehabilitation units in providing vocational rehabilitation and other rehabilitation services and their mastery of new program developments, priorities, and legislative thrusts. The Rehabilitation Services Administration is in the process of developing a uniform data collection instrument for future use to collect these data directly from the grantee.

VII. Agency Contact

For Further Information Contact: Christine Marschall, U.S. Department of Education, 400 Maryland Avenue, SW., room 5053, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7429.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the 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: *http://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: *http://www.gpoaccess.gov/nara/index.html*

Dated: March 28, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–6393 Filed 3–30–05; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–231–000]

CenterPoint Energy—Mississippi River Transmission Corporation; Notice of Filing

March 24, 2005.

Take notice that on March 18, 2005, CenterPoint Energy—Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 226A.01, to be effective April 17, 2005.

MRT states that the Commission directed MRT to file a tariff sheet that would remove its tariff provisions implementing the CIG/Granite State policy for discounting.

Any person desiring to intervene or to protest this filing must file 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 notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1430 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–334–002]

CenterPoint Energy—Mississippi River Transmission Corporation; Notice of Compliance Filing

March 24, 2005.

Take notice that on March 15, 2005, CenterPoint Energy—Mississippi River Transmission Corporation (MRT) submitted a compliance filing pursuant to the Commission's March 7, 2005 order in Docket No. CP04–334–001, 110 FERC ¶ 61,252 (2005).

MRT states that it is revising the language of section 9 of its tariff's General Terms and Conditions to authorize MRT to buy and sell gas to ensure fulfillment of its service obligations.

MRT states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Protest Date: 5 p.m. eastern time on April 8, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1433 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–232–000]

CenterPoint Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 24, 2005.

Take notice that on March 18, 2005, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following revised tariff sheets to be effective May 1, 2005:

Fifth Revised Sheet No. 17
Fifth Revised Sheet No. 18
Fifth Revised Sheet No. 19
Fifth Revised Sheet No. 31
Fifth Revised Sheet No. 32

CEGT states that the purpose of this filing is to adjust CEGT's fuel percentages and Electric Power Costs Tracker pursuant to Sections 27 and 28 of its General Terms and Conditions.

Any person desiring to intervene or to protest this filing must file 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 notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the

Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1431 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–062]

Columbia Gas Transmission Corporation; Notice of Refund Report

March 24, 2005.

Take notice that on March 17, 2005, Columbia Gas Transmission Corporation (Columbia) tendered for filing its final true-up report to comply with the November 22, 1996 Offer of Settlement (Settlement) approved by the Commission on April 17, 1997 in Docket Nos. RP95–408–013, *et al.*, *Columbia Gas Transmission Corporation,* 97 FERC ¶ 61,044 (1997).

Columbia states that the Settlement permitted Columbia to reflect in its base rates a settlement component to be collected from firm transportation customers for the ''period beginning November 1, 1996 and ending October 31, 2004.'' Columbia further explains that, in accordance with the settlement's true-up mechanism, Columbia is hereby providing a final true-up of the revenues collected by Columbia during the twelve-month period ending October 31, 2004.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Protest Date: 5 p.m. eastern time on March 31, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1423 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–534–000]

Eastern Desert Power LLC; Notice of Issuance of Order

March 24, 2005.

Eastern Desert Power LLC (Eastern Desert) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for wholesale sales of energy, capacity and ancillary services at market-based rates. Eastern Desert also requested waiver of various Commission regulations. In particular, Eastern Desert requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Eastern Desert.

On March 23, 2005, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Eastern Desert should file a motion to intervene or protest 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, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is April 22, 2005.

Absent a request to be heard in opposition by the deadline above, Eastern Desert is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Eastern Desert, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Eastern Desert's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also 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 filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1426 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–487–000]

FPL Energy Cowboy Wind, LLC; Notice of Issuance of Order

March 24, 2005.

FPL Energy Cowboy Wind, LLC (FPL Cowboy) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for wholesale sales of energy, capacity and ancillary services at market-based rates. FPL Cowboy also requested waiver of various Commission regulations. In particular, FPL Cowboy requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by FPL Cowboy.

On March 23, 2005, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of

issuances of securities or assumptions of liability by FPL Cowboy should file a motion to intervene or protest 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, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is April 22, 2005.

Absent a request to be heard in opposition by the deadline above, FPL Cowboy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of FPL Cowboy, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of FPL Cowboy's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also 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 filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1425 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES05–21–000]

Northern Maine Independent System Administrator, Inc.; Notice of Filing

March 24, 2005.

Take notice that on March 17, 2005, Northern Maine Independent System Administrator, Inc. (Northern Maine) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to make long-term borrowings in an amount up to $500,000.

Northern Maine also requests waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Any person desiring to intervene or to protest this filing must file 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 notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on March 30, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1427 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–319–001]

PJM Interconnection, L.L.C.; Notice of Amendment to Filing

March 22, 2005.

Take notice that on March 7, 2005, PJM Interconnection, L.L.C. (PJM) submitted its response pursuant to Commission's deficiency letter issued February 3, 2005 regarding PJM's December 8 filing of an executed interconnection service agreement among PJM, MM Hackensack Energy, LLC and Public Service Electric and Gas Company and a notice of cancellation of a service agreement that has been superseded.

PJM states that copies of this filing have been served on all persons on the service list and the parties to the agreement.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on March 29, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1413 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–157–002]

Saltville Gas Storage Company L.L.C.; Notice of Negotiated Rate

March 24, 2005.

Take notice that on March 18, 2005 Saltville Gas Storage Company L.L.C. (Saltville) tendered for filing negotiated rate transactions with Virginia Gas Distribution Company, Sequent Energy Management, L.P., the Oak Ridge Utility District, and NJR Energy Services (collectively, Service Agreements).

Saltville states that the purpose of this filing is to comply with the Commission's order issued February 18, 2005, in *Saltville Gas Storage Company L.L.C.,* 110 FERC ¶ 61,174 (2005).

Saltville states that copies of the filing were mailed to all parties on the official service list maintained by the Commission for this proceeding.

Any person desiring to intervene or to protest this filing must file 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 notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1429 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC05–60–000]

Zilkha Renewable Energy, LLC, Blue Canyon Windpower LLC and GS Wind Holdings LLC; Notice of Filing

March 24, 2005.

Take notice that on March 18, 2005, Zilkha Renewable Energy, LLC, Blue Canyon Windpower LLC (Blue Canyon), and GS Wind Holdings LLC (GS Wind Holdings) (collectively, Applicants) submitted an application pursuant to Section 203 of the Federal Power Act, seeking authorization for a transaction that would result in the transfer of an indirect minority interest in certain transmission facilities associated with Blue Canyon's 45-turbine wind farm, with a nameplate capability of 74.25 megawatts, located in southwestern Oklahoma and in Blue Canyon's tariff for sales of power at wholesale to GS Wind Holdings, and requesting expedited consideration of the Application and certain waivers. Applicants have requested confidential treatment of Exhibit B–2 and Exhibit I. Applicants state that the Transaction will have no effect on competition, rates or regulation and is in the public interest.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on April 11, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1414 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–234–000]

Marathon Oil Company, Complainant v. Trailblazer Pipeline Company, Respondent; Notice of Complaint

March 24, 2005.

Take notice that on March 22, 2005, Marathon Oil Company (Marathon) filed a formal complaint against Trailblazer Pipeline Company (Trailblazer) pursuant to section 206 of the Commission's Rules and Regulations alleging that Trailblazer violated the Commission's Negotiated Rate Policy, the Natural Gas Act, the Commission's Part 284 Regulations and the Commission's Order authorizing Trailblazer to charge negotiated rates, as well as section 38 of the General Terms and Conditions of Trailblazer's tariff.

Marathon alleges that Trailblazer's rates under FTSX Agreement Nos. 927144 and 919467 are unlawful in that they are the product of the exercise of market power by Trailblazer and are unduly discriminatory under section 4 of the Natural Gas Act. Marathon alleges that Trailblazer failed to offer negotiated rate shippers the cost based recourse rate for its Expansion 2002 FTS service and is charging negotiated rate shippers vastly different rates for the same service.

Marathon requests that the Commission order Trailblazer to disgorge and return to Marathon all revenues collected in excess of the applicable cost-of-service rates under FTSX Agreement Nos. 927144 and 919467. In addition, Marathon requests that the Commission rule that Trailblazer may not charge Marathon rates higher than the Commission-approved recourse rates for the remaining terms of these agreements.

Marathon Oil Company certifies that copies of the Complaint were served on the contacts for Trailblazer Pipeline Company as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file 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 notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on April 13, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1432 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232–467]

Duke Energy Corporation; Notice of Availability of Environmental Assessment

March 22, 2005.

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's (Commission) regulations (18 CFR Part 380), Commission staff have reviewed plans, filed October 8, 2004, to perform embankment seismic stability improvement work at Paddy Creek Dam, part of the Catawba-Wateree Project's Bridgewater Development, which is located on the Catawba River in McDowell and Burke counties, North Carolina. The project occupies nine counties in North Carolina and five counties in South Carolina.

The project licensee, Duke Energy Corporation (Duke Power), plans to add an earthfill berm to the downstream side of the embankment of Paddy Creek Dam. The work is planned because it has been determined that Paddy Creek Dam could fail during the design seismic event. Accordingly, the Commission required remediation under Part 12 of its regulations. In the environmental assessment (EA), Commission staff has analyzed the probable environmental effects of the proposed work and has concluded that approval, with appropriate environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is available for review at the Commission's Public Reference Room, or it may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''elibrary'' link. Enter the docket number (P–2232) in the docket number field to access the document. For assistance, call (202) 502–8222, or (202) 502–8659 (for TTY).

Magalie R. Salas,

Secretary.

[FR Doc. E5–1419 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 382–026 and Project No. 178–017]

Southern California Edison Company and Pacific Gas & Electric Company; Notice of Availability of Draft Environmental Assessment

March 22, 2005.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the applications for license for the Borel Hydroelectric Project (P–382–026) and Kern Canyon Hydroelectric Project (P–178–017) and has prepared a Draft Environmental Assessment (DEA) for the projects. The Borel Hydroelectric Project is located on the Kern River near the town of Bodfish in Kern County, California. The canal intake for the project is located on approximately 188 acres of Sequoia National Forest Service lands. The Kern Canyon Hydroelectric Project is located on the Kern River, near the Town of Bakersfield in Kern County, California. The project occupies approximately 11.26 acres of public land located within the Sequoia National Forest.

The DEA contains the Staff's analysis of the potential environmental impacts of the projects and concludes that licensing the projects, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the DEA is on file with the Commission and is available for public inspection. The DEA is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any comments should be filed within 45 days from the issuance date of this notice and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please affix ''Borel Hydroelectric Project No. 382–026'' and/or ''Kern Canyon Hydroelectric Project No. 178–017'' to all comments. Comments may be filed electronically via the internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-filing'' link. For further information, contact Emily Carter at (202) 502–6512 or *emily.carter@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1418 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–88–000]

Northern Border Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Chicago III Expansion Project and Request for Comments on Environmental Issues

March 24, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Chicago III Expansion Project involving construction and operation of facilities by Northern Border Pipeline Company (NBPL) in Johnson and Scott Counties, Iowa and Bureau County, Illinois.[1] These facilities would consist of a new 16,000-horsepower (hp) electric compressor station, installation of additional gas cooling equipment, and changing internals and wheel of compressors. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Summary of the Proposed Project

NBPL proposes to construct, modify, install and operate the following facilities:

1. Compressor Station No. 16—Install one new 16,000-hp electric driven compressor unit at the existing launcher-receiver station site located in Section 17, Township 77 North, Range 5 West, Johnson County, Iowa.

2. Compressor Station No. 17—Install additional gas-cooling equipment and replace the compressor wheel and internals on the existing centrifugal compressor unit located in Section 13, Township 79 North, Range 4 East, Scott County, Iowa. The proposed modification would not result in a change in hp rating.

3. Compressor Station No. 18—Replace the compressor wheel and internals on the existing centrifugal compressor unit located in Section 1, Township 17 North, Range 10 East, Bureau County, Illinois. The proposed modification would not result in a change in hp rating.

NBPL indicates that it would also ''certain install related 2.55(a) auxiliary facilities.''

NBPL indicates that in order to provide the electric power to operate Compressor Station 16, Central Iowa Power Cooperative (CIPCO) would construct about 1.8 miles of a 69-kilovolt transmission line from its existing transmission line north of Compressor Station 16. NBPL indicates that CIPCO's planned power line would be regulated by the Iowa Utilities Board and CIPCO would need to file for and obtain the necessary permits and environmental clearances for its planned power line facilities.

The general location of the project facilities is shown in Appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would occur on previously disturbed land within each of the three compressor station sites owned by NBPL.

The 16,000-hp electric driven compressor would be installed on a currently designated 10.3-acre Compressor Station 16 site which currently contains an existing NBPL launcher/receiver facility and microwave tower. NBPL would also construct and maintain a new access road to the compressor station.

The proposed modifications for the compressor wheels and internals at Compressor Stations 17 and 18 would occur within the compressor buildings. The proposed gas-cooling equipment at Compressor Station 17 would be installed in a previously disturbed area.

NBPL indicates that CIPCO plans to construct a new 1.8-mile long 69-kilovolt transmission line (to provide electrical power to Compressor Station 16) ''within state and county road easements utilizing aboveground and ''narrow profile'' construction methods to minimize land requirements, potential private landowner concerns, and environmental impacts that may be associated with CIPCO's project. Ground disturbance will generally be limited to the areas immediately surrounding the base of the power line poles.''

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA we[3] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils,
- Land use,
- Cultural resources,
- Vegetation and wildlife,
- Air quality and noise,
- Endangered and threatened species,
- Hazardous waste,
- Water resources and fisheries.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be

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[1] NBPL's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission(s regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than Appendix 1 (maps), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

published and mailed to federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission(s official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 2.
- Reference Docket No. CP05–88–000.
- Mail your comments so that they will be received in Washington, DC on or before April 25, 2005.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created online.

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see Appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact *FERC Online Support at FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1424 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

March 22, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use Of Project Lands And Waters.

b. *Project No.:* 2503–086.

c. *Date Filed:* March 3, 2005.

d. *Applicant:* Duke Power, a division of Duke Energy Corporation.

e. *Name of Project:* Keowee-Toxaway.

f. *Location:* The project is located on Lake Keowee in Oconee County, South Carolina. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a), 825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Joe Hall, Lake Management Representative, Duke Energy Corporation, P.O. Box 1006, Charlotte, NC 28201–1006, 704–382–8576.

i. *FERC Contact:* Any questions on this notice should be addressed to Kate DeBragga at (202) 502–8961, or by e-mail: *Kate.DeBragga@ferc.gov.*

j. *Deadline for filing comments and or motions:* April 22, 2005.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426.

Please include the project number (P–2503–086) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Request:* Duke Power, licensee for the Keowee-Toxaway Hydroelectric Project, has requested Commission approval to lease 3.79 acres of project land for non-project use. Duke Power proposes to lease these lands to Waterside Crossing Owners Association, Inc., and Crescent Communities S.C, LLC, for the purpose of constructing a commercial/residential marina. The marina facilities will consist of 12 cluster docks with a total of 117 boat docking locations. The cluster docks will consist of a steel frame and treated wood deck. The docks will be constructed offsite and floated into place. No dredging is proposed. In association with the proposed marina, the licensee is also requesting Commission authority to approve an irrigation intake and boat pump-out. The marina facilities will provide access to Lake Oconee for the residents of the Waterside Crossing community, located in Oconee County, North Carolina.

l. *Location of the Application:* This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1420 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

March 22, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 349–096.

c. *Date Filed:* March 4, 2005.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Martin Dam Hydroelectric Project.

f. *Location:* Lake Martin in Tallapoosa County, Alabama. This project does not occupy any federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a), 825(r), and 799 and 801.

h. *Applicant Contact:* Mr. Keith E. Bryant, Sr. Engineer, Hydro Services, Alabama Power, 600 North 18th Street, Post Office Box 2641, Birmingham, Alabama, 35291, (205) 257–1403.

i. *FERC Contacts:* Any questions on this notice should be addressed to Ms. Shana High at (202) 502–8674.

j. *Deadline for filing comments and or motions:* April 22, 2005.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–349–096) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. Description of Proposal: Alabama Power Company is requesting Commission approval to permit The Profile Group to use project lands to build a 1700-foot-long walkway along the shoreline and 19 dock structures with 128 boat slips for the private use of residents of condominiums that will be constructed on non-project lands. The proposed facilities are on two parcels bordering portions of two coves on either side of Sunset Pointe Drive within the StillWaters Resort near Dadeville, Tallapoosa County, Alabama.

l. *Location of the Applications:* The filings are available for review at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, 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 call the Helpline at (866) 208–3676 or contact *FERCOnLineSupport@ferc.gov*. For TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR

''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1421 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Settlement Agreement and Soliciting Comments

March 22, 2005.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project Nos.:* 2071–013; 2111–018; and 935–053.

c. *Date Filed:* March 15, 2005.

d. *Applicant:* PacifiCorp.

e. *Name of Projects:* Yale Hydroelectric Project (2071); Swift No. 1 Hydroelectric Project (2111); and Merwin Hydroelectric Project (935).

f. *Location:* On the North Fork Lewis River, in Cowlitz, Clark, and Skamania County Washington. The Yale and Merwin Projects occupy 84 and 142.15 acres, respectively, of Federal land administered by the Bureau of Land Management. The Swift No. 1 Project occupies 63.25 acres of Federal land administered by the Bureau of Land Management and 229.00 acres of Federal lands administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) and Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Frank C. Shrier, Lead Project Manager, Hydro Licensing, PacifiCorp, 825 NE. Multnomah Street, Suite 1500, Portland, Oregon 97232; Telephone (503) 813–6622.

i. *FERC Contact:* Jon Cofrancesco at (202) 502–8951; or e-mail at *jon.cofrancesco@ferc.gov*.

j. *Deadline for filing comments:* 20 days from the filing date. Reply comments due 30 days from the filing date.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. PacifiCorp and American Rivers have entered into an agreement for the purpose of, under certain circumstances, further enhancing reservoir survival of salmonids in addition to the measures in the comprehensive settlement agreement previously filed for the licensing proceedings for these projects and the Swift No. 2 Project (P–2213–011), in December 2004. The agreement concerns the evaluation of the causes of reservoir mortality for salmonids and the funding of appropriate improvement measures to address reservoir mortality. The parties request the Commission accept the settlement agreement in its license orders without material modification.

l. A copy of the settlement agreement 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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1422 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2539–003]

Erie Boulevard Hydropower, L.P.; Notice of Settlement Agreement Accepted for Filing and Soliciting Comments

March 24, 2005.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement agreement.

b. *Project No.:* 2539–003.

c. *Date Filed:* March 9, 2005.

d. *Applicant:* Erie Boulevard Hydropower, L.P.

e. *Name of Project:* School Street Hydroelectric Project

f. *Location:* On the Mohawk River in Albany and Saratoga county, New York. The project does not occupy any Federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) and Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Jerry L. Sabattis, Hydro Licensing Coordinator, Brascan Power New York, 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088; Telephone (315) 413–2787; e-mail—*jerry.sabattis@brascanpower.com.*

i. *FERC Contact:* Emily Carter at (202) 502–6512; or e-mail at *emily.carter@ferc.gov.*

j. Deadline for filing comments on the settlement is 20 days from the issuance of this notice; reply comments are due 30 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. *The Project Description:*

The School Street Project consists of: (1) A 1,280-foot-long and 16-foot-high masonry gravity dam; (2) a reservoir with a surface area of approximately 100 acres and a storage capacity of about 788 acre-feet; (3) a concrete, chute-type spillway; (4) a 4,400-foot-long, 150-foot-wide, and 14-foot-deep diversion canal; (5) a 170-foot by 78-foot powerhouse located downstream from the dam containing five generating units with a combined capacity of 38.8 megawatts (MW); and (6) appurtenant facilities.

l. Erie Boulevard Hydropower filed the settlement agreement on March 9, 2005, on behalf of themselves and six parties to resolve, among the signatories, issues related to the pending application for new major license for the School Street Hydroelectric Project. The settlement includes measures for run-of-river operations, instream flows, aquatic habitat, aesthetic flows, fish protection and downstream passage, recreation, cultural resources, monitoring and evaluation, and coordination among the parties. The parties request the Commission accept the relevant provisions of the settlement agreement in its license orders without material modification.

n. Copies of the settlement are available for review in the Public Reference Room at the Commission 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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. Copies are also available for inspection and reproduction at the address listed in item ''h''.

o. Anyone may submit comments in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all comments filed. Any comments must be received on or before the specified comment date.

All filings must (1) bear in all capital letters the title ''COMMENTS'' or ''REPLY COMMENTS;'' (2) set forth in the heading the name of the applicant and the project number (P–2539); (3) furnish the name, address, and telephone number of the person commenting; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the settlement directly from the applicant. A copy of all filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1428 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD05–3–000]

Promoting Regional Transmission Planning and Expansion To Facilitate Fuel Diversity Including Expanded Uses of Coal-Fired Resources; Supplemental Notice of Technical Conference

March 21, 2005.

As announced in a Notice of Technical Conference issued on February 16, 2005 in the above referenced proceedings, a technical conference will be held on Friday, May 13, 2005, to identify regional solutions to promoting regional transmission planning, expansion and enhancement to facilitate fuel diversity including increased integration of coal-fired resources to the transmission grid. The conference will be held at the Charleston Marriott Town Center, 200 Lee Street East, Charleston, West Virginia 25301. Take note that the conference is now scheduled to begin at 8:30 a.m. (instead of 9 a.m.) and end at approximately 5 p.m. (EDT). The Commissioners will attend and participate.

A proposed agenda is attached. The Commission is now soliciting nominations for speakers at the technical conference. Persons wishing to nominate themselves as speakers should do so using this electronic link: *http://www.ferc.gov/whats-new/registration/coal-05-13-speaker-form.asp.* Such nominations must be made before the close of business Friday, April 1, 2005, so that a final agenda for the technical conference can be drafted and published.

Although registration is not a strict requirement, in-person attendees are asked to register for the conference on-line by close of business on May 10, 2005 at *http://www.ferc.gov/whats-new/registration/coal-05-13-form.asp.*

Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–266–6646) for a fee. They will be available for the public on the Commission's eLibrary system and on the calendar page posting for this event seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening of the conference via Real Audio or a Phone Bridge Connection for a fee. Persons interested in making arrangements should contact David Reininger or Julia Morelli at Capitol Connection (703–933–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.org* and click on ''FERC.''

For additional information, please contact Sarah McKinley at 202–502–8004, *sarah.mckinley@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E5–1417 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. AD05–5–000 and PL03–1–000]

Transmission Independence and Investment and Pricing Policy for Efficient Operation and Expansion of the Transmission Grid; Notice of Technical Conference

March 21, 2005.

Take notice that on April 22, 2005, the Federal Energy Regulatory Commission will hold a technical conference to examine impediments to investment in electric transmission infrastructure and explore potential solutions—including the formation of new business models as well as appropriate ratemaking policies that would encourage new investment in transmission. The technical conference

will be held at the offices of the Commission at 888 First Street, NE., Washington, DC. The technical conference is tentatively scheduled to begin at 9 a.m. and end at approximately 4:30 p.m. (EST). Commissioners are expected to attend and participate.

Among the issues that panelists will be asked to address are:

- Is the transmission grid being expanded and improved in ways that support regional reliability and market needs?
- What are the barriers to needed transmission investment?
- Has the risk profile of transmission investments changed? If so, what are the implications for Commission policy?
- What rate-making policies will encourage investment in electric transmission infrastructure? Are special incentives appropriate to encourage investment in electric transmission infrastructure? Who should, and is most likely to, make those investments?
- Should the formation of transmission-only companies be encouraged? If so, how?
- What new technologies are available to enhance transmission reliability and efficiency?

The technical conference will be open to the public with no registration or fee.

A transcript of the technical conference will be available from Ace Reporting Company (202–347–3700 or 800–336–6646) for a fee. It will be available for the public on the Commission's eLibrary system ten calendar days after the Commission receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, by phone or via satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at 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.''

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an e-mail to *accessibility@ferc.gov* or call toll-free 866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

Additional details and the Agenda for this technical conference will be included in a supplemental notice to be issued later. You are encouraged to watch for additional notices.

For additional information please contact Saida Shaalan, 202–502–8278 or *Saida.Shaalan@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1416 Filed 3–30–05; 8:45 am]

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 23, 2005.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are 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 are 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 off-the-record communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers in ascending order. 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. CP04–36–000, CP04–41–000, CP04–223–000, CP04–293–000.	3–7–05	Roger Mandle.
2. CP04–36–000, CP04–41–000, CP04–223–000, CP04–293–000.	3–14–05	Captain Benjamin C. Riggs, Jr.
3. EL04–102–000, ER03–563–030	2–28–05	James J. Cullen.
4. EL04–102–000, ER03–563–030	2–28–05	H. McKinnell.
5. EL04–102–000, ER03–563–030	2–28–05	Anne M. Mulcahy.
6. EL04–102–000, ER03–563–030	2–28–05	David H. Stahelski.
7. EL04–102–000, ER03–563–030	3–2–05	Steven Townsend.
8. EL04–102–000, ER03–563–030	3–4–05	James C. Smith.
9. EL04–102–000, ER03–563–030	3–7–05	Robert W. Behn.
10. EL04–102–000, ER03–563–030	3–7–05	John A. Klein.

Docket No.	Date filed	Presenter or requester
11. EL04–102–000, ER03–563–030	3–7–05	Greg O'Brien.
12. EL04–102–000, ER03–563–030	3–8–05	Carl N. Siemon.
13. EL04–120–000, ER03–563–030	3–14–05	John P. Casey.
14. Project No. 8657–000	3–17–05	Shannon Maher, Monica Maynard, John W. Montgomery, Jr., Paul V. Nolan, Michael C. Odom, Thomas A. Pursley, Charles F. Reusch, Steven F. Rothman, David W. Sutherland.[1]
Exempt:		
1. Project No. 8657–000,	3–17–05	Monica Maynard, Dick Quinn, Steven F. Rothman, Alan Weaver.[2]
2. Project No. 2210–108	3–9–05	Hon. Bob Goodlatte.

[1] This document is one of twenty-two prohibited off-the-record communications associated with Project No. 8657–000. These documents include meeting notes and email correspondence which span a time frame from March 2004 to March 2005. These twenty-one documents, generated by the presenters listed above, will be placed in a public, non-decisional file for this proceeding.

[2] This document is one of seven exempt off-the-record communications associated with Project No. 8657–0000. These documents include meeting notes and email correspondence which span a time frame from September 2003 to March 2004. These exempt communications, generated by the presenters listed above, will be included in the decisional record for this docket.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1415 Filed 3–30–05; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE AND TIME: Tuesday, April 5, 2005 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

Items to be discussed: Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary to the Commission.

[FR Doc. 05–6519 Filed 3–29–05; 3:16 pm]

BILLING CODE 6715–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Request for Nominations of Candidates To Serve on the Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry, Centers for Disease Control and Prevention, Department of Health and Human Services (HHS)

The National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (NCEH/ATSDR) is soliciting nominations for possible membership on the Board of Scientific Counselors. This Board provides advice and guidance to the Secretary, HHS; the Director, CDC; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agencies' mission to protect and promote people's health. The Board provides advice and guidance to help NCEH/ATSDR work more efficiently and effectively with its various constituents and to fulfill its mission in protecting America's health.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the Board's objectives. Nominees will be selected from experts having experience in preventing human diseases and disabilities caused by environmental conditions. Experts in the disciplines of toxicology, epidemiology, environmental or occupational medicine, behavioral science, risk assessment, exposure assessment, and experts in public health and other related disciplines will be considered. Consideration is given to representation from diverse geographic areas, gender, ethnic and minority groups, and the disabled. Members may be invited to serve up to four-year terms. Nominees must be U.S. citizens.

The following information must be submitted for each candidate: name, affiliation, address, telephone number, and current curriculum vitae. E-mail addresses are requested if available.

Nominations should be sent, in writing, and postmarked by April 30, 2005 to: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., (MS–E28), Atlanta, Georgia 30333. Telephone and facsimile submissions cannot be accepted.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

Dated: March 23, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–6340 Filed 3–30–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Antimalarial Drug Resistance and Prevention of Malaria During Pregnancy; Notice of Intent To Fund Single Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2005 funds for a cooperative agreement program to increase the epidemiological and operational data generated in the West African sub-region upon which policy makers can base their decisions and bring cutting edge malaria control tools from the bench to the field. The Catalog of Federal Domestic Assistance number for this program is 93.283.

B. Eligible Applicant

Assistance will be provided only to the Malarial Research and Training Center (MRTC), Department of Epidemiology and Parasitic Diseases, Faculty of Medicine and Dentistry, University of Bamako, Mali.

The Malaria Research and Training Center (MRTC) is the only institution in West Africa that has the experience and infrastructure required. The MRTC designed and developed the Genotype Resistance Index (GRI), a crucial component of the proposed work. MRTC has also conducted the only full scale randomized controlled trial comparing chemoprophylaxis and intermittent preventive treatment for the prevention of malaria during pregnancy. They have demonstrated through this and other field-based and laboratory-based research projects that they are capable of executing complex scientific malaria research. MRTC is housed under the Department of Epidemiology and Parasitic Diseases, Faculty of Medicine, Pharmacy, and Dentistry, University of Bamako, Mali. The MRTC was founded in 1992 to conduct laboratory and field research related to malaria. Units within MRTC include Entomology and Molecular Biology, Vector Ecology, Malaria during Pregnancy, Transmission Blocking Vaccine Unit, GIS Unit, Parasite Epidemiology, Malaria Vaccine Development Unit, Biostatistics and Data Management, Drug Resistance/Molecular Biology, Parasite Immunology and Immunogenetics, Parasite Molecular Biology, and Informatics. Because of its institutional linkages with the Ministry of Health, including the National Malaria Control Program, MRTC is able to share its research findings and work with the Ministry of Health to adapt them into policy and programs. For more than a decade, MRTC has been working with all levels of the Ministry of Health to conduct health research. MRTC conducts its own data entry and has developed and built data management and analytic capacity within the Center. The team at MRTC has extensive experience in the conduct of in vivo antimalarial drug efficacy studies, supporting laboratory investigations (molecular marker identification, measurement of antimalarial drug levels, identification of P. falciparum phenotype, and in vitro efficacy studies), and the conduct of malaria during pregnancy research. MRTC scientists and collaborators have numerous published scientific papers indicating the scientific soundness of research conducted by the Center.

The combination of access and an institutional linkage to the Ministry of Health, experience conducting antimalarial drug resistance work in Mali, equipment for the conduct of polymerase chain reaction (PCR), laboratory expertise in P. falciparum antimalarial drug resistance marker identification, international stature in research on malaria during pregnancy, experience in conducting trials regarding malaria during pregnancy in Mali, the expertise to read placental malaria blood slides, an infrastructure capable of data management and analysis, and a reputation for conducting sound scientific work makes MRTC the only organization with these attributes and the only vendor who can perform the necessary work.

C. Funding

Approximately $100,000 is available in FY 2005 to fund this award. It is expected that the award will begin on or before June 1, 2005 and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For technical questions about this program, contact: Dr. Trudy Messmer, Scientific Review Administer, 1600 Clifton Road, MS C–19, Atlanta, GA 30333, Telephone: (404) 639–3770, E-mail: *TMessmer@cdc.gov.*

Dated: March 25, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–6344 Filed 3–30–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Mining Occupational Safety and Health Research, Request for Application OH–05–005

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Mining Occupational Safety and Health Research, Request for Application OH–05–005.

Times and Dates: 6 p.m.–8 p.m., April 19, 2005 (Closed). 8 a.m.–5 p.m., April 20, 2005 (Closed). 8 a.m.–5 p.m., April 21, 2005 (Closed).

Place: Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, VA 22314, telephone (703) 684–5900.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Mining Occupational Safety and Health Research, Request for Application OH–05–005.

Contact Person For More Information: George Bockosh, MS, Scientific Review Administrator, National Institute for Occupational Safety and Health, CDC, National Personal Protective Technology Laboratory, 626 Cochrans Mill Road, Pittsburgh, PA 15236, Telephone (412) 386–6465.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: March 25, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–6345 Filed 3–30–05; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cardiovascular and Renal Drugs Advisory Committee; Cancellation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is canceling the meeting of the Cardiovascular and Renal Drugs Advisory Committee scheduled for April 5, 2005. This meeting was announced in the **Federal Register** of March 9, 2005 (70 FR 11678).

FOR FURTHER INFORMATION CONTACT: Cathy A. Groupe, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, e-mail: *Groupc@cder.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area) code 3014512533.

Dated: March 24, 2005.

Sheila Dearybury Walcoff,

Associate Commissioner for External Relations.

[FR Doc. 05–6331 Filed 3–25–05; 3:50 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Science Board to the Food and Drug Administration; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Science Board to the Food and Drug Administration.

General Function of the Committee: The Board shall provide advice primarily to the agency's Senior Science Advisor and, as needed, to the Commissioner and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in industry and academia. Additionally, the Board will provide advice to the agency on keeping pace with technical and scientific evolutions in the fields of regulatory science, on formulating an appropriate research agenda, and on upgrading its scientific and research facilities to keep pace with these changes. It will also provide the means for critical review of agency-sponsored intramural and extramural scientific research programs

Date and Time: The meeting will be held on April 15, 2005, 8:30 a.m. to 5 p.m.

Location: Food and Drug Administration, 5630 Fishers Lane, rm. 1066, Rockville, MD 20857.

Contact Person: Jan Johannessen, Office of the Commissioner (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6687, e-mail: *jjohannessen@fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512603. Please call the Information Line for up-to-date information on this meeting.

Agenda: The Board will hear about and discuss the following topics: (1) The agency's pre- and postmarketing safety programs for drugs and biologics and (2) Good Manufacturing Practices for vaccines, blood, and cell, tissue, and gene products.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 8, 2005. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 8, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jan Johannessen at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 24, 2005.

Sheila Dearybury Walcoff,

Associate Commissioner for External Relations.

[FR Doc. 05–6333 Filed 3–25–05; 3:51 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Summaries of Medical and Clinical Pharmacology Reviews of Pediatric Studies; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of summaries of medical and clinical pharmacology reviews of pediatric studies submitted in supplements for AGRYLIN (anagrelide), CLOLAR (clofarabine), and DIFLUCAN (fluconazole). These summaries are being made available consistent with the Best Pharmaceuticals for Children Act (BPCA). For all pediatric supplements submitted under the BPCA, the BPCA requires FDA to make available to the public a summary of the medical and clinical pharmacology reviews of the pediatric studies conducted for the supplement.

ADDRESSES: Submit written requests for single copies of the summaries to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Please specify by product name which summary or summaries you are requesting. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries.

FOR FURTHER INFORMATION CONTACT: Grace Carmouze, Center for Drug Evaluation and Research (HFD–960), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–7337, e-mail: *carmouzeg@cder.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of summaries of medical and clinical pharmacology reviews of pediatric studies conducted for AGRYLIN (anagrelide), CLOLAR (clofarabine), and DIFLUCAN (fluconazole). The summaries are being made available

consistent with section 9 of the BPCA (Public Law 107–109). Enacted on January 4, 2002, the BPCA reauthorizes, with certain important changes, the pediatric exclusivity program described in section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a). Section 505A permits certain applications to obtain 6 months of marketing exclusivity if, in accordance with the requirements of the statute, the sponsor submits requested information relating to the use of the drug in the pediatric population.

One of the provisions the BPCA added to the pediatric exclusivity program pertains to the dissemination of pediatric information. Specifically, for all pediatric supplements submitted under the BPCA, the BPCA requires FDA to make available to the public a summary of the medical and clinical pharmacology reviews of pediatric studies conducted for the supplement (21 U.S.C. 355a(m)(1)). The summaries are to be made available not later than 180 days after the report on the pediatric study is submitted to FDA (21 U.S.C. 355a(m)(1)). Consistent with this provision of the BPCA, FDA has posted on the Internet (*http://www.fda.gov/cder/pediatric/index.htm*) summaries of medical and clinical pharmacology reviews of pediatric studies submitted in supplements for AGRYLIN (anagrelide), CLOLAR (clofarabine), and DIFLUCAN (fluconazole). Copies are also available by mail (see **ADDRESSES**).

II. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cder/pediatric/index.htm*.

Dated: March 22, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–6332 Filed 3–30–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0317] (formerly Docket No. 03D–0317)

Guidance for Review Staff and Industry on Good Review Management Principles and Practices for Prescription Drug User Fee Act Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for review staff and industry entitled ''Good Review Management Principles and Practices for PDUFA Products.'' This is one in a series of guidance documents that FDA agreed to draft and implement in conjunction with the June 2002 reauthorization of the Prescription Drug User Fee Act of 1992 (PDUFA).

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communications, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Food and Drug Administration, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. The guidance may also be obtained from CBER by mail by calling 1–800–835–4709, or 301–827–1800. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: John Jenkins, Center for Drug Evaluation and Research (HFD–020), Food and Drug Administration, suite 7215, 5515 Security Lane, Rockville, MD 20852, 301–594–3937; or Robert A. Yetter, Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, 1451 Rockville Pike, Rockville, MD 20852, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for review staff and industry entitled ''Good Review Management Principles and Practices for PDUFA Products.'' In conjunction with the June 2002 reauthorization of PDUFA, FDA agreed to meet specific performance goals (PDUFA Goals). The PDUFA Goals include providing guidance to industry and review staff in CDER and CBER on the good review management principles and practices (GRMPs) for the conduct of the first cycle review of a new drug application (NDA), a biologics license application (BLA), or an efficacy supplement under PDUFA.

The GRMPs in this guidance are based on the collective experience of CDER and CBER with review of applications for PDUFA products and are intended to promote efficient and consistent management of application reviews. The GRMPs also clarify roles and responsibilities of review staff in managing the review process and identify ways in which NDA and BLA applicants may further the effectiveness and efficiency of the review process.

In the **Federal Register** of July 28, 2003 (68 FR 44345), FDA published a notice announcing the availability of a draft version of this guidance. FDA received a number of comments when it issued the draft version of this guidance. We have considered the comments on the draft guidance carefully and have made some changes to address those comments. The guidance has been revised to clarify the principles on which our current and developing practices are based. We have also added general internal timelines for important milestones associated with the review process.

The GRMPs also include the agency's current best practices, as well as goals for review management improvements. The GRMPs are an important foundational component of FDA's program to more fully implement a quality systems approach for the new drug and biologics review and approval process.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on GRMPs for PDUFA products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the guidance at any time. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cder/guidance/index.htm*, *http://www.fda.gov/cber/guidelines.htm*, or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: March 25, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–6404 Filed 3–30–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Proposed Project: Health Education Assistance Loan (HEAL) Program: Lender's Application for Insurance Claim Form and Request for Collection Assistance Form (OMB No. 0915–0036)—Extension

The HEAL program assures the availability of funds for loans to eligible students who desire to borrow money to pay for their educational costs. HEAL Lenders use the Lenders Application for Insurance Claim to request payment from the Federal Government for federally insured loans lost due to borrowers death, disability, bankruptcy, or default. The Request for Collection Assistance form is used by HEAL lenders to request federal assistance with the collection of delinquent payments from HEAL borrowers.

The burden estimates are as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response (minutes)	Total burden hours
Lender's Application for Insurance Claim	20	75	1,500	30	750
Request for Collection Assistance	20	1,260	25,200	10	4,208
Total	20				4,958

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 25, 2005.

Tina Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 05–6354 Filed 3–30–05; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

[DHS–2005–0025]

Directorate of Information Analysis and Infrastructure Protection (IAIP); Open Meeting of National Infrastructure Advisory Council (NIAC)

AGENCY: Directorate of Information Analysis and Infrastructure Protection.

ACTION: Notice of meeting.

SUMMARY: The National Infrastructure Advisory Council (NIAC) will meet on Tuesday, April 12, 2005, from 1:30 p.m. to 4:30 p.m. at the National Press Club in Washington, DC. The meeting will be open to the public. Limited seating will be available. Reservations are not accepted. The NIAC advises the President of the United States on the security of critical infrastructures which include banking and finance, transportation, energy, manufacturing, and emergency government services. At this meeting, the NIAC will be briefed on the status of several Working Group activities in which the Council is currently engaged.

DATES: The NIAC will meet Tuesday, April 12, 2005, from 1:30 p.m. to 4:30 p.m.

ADDRESSES: The NIAC will meet at the National Press Club, 529 14th Street, NW., Washington, DC. You may submit comments, identified by DHS Docket DHS–2005–0025 by one of the following methods:

- *EPA Federal Partner EDOCKET Web site: http://www.epa.gov/feddocket.* Follow the instructions for submitting comments on the Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Department of Homeland Security, Attn: Ms. Nancy J. Wong, Infrastructure Coordination Division, Directorate of Information Analysis and Infrastructure Protection/703–235–5352, Anacostia Naval Annex, 245 Murray Lane, SW., Building 410, Washington, DC 20582, 7:30 a.m. to 4 p.m.

Instructions: All submissions received must include the DFHS–2005–0025. All comments received will be posted without change to *http://www.epa.gov/feddocket*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Nancy J. Wong, NIAC Designated Federal Official, telephone 703–235–5352.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Draft Agenda of Committee Meeting on April 12, 2005:

I. Opening of Meeting
  Nancy J. Wong, U.S. Department of Homeland Security (DHS)/ Designated Federal Official, NIAC
II. Roll Call of Members
  Nancy J. Wong
III. Opening Remarks and Introductions
  NIAC Chairman, Erle A. Nye, Chairman of the Board, TXU Corp.
  NIAC Vice Chairman, John T.

Chambers, Chairman and CEO, Cisco Systems, Inc.
The Honorable Michael Chertoff, Secretary,
Department of Homeland Security (Invited)
General Matthew Broderick, Acting Under Secretary for Information analysis and Infrastructure Protection (IAIP), DHS (Invited)
Tom Dinanno, Acting Assistant Secretary for Infrastructure Protection, DHS (Invited)
Frances Fragos Townsend, Homeland Security Advisor (Invited)
Cheryl Peace, Director, Cyberspace Security, Homeland Security Council (Invited)
IV. Approval of January Minutes
NIAC Chairman Erle A. Nye
V. Status Reports on Current Working Group Initiatives
NIAC Chairman Erle A. Nye Presiding
A. Report on Common Vulnerability Scoring System (CVSS) Placement Status
NIAC Vice Chairman John T. Chambers, Chairman & CEO, Cisco Systems, Inc. and John W. Thompson, Chairman & CEO, Symantec Corporation, NIAC Member
B. Intelligence Coordination
NIAC Vice Chairman John T. Chambers, Chairman & CEO, Cisco Systems, Inc. and Chief Gilbert Gallegos, Police Chief, City of Albuquerque, New Mexico, NIAC Member
C. Risk Management Approaches To Protection
Thomas E. Noonan, Chairman, President & CEO, Internet Security Systems, Inc. NIAC Member;
Martha Marsh, President & CEO, Stanford Hospital and Clinics, NIAC Member
D. Education and Workforce Preparation
Alfred R. Berkeley III, e-Xchange Advantage Corp., NIAC Member
Dr. Linwood Rose, President, James Madison University, NIAC Member
VI. New Business
NIAC Chairman Erle A. Nye, NIAC Members
A. Implementation of the Sector Partnership Model
T.B.D—Working Group chairs to be determined
B. DHS Status Report/Presentation (TBD)
T.B.D.
VII. Adjournment
NIAC Chairman Erle A. Nye

Procedural

These meetings are open to the public. Please note that the meetings may close early if all business is finished.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, telephone the Designated Federal Official as soon as possible.

Dated: March 18, 2005.

Nancy J. Wong,

Designated Federal Official for NIAC.

[FR Doc. 05–6511 Filed 3–29–05; 2:45 pm]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD05–05–016]

Notice of Waterways Analysis and Management Systems Studies, Upper Chesapeake Bay, Including the Chesapeake and Delaware Canal

AGENCY: Coast Guard, DHS.

ACTION: Notice of studies with request for comments.

SUMMARY: The Coast Guard announces that Waterways Analysis and Management System (WAMS) studies are being planned for the Upper Chesapeake Bay, including the Chesapeake and Delaware Canal. The Coast Guard solicits comments on the specific waterways presented in this document so we can complete our WAMS studies. The goals of the studies are to analyze the waterway and aids to navigation, and then develop a plan to address any proposed changes and concerns.

DATES: Comments and related material must reach U.S. Coast Guard Sector Baltimore on or before May 31, 2005.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket [CGD05–05–016], please submit them by only one of the following means:

(1) On-line Survey link is available at web site: *http://www.uscg.mil/d5/sector/sectbalt/index.htm*.

(2) Mail: Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1791, Attn: WAMS Project.

(3) Fax: 410–576–2553.

(4) Hand delivery: Room 208 of Building 70 on the Coast Guard Yard Curtis Bay, 2401 Hawkins Point Road, Baltimore, MD, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is 410–576–2674.

(5) Electronic mail: *rlhouck@actbalt.uscg.mil*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, or if you have questions on viewing or submitting material to the docket, call Mr. Ronald Houck, Coast Guard Sector Baltimore, Waterways Management Division, at telephone 410–576–2674.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this study by submitting comments and related material. If you do so, please include your name and address, identify the docket number [CGD05–05–016] for this notice, indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and related material by mail, hand delivery, fax, or electronic means to the WAMS Project at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the WAMS Project, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and related material received during the comment period.

Background and Purpose

In order to facilitate safe navigation and to prevent disasters, collisions, and wrecks of vessels, the Coast Guard may establish, maintain, and operate aids to navigation required to serve the needs of the Armed Forces or of the commerce of the United States (14 U.S.C. 81). It is through its Waterways Analysis and Management System (WAMS) process, that the Coast Guard manages aids to navigation in navigable waters of the U.S. WAMS studies, therefore, are intended to ensure that existing aids to navigation systems support safe marine navigation and the effective and efficient flow of waterborne commerce. A key aspect of a WAMS study is the consideration of the needs and input of waterway users (such as commercial interests, pilots, port authorities, military commands and other Federal agencies, State and local agencies, recreational boating organizations, and other interested groups) and non-user sources (such as waterfront facilities, homeowners or community associations, and political groups). Such valued input to these important studies is highly encouraged and should reflect

conditions experienced by waterway users during daytime, nighttime and reduced visibility, in addition to any navigational hazards experienced by vessel operators.

The following specific waterways will be analyzed, as follows:

(1) Brewerton Channel, Fort McHenry Channel, Canton Elevator and Coal Channel, Hawkins Point Channel, Coal Pier Channel, Locust Point East and West Channels, Craighill Channel, Marine Pier Channel, Curtis Bay Channel, Northwest Harbor, Curtis Creek, Pennwood Channel, Dundalk East and West Channels, Port Covington Basin, Elevator Channel, Seagirt East and West Channels, Ferry Bar Channel, and Sparrows Point Steel Works Channel.

(2) Chesapeake Channel (middle Chesapeake Bay).

(3) Potomac River, Upper Potomac River, Anacostia River, Hains Point (Washington) Channel and Alexandria Channel.

(4) Choptank River to Cambridge, Cambridge Channel, Nanticoke River, Wicomico River, Pocomoke River, Pocomoke Sound and Tangier Sound.

(5) Brewerton Channel East Extension, Upper Chesapeake Channel, Upper Chesapeake Bay, Elk River, Back Creek and the Chesapeake & Delaware Canal.

As part of these studies, we will consider previous WAMS studies. It is possible that the studies may validate continued applicability of existing aids to navigation and conclude that no changes are necessary. It is also possible that the studies may recommend changes to enhance marine navigational safety, effectiveness and efficiency.

Dated: March 22, 2005.

Curtis A. Springer,

Captain, U.S. Coast Guard, Commander, U.S. Coast Guard Sector Baltimore, Baltimore, Maryland.

[FR Doc. 05–6391 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Announcement of Change to Merchandise Eligibility Requirements for Participation in Remote Location Filing Prototype Two

AGENCY: Customs and Border Protection, Homeland Security.

ACTION: General notice.

SUMMARY: This notice announces a change to the merchandise eligibility requirements for participation in Remote Location Filing (RLF) Prototype Two. RLF will now be permitted for cargo that will be moved using immediate transportation (IT) and transportation and export (T & E) in-bond procedures. CBP has determined that the security risks previously associated with in-bond transactions have been greatly reduced due to the significant security and cargo-processing gains accomplished by the advance cargo information regulations set forth in CBP Dec. 03–32, published in the **Federal Register** (68 FR 68140) on December 5, 2003. CBP also realizes that as in-bond transactions are a mainstay of international transactions, permitting RLF in an in-bond context will enhance the Prototype's usefulness to the trade while simultaneously furthering CBP's modernization objectives.

DATES: The change to Remote Location Filing (RLF) Prototype Two will go into effect March 31, 2005.

ADDRESSES: Written comments and applications to participate in the Prototype should be addressed to the Remote Filing Team, Office of Field Operations, Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 5.2–B, Washington, DC 20229. Comments may also be submitted to Sherri Braxton via e-mail at *remote.filing@dhs.gov*.

FOR FURTHER INFORMATION CONTACT: For systems or automation issues: Steve Linnemann (202) 344–1975 or Jennifer Engelbach (562) 366–5593. For operational or policy issues: Sherri Braxton via e-mail at *remote.filing@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

RLF Authorized by the National Customs Automation Program (NCAP)

Title VI of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subpart B of Title VI of the Act concerns the National Customs Automation Program (NCAP), an electronic system for the processing of commercial imports. Within subpart B, section 631 of the Act added section 414 (19 U.S.C. 1414), which provides for Remote Location Filing (RLF), to the Tariff Act of 1930, as amended. RLF permits an eligible NCAP participant to elect to file electronically a formal or informal consumption entry with Customs and Border Protection (CBP) from a remote location within the customs territory of the United States other than the port of arrival, or from within the port of arrival with a requested designated examination site outside the port of arrival.

RLF Prototype Two

In accordance with § 101.9(b) of the CBP Regulations (19 CFR 101.9(b)), CBP has developed and tested two RLF prototypes. A chronological listing of **Federal Register** publications detailing developments in the RLF prototypes follows:

- On April 6, 1995, CBP announced in the **Federal Register** (60 FR 17605) its plan to conduct the first of at least two RLF test prototypes. The first RLF test, designated Prototype One, began on June 19, 1995.
- On February 27, 1996, CBP announced in the **Federal Register** (61 FR 7300) the expansion of Prototype One and its extension until the implementation of RLF Prototype Two.
- RLF Prototype Two commenced on January 1, 1997. See document published in the **Federal Register** (61 FR 60749) on November 29, 1996.
- CBP announced in the **Federal Register** (62 FR 64043), on December 3, 1997, the extension of RLF Prototype Two until December 31, 1998.
- On December 7, 1998, CBP announced in the **Federal Register** (63 FR 67511) that Prototype Two would remain in effect until concluded by notice in the **Federal Register**.
- On July 6, 2001, CBP announced in the **Federal Register** (66 FR 35693) changes to the RLF Prototype Two eligibility requirements.
- On November 16, 2001, CBP announced in the **Federal Register** (66 FR 57774) a deadline extension for customs brokers participating in RLF to submit their national broker permit numbers to CBP.
- On February 25, 2003, CBP announced in the **Federal Register** (68 FR 8812) that line release entries would no longer be permitted for purposes of RLF Prototype Two, and set forth a comprehensive and updated list of current RLF eligibility requirements and a description of a new simplified application process.

Change to RLF Prototype Two Merchandise Eligibility Criteria

This notice announces a change to the merchandise eligibility requirements for participation in RLF Prototype Two, whereby RLF will now be permitted for cargo that will be moved using immediate transportation (IT) or transportation and export (T & E) in-bond procedures. This was not allowed under the original terms of RLF Prototype Two because CBP was

concerned with the general lack of security associated with in-bond transactions.

Upon further review, CBP has determined that permitting RLF for cargo that has already been moved using immediate transportation in-bond procedures, or any other transportation entry in-bond, is acceptable as the risks previously associated with in-bond transactions have been greatly reduced due to the significant security and cargo-processing gains accomplished by the advance cargo information regulations set forth in CBP Dec. 03–32, published in the **Federal Register** (68 FR 68140) on December 5, 2003. CBP also realizes that in-bond transactions are a mainstay of international transactions. For this reason, CBP views permitting RLF in an in-bond context as a means of broadening the scope of RLF and thereby enhancing the program's usefulness to the trade while simultaneously furthering the Bureau's modernization objectives.

It is noted that with the exception of the change to the RLF Prototype Two merchandise eligibility criteria involving in-bond transportation procedures, discussed above, all other Prototype eligibility requirements, procedures, terms and conditions, as set forth in the document published on February 25, 2003, in the **Federal Register** (68 FR 8812), remain in effect.

Dated: March 25, 2005.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 05–6397 Filed 3–30–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

[CBP Dec. 05–11]

Interpretive Rule Concerning Classification of Baseball-Style Caps With Ornamental Braid

AGENCY: Customs and Border Protection, Homeland Security.

ACTION: Final interpretive rule.

SUMMARY: This document concerns the proper classification under the Harmonized Tariff Schedule of the United States (HTSUS) of baseball-style caps featuring ornamental braid located between peak and crown. In an effort to achieve uniformity in the classification of this commodity, Customs and Border Protection (CBP) has adopted as final a proposed interpretive rule whereby ornamental braid on a baseball-style cap, located between peak and crown in a width of ⅛ of an inch or greater, will render the cap classifiable in the HTSUS as ''wholly or in part of braid.'' Conversely, such braid in a width of less than ⅛ of an inch will result in a cap being classifiable in the HTSUS as ''not in part of braid.''

DATES: *Effective Date:* May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Theresa Frazier, Textiles Branch, Office of Regulations and Rulings, Customs and Border Protection, Tel. (202) 572–8821.

SUPPLEMENTARY INFORMATION:

Background

This document concerns the proper classification under the Harmonized Tariff Schedule of the United States (HTSUS) of baseball-style caps featuring ornamental braid located between peak and crown. The specific issue presented is how wide ornamental braid on a baseball-style cap must be in order to render the cap classifiable in the HTSUS as either ''wholly or in part of braid'' or ''not in part of braid.''

Baseball-style caps are classifiable in heading 6505 of the HTSUS which provides for, in pertinent part, ''hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; * * *.'' Within heading 6505, HTSUS, two subheadings differentiate between hats and other headgear that are ''wholly or in part of braid'' and those that are ''not in part of braid.'' *See* HTSUS subheadings 6505.90.50 and 6505.90.70 which provide for, in pertinent part, hats and other headgear ''wholly or in part of braid,'' and HTSUS subheadings 6505.90.60 and 6505.90.80 which provide for hats and other headgear which are ''not in part of braid.'' It is noted that hats and other headgear that are classifiable as ''not in part of braid'' carry a higher rate of duty than those that are classifiable as ''wholly or in part of braid.''

In cases where baseball-style caps feature ornamental braid located between the peak and crown, the determinative issue is whether the braid impacts classification at the subheading level so as to render the cap classifiable as either ''in part of braid'' or ''not in part of braid.'' The 2004 HTSUS defines the term ''in part of'' in General Note 3(h)(v)(B), HTSUS, which states that ''in part of'' or ''containing'' means that the goods contain a significant quantity of the named material and that ''with regard to the application of the quantitative concepts specified above, it is intended that the *de minimis* rule apply.''

The *de minimis* rule is applicable in customs practice principally in determining whether the presence of some ingredient in an imported commodity affects its classification. *See* Ruth F. Sturm, *A Manual of Customs Law* 182 (1974). The rule stands for the proposition that:

> Certain amounts of an ingredient, although substantial, may be ignored for classification purposes, depending upon many different circumstances, including the purpose which Congress sought to bring about by the language used and whether or not the amount used has really changed or affected the nature of the article, and of course, its salability.

Varsity Watch Company v. *United States,* 43 Cust. Ct. 1, C.D. 2094 (1959), *appeal dismissed,* 47 CCPA 173 (1959).

On August 27, 2004, a document was published in the **Federal Register** (69 FR 52726) in which Customs and Border Protection (CBP) solicited public comment as to the appropriateness of a proposed interpretive rule whereby ornamental braid on a baseball-style cap, located between peak and crown in a width of ⅛ of an inch or greater, will render the cap classifiable as ''wholly or in part of braid.'' Conversely, CBP proposed that such braid in a width of less than ⅛ of an inch would result in a cap being classifiable as ''not in part of braid.'' The proposed standard was based on several previously issued Headquarters Rulings Letters which had adopted the ⅛ of an inch standard for purposes of applying the *de minimis* rule to this type of commodity. The proposed interpretive rule set forth in 69 FR 52726 was offered as a means of ensuring the uniform application of the *de minimis* rule and providing consistency in the classification of baseball-style caps with braid trim.

Discussion of Comment

No comments were received in response to the solicitation of public comment in 69 FR 52726.

Conclusion

Upon due consideration, CBP has decided to adopt as final the proposed interpretive rule published in the **Federal Register** (69 FR 52726) on August 27, 2004.

Drafting Information

The principal author of this document was Ms. Suzanne Kingsbury, Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection. However, personnel

from other offices participated in its development.

Dated: March 28, 2005.

Robert C. Bonner,

Commissioner, Bureau of Customs and Border Protection.

[FR Doc. 05–6398 Filed 3–30–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Tuna—Tariff-Rate Quota

The tariff-rate quota for Calendar Year 2005, on tuna classifiable under subheading 1604.14.22, Harmonized Tariff Schedule of the United States (HTSUS).

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Announcement of the quota quantity of tuna in airtight containers for Calendar Year 2005.

SUMMARY: Each year the tariff-rate quota for tuna described in subheading 1604.14.22, HTSUS, is based on the apparent United States consumption of tuna in airtight containers during the preceding Calendar Year. This document sets forth the tariff-rate quota for Calendar Year 2005.

DATES: *Effective Dates:* The 2005 tariff-rate quota is applicable to tuna entered or withdrawn from warehouse for consumption during the period January 1, through December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Connie Chancey, Chief, Quota Branch, Textile Enforcement and Operations Division, Trade Compliance and Facilitation, Office of Field Operations, U.S. Customs and Border Protection, Washington, DC 20229, (202) 344–2650.

BACKGROUND: It has now been determined that 19,034,563 kilograms of tuna in air-tight containers may be entered for consumption or withdrawn from warehouse for consumption during the Calendar Year 2005, at the rate of 6 percent ad valorem under subheading 1604.14.22, HTSUS. Any such tuna which is entered or withdrawn from warehouse for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 percent ad valorem under subheading 1604.14.30 HTSUS.

Dated: March 25, 2005.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 05–6396 Filed 3–30–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Renewal Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; OMB Control Number 1018–0103, Conservation Order for Control of Mid-Continent Light Geese, 50 CFR 21.60

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The number of mid-continent light geese (MCLG) has increased exponentially over the past several decades in prairie Canada and the midwestern United States, primarily due to (1) the expansion of agriculture and concurrent increase in food supply, (2) a decline in adult mortality, and (3) an increase in winter survival. These rapidly expanding populations have placed unprecedented pressure on arctic and subarctic breeding habitats. Prior to implementation of the conservation order, we (Fish and Wildlife Service) attempted to curb the growth rate of MCLG populations by liberalizing bag limits and increasing the light goose hunting season to 107 days, the maximum allowed by the Migratory Bird Treaty Act, as amended. Although these changes resulted in increased harvest, the harvest rate (percent of population harvested) continued to decline as populations grew exponentially. Clearly, traditional wildlife management strategies were not working. Therefore, we created the conservation order, which authorizes States and tribes to implement population control measures without having to obtain a permit, thus significantly reducing their administrative burden. The States and tribes may conduct a population reduction program under the authority of the conservation order within the conditions provided by the Service. We have submitted the collection of information pertaining to the conservation order (described below) to OMB for approval under the provisions of the Paperwork Reduction Act of 1995.

DATES: You must submit comments on or before May 2, 2005.

ADDRESSES: Send your comments and suggestions on this information collection renewal to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–6566 (fax) or *OIRA_DOCKET@OMB.eop.gov* (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); (703) 358–2269 (fax); or *hope_grey@fws.gov* (e-mail).

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request or explanatory information, contact Hope Grey at the above addresses or by phone at (703) 358–2482.

SUPPLEMENTARY INFORMATION: We have submitted a request to OMB to renew approval of information collection requirements for the Conservation Order for Control of Mid-Continent Light Geese. Currently, we have approval from OMB to collect information under OMB control number 1018–0103. This approval expires on March 31, 2005. We may not conduct or sponsor and a person is not required to respond to a collection of information unless we display a currently valid OMB control number. OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). Following our submittal, OMB has up to 60 days to approve or disapprove our information collection request; however, OMB may make its decision as early as 30 days after our submittal. Therefore, to ensure that your comments receive consideration, send your comments and suggestions to OMB by the date listed in the DATES section.

On November 15, 2004, we published in the **Federal Register** (69 FR 65627) a 60-day notice of our intent to request renewal of information collection authority from OMB. In that notice, we solicited public comments for 60 days, ending on January 14, 2005. We did not receive any comments.

Lesser snow and Ross' geese are referred to as ''light'' geese because of their light coloration as opposed to ''dark'' geese such as white-fronted or Canada Geese. The number of light geese in the mid-continent region has nearly quadrupled during the past several decades. Feeding activity of light geese seriously injures their habitat and habitat important to other migratory birds, which poses a serious threat to

the short- and long-term health and status of some migratory bird populations. We believe that the number of light geese in the mid-continent region has exceeded long-term sustainable levels for their arctic and subarctic breeding habitats and the populations must be reduced. Authority for managing overabundant mid-continent light geese is contained in 50 CFR 21.

For management purposes, light geese found in the mid-continent region are separated into two different populations. Lesser snow and Ross' geese that primarily migrate through North Dakota, South Dakota, Nebraska, Kansas, Iowa, and Missouri, and winter in Arkansas, Louisiana, Mississippi, and eastern, central, and southern Texas and other Gulf States are referred to as the mid-continent population of light geese. Lesser snow and Ross' geese that primarily migrate through Montana, Wyoming, and Colorado and winter in New Mexico, northwestern Texas, and Chihuahua, Mexico are referred to as the western central flyway population of light geese.

States and tribes that participate in the light geese conservation order must inform and brief all participants on the requirements in 50 CFR 21.60 and conservation order conditions that apply to implementation of light geese control measures. Participating States/tribes must collect information on the number of birds taken during control efforts, the methods by which they are taken, and the dates on which they are taken. We use this information to administer the conservation order and, particularly, to monitor the effectiveness of control strategies and to protect migratory birds. Each participating State must submit an annual report by August 30 of each year summarizing the activities it conducted. We contacted some participating States to estimate burden hours for this information collection.

Title of Collection: Conservation Order for Control of Mid-Continent Light Geese, 50 CFR 21.60.

OMB Control Number: 1018–0103.

Form Number: None.

Frequency of Collection: Annually.

Description of Respondents: States and tribes participating in the conservation order.

Total Annual Burden Hours: 1,776.

Total Annual Responses: 24.

We invite comments concerning this submission on (1) whether or not the collection of information is necessary for the proper performance of our migratory bird management functions, including whether or not the information will have practical utility; (2) the accuracy of our estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents. The information collections in this program are part of a system of records covered by the Privacy Act (5 U.S.C. 552 (a)).

Dated: March 2, 2005.

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. 05–6380 Filed 3–30–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Office of Federal Acknowledgment; Reports and Guidance Documents; Availability, etc.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Department gives notice that the Associate Deputy Secretary of the Interior is revising and clarifying certain internal procedures for managing and processing petitions for Federal acknowledgment as an Indian tribe. These revisions do not change the acknowledgment regulations, 25 CFR part 83.

DATES: *Effective Date:* The procedures defined by this notice are effective on March 31, 2005.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment, MS: 34B–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240, phone (202) 513–7650.

SUPPLEMENTARY INFORMATION:

Introduction

The Department publishes this notice in the exercise of authority under 43 U.S.C. 1457, 25 U.S.C. 2 and 9, 5 U.S.C. 552(a), 5 U.S.C. 301, and under the exercise of authority which the Secretary of the Interior delegated to the Assistant Secretary—Indian Affairs (Assistant Secretary) by 209 Department Manual 8.

This notice supersedes the notice published in the **Federal Register** (65 FR 7052) on February 11, 2000, entitled ''Changes in the Internal Processing of Federal Acknowledgment Petitions.''

By Secretary's Order No. 3259, dated February 8, 2005, the Secretary delegated to the Associate Deputy Secretary most of the duties formerly delegated to the Assistant Secretary. (This delegation will expire upon confirmation of a new Assistant Secretary or designation of an Acting Assistant Secretary.) Among the delegated authorities is the authority to, ''execute all documents, including regulations and other **Federal Register** notices, and perform all other duties relating to Federal recognition of Native American Tribes.''

The acknowledgment process is based on the regulations in 25 CFR Part 83, first issued in 1978 and revised in 1994. The acknowledgment function, formerly under the Branch of Acknowledgment and Research in the Bureau of Indian Affairs (BIA), was relocated to the Office of Federal Acknowledgment in the Office of the Assistant Secretary—Indian Affairs effective July 27, 2003.

The General Accounting Office (now the Government Accountability Office) published on November 2001 a report entitled ''Improvements Needed in Tribal Recognition Process.'' In response to this report, the Department adopted a Strategic Plan, dated September 12, 2002, to identify ways to improve the timeliness and transparency of the acknowledgment process. That plan called for consideration of possible changes in the processing of acknowledgment petitions. This notice presents some of the results of that planning process.

As part of its plan, the Department also provided for a review of a notice of ''Changes in the Internal Processing of Federal Acknowledgment Petitions'' published by the Assistant Secretary in the **Federal Register** (65 FR 7052) on February 11, 2000. In that notice, the Assistant Secretary changed certain internal procedures and clarified other procedures, within the parameters of the regulations. That notice directed BIA to adopt certain procedural changes in order to reduce delays in reviewing petitions for acknowledgment and to make acknowledgment decisions in a more timely manner. This notice supersedes the notice of February 11, 2000.

The procedures described in this notice are based on five years of experience under the notice of February 11, 2000, and on the procedures that have been found most effective in producing the clearest decisions in an efficient manner, while giving petitioners and third parties appropriate opportunities to provide information and comment. These procedures are in accord with the commitment to the principle, stated by the Secretary in her April 1, 2004, memorandum to the Assistant Secretary, that acknowledgment decisions be based on documentation ''carefully reviewed in

accordance with regulatory standards and then made available to the public in a transparent and timely manner.'' The Secretary stressed the importance of ''thorough and deliberate evaluations'' because acknowledgment decisions ''must be equitable and defensible.''

The internal procedures stated in this notice do not change the acknowledgment regulations. Rather, they provide a better means of implementing the existing regulations and managing the agency's workload within the parameters of the regulations and available resources. These procedures apply to the Office of Federal Acknowledgment.

This **Federal Register** notice is to advise petitioners, interested parties, and the public of the internal procedural changes adopted by the Department as part of its response to the GAO report. It also provides them with certain information and guidance to promote transparency in the acknowledgment process and timeliness in the processing of acknowledgment petitions. Petitioners and interested parties will be provided a copy of this notice by first class mail.

Regulatory Procedures

Under the regulations, the petitioner has the burden to present evidence that it meets the mandatory criteria. Section 83.6(c) of the acknowledgment regulations provides that ''the documented petition must include thorough explanations and supporting documentation in response to all of the criteria.'' Section 83.6(d) provides that a petition can and will be turned down for lack of evidence.

The regulations, in § 83.5(c), describe the duties of the Department, in part, by stating that: ''The Department shall not be responsible for the actual research on the part of the petitioner.'' Section 83.10(a) of the regulations provides that the Assistant Secretary ''may * * * initiate other research for any purpose relative to analyzing the documented petition and obtaining additional information about the petitioner's status.'' This language makes additional research on the part of the Assistant Secretary discretionary and does not mandate that any additional research be carried out.

The notice of February 11, 2000, limited research by the acknowledgment staff to that needed to verify and evaluate the ''materials presented by the petitioner and submitted by third parties.'' This notice removes that specific limitation, while reaffirming the importance of timely reviews of the evidence by the acknowledgment staff. Consistent with that limitation, acknowledgment staff members have performed research—including archival, library, and field research—and analysis as necessary to verify and evaluate the arguments and evidence presented by the petitioner or third parties. Such expert research shall continue to be done. The acknowledgment staff may undertake some research or analysis beyond the arguments and evidence presented by the petitioner or third parties, at the discretion of the Department, only when consistent with producing a decision within the regulatory time period. This notice clarifies that the acknowledgment staff may acquire relevant and easily accessible documents not already in the record and may interview knowledgeable informants not already interviewed for the record. Research to obtain additional information that clarifies the issues in a case can speed the evaluation of a petition. Research to acquire relevant information not accessible to the parties or overlooked by the parties by using the professional expertise of the acknowledgment staff can aid the determination of whether the petitioner meets the regulatory criteria for acknowledgment and provide a clearer basis for the decision. Petitioners and third parties, however, have no expectation that the acknowledgment staff will perform additional research or analysis to correct omissions in their submitted documentation. The burden under the regulations remains on the petitioner to demonstrate that it meets the criteria.

The notice of February 11, 2000, provided that materials submitted after the start of active consideration would not be reviewed for the proposed finding, but would be reviewed for the final determination. This notice modifies that direction. In the future, when the Department notifies the petitioner and third parties that a petition will be placed on active consideration on a specific date, it also will notify them of a date by which additional material must be submitted to be considered for the proposed finding. The Department will provide a 60-day time period for such submissions. Unsolicited submissions after that date will be reviewed for the final determination and not for the proposed finding, with the following exception. Section 83.10(f)(2) of the regulations provides that the petitioner ''shall be notified of any substantive comment on its petition received prior to the beginning of active consideration or during the preparation of the proposed finding and shall be provided an opportunity to respond to such comments.'' A petitioner's response to substantive comments on its petition will be considered for the proposed finding if submitted within 60 days of its notification by the Department of the receipt of any substantive comments that will be considered for the proposed finding, or within 60 days of the date by which additional materials had to be submitted to be considered for the proposed finding, whichever is later, even if active consideration has begun. The petitioner and third parties retain the opportunity under the regulations to comment on each other's submissions during the public comment period that follows the proposed finding.

The notice of February 11, 2000, stated that the acknowledgment staff ''shall not request additional information from the petitioner and third parties during the preparation of the proposed finding.'' This notice modifies that limitation. Consistent with that limitation, acknowledgment researchers have requested and reviewed documents and analyses that were incomplete as submitted, available in a more usable form than that submitted, or referenced but not submitted. Acknowledgment staff may request additional information from the petitioner or third parties at any time prior to the proposed finding in order to clarify the arguments or evidence submitted by those parties, or to obtain information in the possession of the petitioner or third parties that was not submitted. The proposed finding, however, shall not be delayed to obtain this information.

The notice of February 11, 2000, directed that ''technical reports such as have been prepared in the past'' by the acknowledgment staff, which often consisted of multiple technical reports reflecting the approaches of different professional disciplines, should no longer be prepared to accompany the summary evaluation of the evidence under the criteria as part of the report required by § 83.10(h) of the regulations. Consistent with that limitation, new forms of charting, arranging, and describing the available evidence under each criterion have been used. This notice clarifies the notice of February 11, 2000, by providing that, in addition to a summary under the criteria, the Department may prepare a technical report, where appropriate, to memorialize the analysis of the evidence that is the basis of the summary evaluation in order to enhance the transparency of the decision. Such a report should not describe all of the evidence submitted, but should focus on the evidence most important to the decision-making process. It remains the

policy of the Department to provide a complete explanation of the basis for acknowledgment decisions.

The notice of February 11, 2000, provided that Departmental review of recommended decisions, including signature by the Assistant Secretary, ''is to take no more than six weeks from the time the draft recommendation leaves the Branch of Acknowledgment and Research office and enters the surname process.'' This notice clarifies the notice of February 11, 2000, by stating that, consistent with practice under that notice, the 6-week limitation does not apply to the processes of consultation and briefing by the Office of Federal Acknowledgment that should continue to occur with the Office of the Assistant Secretary—Indian Affairs and the Office of the Solicitor prior to the start of the Department's surname process. The timely processing of acknowledgment petitions will be improved more by such earlier consultation and briefing than by limiting the time period for Departmental review. In addition, the reorganization of the acknowledgment function into the Office of the Assistant Secretary—Indian Affairs has reduced the need for a specified time frame for the surname process and improved the timeliness of the processing of acknowledgment petitions by reducing the number of levels of Departmental review.

Certain statements about the Department's procedures contained in the notice of February 11, 2000, are clarified and reaffirmed here:

A proposed finding represents the agency's conclusions at the time that finding is made, based on the evidence in the record. One purpose of the comment period on the proposed finding is to give the petitioner and third parties an opportunity to present additional evidence in response to the findings on the petition. Submissions by the petitioner and third parties during the comment period, rather than research by the acknowledgment staff, are the most appropriate and efficient means to supplement the record of the petition.

The review of a petition is to be conducted by a team of professional researchers working in consultation with each other. The acknowledgment decision is not intended to be a definitive study of the petitioning group. The acknowledgment staff is expected to use its expertise and knowledge of sources to evaluate the accuracy and reliability of the submissions, but to conduct its professional review within the constraints of time established by the regulations and the resources available. The acknowledgment researchers are not expected to conduct extensive analysis of data that petitioners or third parties submitted but did not analyze. The acknowledgment researchers are not expected to conduct additional research and analysis in preparation for any anticipated challenge in court. The scope of the staff's professional review shall be limited to that necessary to establish whether the petitioner has met its burden to establish by a reasonable likelihood of the validity of the facts that it meets all seven regulatory criteria.

Section 83.6(a) of the regulations states that a petition may be ''in any readable form that contains detailed, specific evidence.'' In some instances, materials submitted by the petitioner or a third party are poorly organized, do not identify the sources or even the nature of the documents provided, or cannot be identified from the source cited in the text submitted by the petitioner or third party. The Department may consider such materials, either in whole or in part, as not being in a ''readable form'' within the meaning of the regulations, and acknowledgment researchers shall not expend more than a reasonable amount of time attempting to identify the source or sources of documentary materials submitted without such information. Therefore, it is important for the petitioner and third parties to cite clearly the source(s) for each document submitted in order for it to be given appropriate weight as evidence.

Information and Advice for Petitioners and Third Parties

In accordance with the Department's Strategic Plan of September 12, 2002, the Office of Federal Acknowledgment has created a compilation of all of the Department's acknowledgment decisions in order to promote transparency in the acknowledgment process. This compilation contains all proposed findings, final determinations, and reconsidered final determinations, including their summaries under the criteria, technical reports, charts, supporting materials, and **Federal Register** notices, plus technical assistance letters to petitioners and Departmental correspondence relating to issues referred by the Interior Board of Indian Appeals in acknowledgment cases. This compilation will be periodically updated to include future completed cases. This ''Acknowledgment Decisions Compilation'' is available to petitioners, third parties, and the public on compact disk (CD).

The Department's Strategic Plan also included consideration of possible changes in acknowledgment procedures. From this review, the Department has identified several ways in which the timeliness and transparency of the acknowledgment process could be improved, both by providing petitioners and third parties with a better understanding of its policies and by suggesting certain practices that could be voluntarily adopted by petitioners and third parties in the absence of changes to the regulations. In accordance with the Strategic Plan, the Department reviewed whether petition data could be entered into a computerized system, whether a standard format could be adopted for the submission of petitions, whether letters of intent should include the submission of governing documents and membership lists, whether third parties could receive non-privacy documents without invoking the Freedom of Information Act (FOIA), whether possible impediments to the orderly consideration of petitions such as extensions of time could be resolved, and whether other possible changes in procedures could improve the administration of the acknowledgment process. The following information and suggestions resulted from this review.

The Office of Federal Acknowledgment has used a computer database system (known as FAIR) as a pilot project in several cases. This system is intended to make the evidentiary record, and the Department's analysis of that evidence, more accessible to petitioners and third parties by allowing them to obtain that record on compact disk (CD). This system holds scanned images of all the documents in the administrative record for a petition and provides on-screen, computerized access to those documents. It allows the evidence for a petition to be sorted and retrieved, and thus improves the ability of petitioners and third parties to find and view specific documents cited in the Department's findings or in the submissions of other parties. The acknowledgment staff is available to provide assistance to petitioners and third parties about the use of this electronic database system.

Petitioners are encouraged to consult with the acknowledgment staff before and during preparation of a documented petition in order to improve the quality of the petition, reduce the number of deficiencies noted in a technical assistance letter, and thus improve the timeliness of the acknowledgment process. Petitioners and third parties are advised to consult with the

acknowledgment staff before using genealogical, database, or other computer software programs in order to maximize compatibility with systems in use within the Office of Federal Acknowledgment. Petitioners and other parties may submit petition materials in an electronic format, such as images of documents, and consult with the acknowledgment staff to prepare for the inclusion of their petition in the FAIR system. Consultation before preparation of petition materials will facilitate compatibility and thereby speed the review of petitions.

The acknowledgment staff is available to provide technical assistance to petitioners and third parties, but can understand the organization and composition of a petitioning group and its governing body only if the group's governing documents and membership roll are provided. Therefore, these documents should be submitted as soon as possible, preferably with the letter of intent, in order for the acknowledgment staff to provide effective and timely technical assistance. These items are required elements of a documented petition under § 83.7(d) and (e). As part of their comments on a proposed finding, petitioners should submit an updated membership roll, certified by their governing body. The petitioner should include an explanation of any changes in its membership criteria and/or enrollment procedures and any substantial changes in its membership since the proposed finding. Petitioners are reminded that, under § 83.11(b), if they are acknowledged, this list will become the group's base membership roll.

In order to promote timeliness and transparency in the acknowledgment process, especially during the period between a determination that a documented petition is ready for active consideration and publication of a proposed finding, petitioners are encouraged to provide a copy of the non-privacy materials in their submissions to the Department directly to the State Attorney General's Office and any recognized tribe that is an interested party in their petition, and third parties are encouraged to provide a copy of their submissions to the Department directly to the petitioner, the State Attorney General's Office, and any recognized tribe that is an interested party. This request does not change the regulatory requirement, in § 83.10(i), that third parties who submit arguments and evidence to the Assistant Secretary on the proposed finding must provide a copy of their submissions to the petitioner. This guidance does not create any rights in petitioners or third parties to obtain information or respond to it. Such voluntary, reciprocal exchanges with other parties may improve the ability of those parties to submit timely comments. If the Department is able to include an evaluation of such submissions in a proposed finding, then all parties will be able to reply to that evaluation during the comment period. These reciprocal exchanges also would improve the ability of all parties to comment after a proposed finding on any materials submitted too late to be considered for the proposed finding. If such exchanges eliminate a need for parties to submit FOIA requests, they should reduce the collateral duties of the acknowledgment staff and thus speed the Department's processing of acknowledgment petitions.

The regulations provide, in § 83.10(i), that the comment period that follows a proposed finding ''may be extended for up to an additional 180 days at the Assistant Secretary's discretion upon a finding of good cause.'' The Department has interpreted the regulations as providing for more than one extension. It has been the policy of the Department that the finding of ''good cause'' for any extension will depend on the specificity of the description of work that will be done if additional time is permitted, the explanation for why the research and analysis were not completed during the initial comment period or prior extension, and the amount of additional time requested. Any requests for extensions should be made appropriately in advance of the expiration of the initial or extended comment period, and petitioners and third parties should not assume that such extensions will be granted either in whole or in part. While extensions of the comment period will be granted on a showing of good cause, if, because of such an extension, a petition is not ready for evaluation for a final determination when the acknowledgment staff is available to be assigned to it, the Department will proceed to evaluate another petition. The Department cannot allow delay on one petition to cause delay on other petitions.

The Department advises petitioners, third parties, and their representatives not to contact the Associate Deputy Secretary or any other Department official who may have been delegated authority to decide matters concerning the acknowledgment petition during the last 60 days of the regulatory time period provided for the issuance of a proposed finding or final determination. During the active consideration of a petition, the petitioner and third parties may contact the supervisor of the acknowledgment staff (see the contact information above) regarding the status of the petition.

Under § 83.5 of the regulations, the Associate Deputy Secretary, or the Assistant Secretary, as appropriate, shall supplement or update the acknowledgment guidelines as necessary. The advice in this notice supersedes the existing guidelines for preparation of documented petitions where they may be in conflict.

These revised procedures and guidance are effective on March 31, 2005.

Dated: March 10, 2005.

James E. Cason,

Associate Deputy Secretary.

[FR Doc. 05–6325 Filed 3–30–05; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–068–03–1610–DR–241E]

Notice of Availability of Record of Decision for the Imperial Sand Dunes Recreation Area Management Plan (RAMP)/Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management.

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), the Endangered Species Act (ESA), and the Bureau of Land Management (BLM) management policies, the BLM announces the availability of the RAMP Record of Decision for the Imperial Sand Dunes located mainly in the Western Colorado Desert Planning Area and partly in the Northern and Eastern Colorado Desert Planning area. The California State Director will sign the Record of Decision for the Imperial Sand Dunes RAMP which becomes effective immediately.

ADDRESSES: Copies of the Imperial Sand Dunes RAMP/Record Of Decision are available upon request from the Field Manager, El Centro Field Office, Bureau of Land Management, 1661 South 4th Street, El Centro, CA 92243 or via the Internet at *http://www.ca.blm.gov.*

FOR FURTHER INFORMATION CONTACT: Lynnette Elser, Resource Staff Chief, El Centro Field Office, El Centro, CA 92243, phone: 760–337–4400, e-mail: *lelser@ca.blm.gov.*

SUPPLEMENTARY INFORMATION: The Imperial Sand Dunes RAMP was developed with broad public participation through a multi-year collaborative planning process. This RAMP addresses management on approximately 158,072 acres of public land in the planning areas. The Imperial Sand Dunes RAMP is designed to achieve or maintain desired future conditions developed through the planning process. It includes a series of management actions to meet the desired resource conditions for native plant populations, wildlife habitats, cultural and visual resources, and recreation.

The approved Imperial Sand Dunes RAMP is essentially the same as Alternative 2 in the Proposed Imperial Sand Dunes RAMP and Final Environmental Impact Statement (PRAMP/FEIS), published in May 2003. BLM received eleven protest(s) to the Proposed RAMP/FEIS. No inconsistencies with State or local plans, policies, or programs were identified during the Governor's consistency review of the Proposed RAMP/FEIS. As a result, only minor editorial modifications were made in preparing the final RAMP/ROD. These modifications corrected errors that were noted during review of the Proposed RAMP/FEIS and provide further clarification for some of the decisions. An errata sheet is included with the RAMP/Record of Decision that identifies the location of the corrections to the Proposed RAMP/FEIS.

Dated: February 7, 2005.

Larry Caffey,

Acting Field Manager.

[FR Doc. 05–6334 Filed 3–30–05; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–0777–XG]

Notice of Public Meeting: Northwest California Resource Advisory Council and Northeast California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U. S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council and Northeast California Resource Advisory Council will meet in joint session, and then convene in individual business breakout sessions.

DATES: The meeting will be held Wednesday and Thursday, May 11–12, 2005, in the Conference Center of the Red Lion Hotel, 1830 Hilltop Dr., Redding, Calif. On May 11, the councils will convene in joint session at 10 a.m. On May 12, the groups will convene individual business sessions beginning at 8 a.m. Time for public comment has been set aside for 1 p.m. both days.

FOR FURTHER INFORMATION CONTACT: Rich Burns, Manager, BLM Ukiah Field Office, (707) 468–4000; Tim Burke, Manager, Alturas Field Office, (530) 233–4666; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252–5332.

SUPPLEMENTARY INFORMATION: The Resource Advisory Councils advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northern California and parts of Northwest Nevada. At the joint session, agenda topics will include use of recreation user fees, orientation matters, a review of council charters and a forum with BLM California State Director Mike Pool. At its business meeting May 12, the Northwest Council will discuss BLM wilderness management, status of the Salmon Creek Resources proposed land exchange, the process for establishment of a National Conservation Area in the Sacramento River Bend area, designations under the BLM's National Landscape Conservation System, and a status report on the Ukiah Field Office Resource Management Plan. Also on May 12, the Northeast RAC will discuss land acquisitions, WSA in-holdings, rail banking, status of the sagebrush steppe ecosystem management project and the status of Resource Management Plan development for the Alturas, Eagle Lake and Surprise field offices. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: March 23, 2005.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 05–6324 Filed 3–30–05; 8:45 am]

BILLING CODE 4310–40–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–856 (Review)]

Ammonium Nitrate From Russia

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the suspended investigation on ammonium nitrate from Russia.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is May 23, 2005. Comments on the adequacy of responses may be filed with the Commission by June 14, 2005. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* March 31, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 05–5–117, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On May 19, 2000, the Department of Commerce suspended an antidumping duty investigation on imports of ammonium nitrate from Russia (65 FR 37759, June 16, 2000). The Commission is conducting a review to determine whether termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Russia.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product coextensively with the subject merchandise: fertilizer grade ammonium nitrate products with a bulk density equal to or greater than 53 pounds per cubic foot.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as all domestic producers of high density ammonium nitrate.

(5) The Order Date is the date that the investigation was suspended. In this review, the Order Date is May 19, 2000.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is May 23, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is June 14, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the

Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response To This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigation on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: March 23, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–6401 Filed 3–30–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–269 and 270 and 731–TA–311–314, 317 and 379 (Second Review)]

Brass Sheet and Strip From Brazil, Canada, France, Germany, Italy, and Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty orders on brass sheet and strip from Brazil and France and the antidumping duty orders on brass sheet and strip

from Brazil, Canada, France, Germany, Italy, and Japan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty orders on brass sheet and strip from Brazil and France and the antidumping duty orders on brass sheet and strip from Brazil, Canada, France, Germany, Italy, and Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is May 23, 2005. Comments on the adequacy of responses may be filed with the Commission by June 14, 2005. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E and F (19 CFR part 207).

DATES: *Effective Date:* March 31, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On January 8, 1987, the Department of Commerce (''Commerce'') issued a countervailing duty order on imports of brass sheet and strip from Brazil (52 FR 698). On January 12, 1987, Commerce issued antidumping duty orders on imports of brass sheet and strip from Brazil and Canada (52 FR 1214). On March 6, 1987, Commerce issued a countervailing duty order on imports of brass sheet and strip from France and antidumping duty orders on imports of brass sheet and strip from France, Germany and Italy (52 FR 6995; Italy amended at 52 FR 11299 (April 8, 1987)). On August 12, 1988, Commerce issued an antidumping duty order on imports of brass sheet and strip from Japan (53 FR 30454). Following five-year reviews by Commerce and the Commission, effective May 1, 2000, Commerce issued a continuation of the countervailing duty orders on imports of brass sheet and strip from Brazil and France and a continuation of the antidumping duty orders on imports of brass sheet and strip from Brazil, Canada, France, Germany, Italy, and Japan (65 FR 25304). The Commission is now conducting second reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The Subject Countries in these reviews are Brazil, Canada, France, Germany, Italy, and Japan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject merchandise. In its original countervailing duty determinations concerning brass sheet and strip from Brazil and France and antidumping duty determinations concerning brass sheet and strip from Brazil, Canada, France, Germany, and Italy, the Commission defined the Domestic Like Product to include brass material to be rerolled (reroll) and finished brass sheet and strip (finished products). In its original antidumping duty determination and the remand determination concerning brass sheet and strip from Japan, the Commission defined the Domestic Like Product to be all Unified Numbering System (''UNS'') C20000 domestically produced brass sheet and strip. One Commissioner defined the Domestic Like Product differently. In its full five-year review determinations, the Commission defined the Domestic Like Product as all UNS C20000 series brass sheet and strip. For purposes of this notice, the Domestic Like Product is all UNS C20000 series brass sheet and strip.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original countervailing duty determination concerning brass sheet and strip from Brazil and France and antidumping duty determinations concerning brass sheet and strip from Brazil, Canada, France, Germany, and Italy, the Commission defined the Domestic Industry to include primary mills with casting capabilities and rerollers. In its original anticumping duty determination and the remand determination concerning brass sheet and strip from Japan, the Commission defined the Domestic Industry as producers of the corresponding Domestic Like Product. One Commissioner defined the Domestic Industry differently. In its full five-year review determinations, the Commission defined the Domestic Like Product to consist of the domestic producers of UNS C20000 series brass sheet and strip. For purposes of this notice, the Domestic Industry is domestic producers of all UNS C20000 series brass sheet and strip.

(5) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after the publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 05–5–118, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verrati, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register.** Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is May 23, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is June 14, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to the notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker groups, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing duty and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 1998.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports.

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Counties, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries after 1998, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

11 (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: March 23, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–6403 Filed 3–30–05; 8:45 am]

BILLING CODE 7020–02–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–825 and 826 (Review)]

Polyester Staple Fiber From Korea and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on polyester staple fiber from Korea and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on polyester staple fiber from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is May 23, 2005. Comments on the adequacy of responses may be filed with the Commission by June 14, 2005. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* March 31, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On May 25, 2000, the Department of Commerce issued antidumping duty orders on imports of polyester staple fiber from Korea and Taiwan (65 FR 33807). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 05–5–119, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Korea and Taiwan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission determined that there are two Domestic Like Products corresponding to (1) low-melt fiber and (2) conventional polyester staple fiber (all subject polyester staple fiber except for low-melt fiber). One Commissioner defined the Domestic Like Product differently. Because the Commission made a negative determination with respect to low-melt fiber, for purposes of this notice, the Domestic Like Product is all subject polyester staple fiber except for low-melt fiber.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined two Domestic Industries: (1) All domestic producers of low-melt fiber and (2) all domestic producers of conventional polyester staple fiber. One Commissioner defined the Domestic Industry differently. Because the Commission made a negative determination with respect to low-melt fiber, for purposes of this notice, the Domestic Industry is all domestic producers of subject polyester staple fiber except for low-melt fiber.

(5) The Order Date is the date that the antidumping duty orders under review became effective. In these reviews, the Order Date is May 25, 2000.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is May 23, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is June 14, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to

section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response To This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: March 23, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–6402 Filed 3–30–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Firearms Transaction Record, Part 1, Over-the-Counter.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 31, 2005. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cherie Knoblock, Firearms Enforcement Branch, Room 7400, 650 Massachusetts Avenue, NW., Washington, DC 20226.

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 collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Firearms Transaction Record, Part 1, Over-the-Counter.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 4473 (5300.9) Part 1. 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: Individuals or households. Other: Business or other for-profit. The form is used to determine the eligibility (under the Gun Control Act) of a person to receive a firearm from a Federal firearms licensee and to establish the identity of the buyer. It is also used in law enforcement investigations/inspections to trace firearms. The form has been revised to reflect recommended format and substantive changes requested by a variety of stake holders including licensees and Federal and state law enforcement agencies.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 10,225,000 respondents will complete a 25 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 4,260,417 annual total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: March 25, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–6335 Filed 3–30–05; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting Notice No. 2–05]

Sunshine Act Meetings; Notice

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME: Thursday, April 7, 2005, at 10 a.m.

SUBJECT MATTER: (1) Issuance of Proposed Decisions in claims against Albania;

(2) Consideration of petitions to reopen Final Decisions in claims against Albania;

(3) Consideration of a petition to withdraw a claim previously filed against Albania.

STATUS: Open.

All meetings are held at the Foreign claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Mauricio J. Tamargo,

Chairman.

[FR Doc. 05–6416 Filed 3–29–05; 9:31 am]

BILLING CODE 4410–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection; Comments: Work Opportunity Tax Credit Program and the Welfare-to-Work Tax Credit

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance 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 and Training Administration (ETA) is soliciting comments on the proposed extension (without change) of the Work

Opportunity Tax Credit (WOTC) Program and the Welfare-to-Work Tax Credit (WtWTC) electronic reporting forms ETA 9057–9059; administrative forms ETA 9061–9065; and the following program related documents: November 2002, Third Edition of ETA Handbook No. 408; Planning Guidance Training and Employment Guidance Letter (TEGL) for the Work Opportunity Tax Credit Program and Welfare-to-Work Tax Credit Allotments Fiscal Year (FY) 2005; and the Technical Assistance and Review Guide. This request covers the period from March 31, 2005 through June 30, 2006. A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Submit comments on or before May 31, 2005.

ADDRESSES: Send comments to: Anthony Dais, U.S. Department of Labor, Employment and Training Administration, Division of Employment Services, Office of Workforce Investment, Room S–4231, 200 Constitution Avenue, NW., Washington, DC 20210 (202–693–2784—not a toll free number), fax: 202–693–3015, and e-mail address: *dais.anthony@dol.gov*; or

Send comments to: Dennis I. Lieberman, U.S. Department of Labor, Employment and Training Administration, Division of Adults and Dislocated Workers, Office of Workforce Investment, Room S–4231, 200 Constitution Avenue, NW., Washington, DC 20210 (202–693–3580—not a toll free number), fax: 202–693–3587, and e-mail address: *lieberman.dennis@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Carmen Ortiz, U.S. Department of Labor, Employment and Training Administration, Division of Employment Services, Office of Workforce Investment, Room S–4231, 200 Constitution Avenue, NW., Washington, DC 20210 (202–693–2786—not a toll free number), fax: 202–693–3015, and e-mail address: *ortiz.carmen@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Data on the WOTC and the WtWTC Tax Credits will be collected by the state workforce agencies (SWAs) and provided to the Division of Employment Services, Office of Workforce Investment, Washington, DC, through the appropriate Department of Labor (DOL) regional offices via quarterly management reports. The data obtained from the administrative or processing forms will be used for WOTC and WtWTC national office program performance management and outcome reporting.

II. Desired Focus of Comments

Currently, ETA is soliciting comments concerning the proposed extension (without change) of the WOTC Program and the WtWTC electronic reporting forms ETA 9057–9059; administrative forms ETA 9061–9065; and the following program related documents: November 2002, Third Edition of ETA Handbook No. 408; Planning Guidance TEGL for the Work Opportunity Tax Credit Program and Welfare-to-Work Tax Credit Allotments for Fiscal Year (FY) 2004; and the Technical Assistance and Review Guide.

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 by including 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 (ICR) can be obtained by contacting the office listed above in the addressee section of this notice.

III. Current Actions

This is a request for Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)) to extend the collection of information and use of program materials for the WOTC and WtWTC. On October 4, 2004, the President signed into law the ''Working Families Tax Relief Act of 2004,'' P.L. 108–311. This law reauthorized the WOTC and WtWTC, without changes, through December 31, 2005. The reauthorization is retroactive to the tax credits' expiration date of December 31, 2003. OMB authorization for the WOTC and WtWTC administrative and electronic reporting forms will expire on March 31, 2005. Further, the Government Paperwork Elimination Act (GPEA) of 1998 (Pub. L. 105–277) requires that, when feasible, Federal agencies design and implement the use of automated systems that facilitate the electronic signature and filing of forms (by participants) to conduct official business with the public by 2003. The Division of Employment Services, Office of Workforce Investment, complied with this requirement by successfully implementing an electronic reporting system for the tax credits' program and the WOTC and WtWTC quarterly reports. The automated reporting system is known as ETA's Enterprise Information Management System (EIMS) Tax Credit Reporting System (TCRS). The EIMS/TCRS is a Web-based system that allows states to meet the reporting responsibilities in a more efficient manner while reducing the reporting burden on the state, regional, and national levels. Through this system, states can manually enter or electronically upload the required quarterly data reports (ETA forms 9057, 9058 and 9059). This electronic reporting system reduced burden hours by 78 percent from 3,215,368 annual burden hours estimated for these forms in the 2002 ICR to 703,125 actual burden hours in 2004. The present ICR reflects the substantial decrease in response time for these forms.

Type of Review: Extension (without change).

Agency: employment and Training Administration.

Title: Work Opportunity Tax Credit and Welfare-to-Work Tax Credit.

OMB Number: 1205–0371.

Burden Hours: (See Chart Below)

Requirement	Total respondents	Frequency	Annual response	Average response time	Annual burden hours
Form 9057	52	Quarterly	208	1:00	208
Form 9058	52	Quarterly	208	1:00	208
Form 9059	52	Quarterly	208	1:00	208

Requirement	Total respondents	Frequency	Annual response	Average response time	Annual burden hours
Employer/Job-seeker Complete Form 9061	770,000	On occasion	770,000	.33	254,100
Form 9061 processed by SWAs	52	On occasion	770,000	.33	254,100
Form 9062	52	On occasion	40	.33	13
Form 9063	52	On occasion	440,000	.33	145,200
Form 9065	52	Quarterly	208	1:00	208
Recordkeeping	52	Annually	52	931	48,412
Planning Guidance	52	One time	52	8:00	416
Modification Planning Guidance	52	One time	52	1:00	52
Total			1,801,028		703,125

Total Burden Hours: 703,125.

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, and they will also become a matter of public record.

Dated: Signed at Washington, DC, this 25th day of March, 2005.

Emily Stover DeRocco,

Assistant Secretary, Employment and Training.

[FR Doc. E5–1412 Filed 3–30–05; 8:45 am]

BILLING CODE 4510–30–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and Purpose of Information Collection

Employee Non-Covered Service Pension Questionnaire; OMB 3220–0154. Section 215(a)(7) of the Social Security Act provides for a reduction in social security benefits based on employment not covered under the Social Security Act or the Railroad Retirement Act (RRA). This provision applies a different social security benefit formula to most workers who are first eligible after 1985 to both a pension based in whole or in part on non-covered employment and a social security retirement or disability benefit. There is a guarantee provision that limits the reduction in the social security benefit to one-half of the portion of the pension based on non-covered employment after 1956. Section 8011 of Public Law 100–647 changed the effective date of the onset from the first month of eligibility to the first month of concurrent entitlement to the non-covered service benefit and the RRA benefit.

Section 3(a)(1) of the RRA provides that the Tier I benefit of an employee annuity will be equal to the amount (before any reduction for age or deduction for work) the employee would receive if he or she would have been entitled to a like benefit under the Social Security Act. The reduction for a non-covered service pension also applies to a Tier I portion of employees under the RRA where the annuity or non-covered service pension begins after 1985. Since the amount of a Tier I benefit of a spouse is one-half of the employee's Tier I, the spouse annuity is also affected by the employee's non-covered service pension reduction of his or her Tier I benefit.

The RRB utilizes Form G–209, *Employee Non-Covered Service Pension Questionnaire,* to obtain needed information from railroad retirement employee applicants or annuitants about the receipt of a pension based on employment not covered under the Railroad Retirement Act or the Social Security Act. It is used as both a supplement to the employee annuity application, and as an independent questionnaire to be completed when an individual who is already receiving an employee annuity, becomes entitled to a pension. One response is requested of each respondent. Completion is required to obtain or retain benefits. The RRB proposes no changes to Form G–209.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form #(s)	Annual responses	Time (min)	Burden (hrs)
G–209 (partial questionnaire)	100	1	2
G–209 (full questionnaire)	400	8	53
Total	500		55

2. Title and Purpose of Information Collection

Availability for Work; OMB 3220–0164. Under section 1(k) of the Railroad Unemployment Insurance Act, unemployment benefits are not payable for any day for which the claimant is not available for work. Under Railroad Retirement Board (RRB) regulation 20 CFR 327.5, ''available for work'' is defined as being willing and ready for work. This section further provides that a person is ''willing'' to work if that person is willing to accept and perform

for hire such work as is reasonably appropriate to his or her employment circumstances. The section also provides that a claimant is ''ready'' for work if he or she: (1) Is in a position to receive notice of work and is willing to accept and perform such work, and (2) is prepared to be present with the customary equipment at the location of such work within the time usually allotted.

Under RRB regulation 20 CFR 327.15, a claimant may be requested at any time to show, as evidence of willingness to work, that he or she is making reasonable efforts to obtain work. In order to determine whether a claimant is: (a) Available for work, and (b) willing to work, the RRB utilizes Forms UI–38 and UI–38s to obtain information from the claimant and Form ID–8k from his union representative. One response is completed by each respondent. The RRB proposes no changes to Forms UI–38, UI–38s and ID–8k.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form #	Annual responses	Time (min)	Burden (hrs)
UI–38s			
In person	250	6	25
By mail	500	10	83
UI–38	3,750	11.5	719
ID–8k	3,100	5	258
Total	7,600		1,085

Additional Information or Comments: To request more information or to obtain a copy of the information collection justifications, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV*. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Ronald.Hodapp@RRB.GOV*. Comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 05–6337 Filed 3–30–05; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Certification of Relinquishment of Rights.

(2) *Form(s) submitted:* G–88.

(3) *OMB Number:* 3220–0016.

(4) *Expiration date of current OMB clearance:* May 31, 2005.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 3,600.

(8) *Total annual responses:* 3,600.

(9) *Total annual reporting hours:* 360.

(10) *Collection description:* Under section 2(e)(2) of the Railroad Retirement Act, the Railroad Retirement Board must have evidence that an annuitant for an age and service, spouse, or divorced spouse annuity has ceased railroad employment and relinquished their rights to return to the service of a railroad employer. The collection provides the means forobtaining this evidence.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov*.

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 05–6338 Filed 3–30–05; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26823]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

March 25, 2005.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of March, 2005. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 2005, and should be accompanied by proof of service on the applicant, 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 who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0504.

TS&W/Heitman/Claymore Equity Income Fund [File No. 811–21456]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on February 28, 2005.

Applicant's Address: 2455 Corporate West Dr., Lisle, IL 60532.

Morgan Stanley Market Leader Trust [File No. 811–7915]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 24, 2004, applicant transferred its assets to Morgan Stanley Growth Fund, based on net asset value. Expenses of $333,000 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on March 7, 2005.

Applicant's Address: Morgan Stanley Investment Advisors Inc., 1221 Avenue of the Americas, New York, NY 10020.

Atalanta Sosnoff Investment Trust [File No. 811–8669]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 1, 2004, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $12,948 incurred in connection with the liquidation were paid by Atalanta Sosnoff Capital, LLC, applicant's investment adviser.

Filing Date: The application was filed on February 28, 2005.

Applicant's Address: 101 Park Ave., New York, NY 10178.

Phoenix-LJH Advisors Fund LLC [File No. 811–21138]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On September 30, 2004, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant has two remaining shareholders, once applicant's pending receivables are collected, the remaining assets will be distributed. Applicant paid $45,000 in expenses incurred in connection with the liquidation.

Filing Dates: The application was filed on November 22, 2004, and amended on March 1, 2005.

Applicant's Address: 2640 Golden Gate Pkwy., Suite 205, Naples, FL 34105.

The Gannett Welsh & Kotler Funds [File No. 811–7673]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 4, 2002, applicant transferred its assets to BNY Hamilton Multi-Cap Equity Fund, based on net asset value. Any expenses incurred in connection with the reorganization were paid by Bank of New York, investment adviser to the acquiring fund.

Filing Dates: The application was filed on November 23, 2004, and amended on March 1, 2005.

Applicant's Address: Gannett Welsh & Kotler, Inc., 222 Berkeley St., Boston, MA 02116.

Brundage, Story and Rose Investment Trust [File No. 811–6185]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 8, 2003, applicant transferred its assets to Old Westbury Funds, Inc., based on net asset value. Any expenses incurred in connection with the reorganization were paid by Bessemer Investment Management, investment adviser to the acquiring fund.

Filing Dates: The application was filed on November 23, 2004, and amended on February 28, 2005.

Applicant's Address: Brundage, Story and Rose LLC, 630 Fifth Ave., New York, NY 10111.

Riggs Funds [File No. 811–6309]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 29, 2003, each of applicant's series transferred its assets to corresponding series of the following funds based on net asset value: Federated Capital Appreciation Fund, Federated Kaufmann Fund, Federated Total Return Government Bond Fund, Federated Total Return Bond Fund, Federated Short-Term Municipal Trust, Federated Intermediate Municipal Trust, Automated Cash Management Trust, and Automated Government Money Trust. Expenses of $248,377 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Dates: The application was filed on November 16, 2004, and amended on February 23, 2005.

Applicant's Address: 5800 Corporate Dr., Pittsburgh, PA 15237.

Nuveen EquityBuilder Equity Unit Investment Trust Series 1 [File No. 811–7079]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on January 25, 2005, and amended on March 11, 2005.

Applicant's Address: 333 West Wacker Dr., Chicago, IL 60606.

Nuveen AIM Municipal Income and Equity Growth Fund [File No. 811–8756]

Summary: Applicant, a closed-end management company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on January 25, 2005, and amended on March 11, 2005.

Applicant's Address: 333 West Wacker Dr., Chicago, IL 60606.

Dole Food Automatic Common Exchange Security Trust [File No. 811–7499]

Republic Industries Automatic Common Exchange Security Trust [File No. 811–8069]

Readers Digest Automatic Common Exchange [File No. 811–8237]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Between August 15, 1999 and February 15, 2001, each applicant made a pro rata liquidating distribution to its shareholders, as provided for in each applicant's registration statement. Applicants incurred no expenses in connection with the liquidations.

Filing Dates: The applications were filed on January 10, 2005, and amended on March 10, 2005.

Applicants' Address: Attn: Betty A. Cocozza, Bank of New York, 101 Barclay St., 8th Floor, New York, NY 10286.

Express Scripts Automatic Exchange Security Trust [File No. 811–9427]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On November 17, 2003, applicant made a pro rata liquidating distribution to its shareholders, as provided for in applicant's registration statement. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on January 4, 2005, and amended on March 10, 2005.

Applicant's Address: Attention: Bruce Vecchio—Institutional Trust Services, JP Morgan Chase Bank, 4 New York Plaza, 13th Floor, New York, NY 10004.

CVS Automatic Common Exchange Security Trust [File No. 811–8539]

Estee Lauder Automatic Common Exchange Security Trust [File No. 811–8761]

Estee Lauder Automatic Common Exchange Security Trust II [File No. 811–8827]

Amdocs Automatic Common Exchange Security Trust [File No. 811–9245]

NBCi Automatic Common Exchange Security Trust [File No. 811–9323]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Between May 15, 2001 and September 11, 2002, each applicant made a pro rata liquidating distribution to its shareholders, as provided for in the applicant's registration statement. Applicants incurred no expenses in connection with the liquidations.

Filing Dates: The applications were filed on January 4, 2005, and amended on March 10, 2005.

Applicant's Address: Attention: Bruce Vecchio—Institutional Trust Services, JP Morgan Chase Bank, 4 New York Plaza, 13th Floor, New York, NY 10004.

10K Smart Trust Fund [File No. 811–9283]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 31, 2000, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on December 23, 2004, and amended on March 3, 2005.

Applicant's Address: 5952 Royal Ln., Suite 270, Dallas, TX 75230.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–1411 Filed 3–30–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51433; File No. SR–BSE–2004–54]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the Boston Stock Exchange, Inc. To Trade the streetTRACKS ® Gold Shares Pursuant to Unlisted Trading Privileges

March 24, 2005.

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 November 29, 2004, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The proposal would permit the Exchange to trade the streetTRACKS ® Gold Shares (''GLD'' or ''Shares'') pursuant to unlisted trading privileges (''UTP''). The Shares represent units of fractional undivided beneficial interests in and ownership of the streetTRACKS ® Gold Trust (''Trust''). The Commission previously has approved GLD for original listing and trading on the New York Stock Exchange (''NYSE'').[3]

On December 17, 2004, BSE filed Amendment No. 1,[4] on January 28, 2005, BSE filed Amendment No. 2,[5] and on March 11, 2005, BSE filed Amendment No. 3 [6] to the proposal. The Commission is publishing this notice and order to solicit comments on the proposed rule change, as amended, from interested persons and to approve the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BSE proposes to trade GLD pursuant to UTP. The text of the proposed rule change is available on the Exchange's Web site (*http://www.bostonstock.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 Exchange 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 III below. The Exchange 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 proposes to trade the streetTRACKS ® Gold Shares (ticker symbol: GLD) pursuant to UTP. The value of each Share will correspond to a fixed amount of gold [7] and fluctuate with the spot price of gold. Purchasing Shares in the Trust provides investors a mechanism to participate in the gold market.

a. Description of the Gold Market

The global trade in gold consists of over-the-counter (''OTC'') transactions in spot, forwards, and options and other derivatives, together with exchange-traded futures and options. The global gold market consists of the following components, described briefly below.

(1) The OTC Market

The OTC market trades on a continuous basis 24 hours per day and accounts for most global gold trading.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (''NYSE Approval Order'').

[4] In Amendment No. 1, BSE revised its proposal by specifically indicating additions to existing rule text.

[5] In Amendment No. 2, BSE replaced the amended filing in its entirety to, among other things: (1) M ake certain corrections to reflect that the Shares were listed and have been trading on NYSE; (2) clarify that last sale prices for the Shares are disseminated on a real-time basis; (3) state that BSE would provide a link to the Trust's Web site; (4) add a description of the initial Shares issuance and continued trading of the Shares; (5) clarify that the Shares would trade on the Exchange until 4:15 p.m. Eastern Time; and (6) that its surveillance procedures would be adequate to detect and deter manipulation.

[6] In Amendment No. 3, BSE amended the proposed rule text to specify that an approved person of an equity specialist that has established and obtained Exchange approval of procedures restricting the flow of material, non-public market information between itself and the specialist member organization pursuant to BSE Chapter II, Section 36 and any member, officer, or employee associated therewith, may act in a market-making capacity, other than as a specialist in the Shares on another market center, in gold or gold derivatives.

[7] Initially, each Share will correspond to one-tenth of a troy ounce of gold. The amount of gold associated with each Share is expected to decrease over time as the Trust incurs and pays maintenance fees and other expenses.

Liquidity in the OTC market can vary from time to time during the course of the 24-hour trading day. Fluctuations in liquidity are reflected in adjustments to dealing spreads—the differential between a dealer's ''buy'' and ''sell'' prices. According to the Trust's Registration Statement, the period of greatest liquidity in the gold market is typically when trading in the European time zones overlaps with trading in the United States, which is when OTC market trading in London, New York, and other centers coincides with futures and options trading on the Commodity Exchange Inc. (''COMEX''), a division of the New York Mercantile Exchange, Inc. (''NYMEX''). This period lasts for approximately four hours each New York business day morning.

The OTC market has no formal structure and no open-outcry meeting place. The main centers of the OTC market are London, New York, and Zurich. Bullion dealers have offices around the world, and most of the world's major bullion dealers are either members or associate members of the London Bullion Market Association (''LBMA''), a trade association of participants in the London bullion market.

There are no authoritative published figures for overall worldwide volume in gold trading. There are certain published sources that suggest the significant size of the overall market. The LBMA publishes statistics compiled from the five members offering clearing services.[8] The monthly average daily volume figures published by the LBMA for 2003 range from a high of 19 million to a low of 13.6 million troy ounces per day.[9] COMEX publishes price and volume statistics for transactions in contracts for the future delivery of gold. COMEX figures for 2003 indicate that the average daily volume for gold futures contracts was 4.9 million troy ounces per day.[10]

(2) Futures Exchanges

The most significant gold futures exchanges are COMEX and the Tokyo Commodity Exchange (''TOCOM'').[11] Trading on these exchanges is based on fixed delivery dates and transaction sizes for the futures and options contracts traded. Trading costs are negotiable. As a matter of practice, only a small percentage of the futures market turnover ever comes to physical delivery of the gold represented by the contracts traded. Both exchanges permit trading on margin. COMEX operates through a central clearance system. TOCOM has a similar clearance system. In each case, the exchange acts as a counterparty for each member for clearing purposes.

(3) Gold Market Regulation

There is no direct regulation of the global OTC market in gold. However, indirect regulation of some of the overseas participants does occur in some capacity. In the United Kingdom, responsibility for the regulation of the financial market participants, including the major participating members of the LBMA, falls under the authority of the Financial Services Authority (''FSA''), as provided by the Financial Services and Markets Act 2000 (''FSM Act''). Under the FSM Act, all U.K.-based banks, together with other investment firms, are subject to a range of requirements, including fitness and properness, capital adequacy, liquidity, and systems and controls. The FSA is responsible for regulating investment products, including derivatives, and those who deal in investment products. Regulation of spot, commercial forwards, and deposits of gold and silver not covered by the FSM Act is provided for by The London Code of Conduct for Non-Investment Products, which was established by market participants in conjunction with the Bank of England, and is a voluntary code of conduct among market participants.

Participants in the U.S. OTC market for gold are generally regulated by their institutional supervisors, which regulate their activities in other markets in which they operate. For example, participating banks are regulated by the banking authorities. In the United States, the Commodity Futures Trading Commission regulates futures market participants and has established rules designed to prevent market manipulation, abusive trade practices, and fraud.

TOCOM has authority to perform financial and operational surveillance on its members' trading activities, scrutinize positions held by members and large-scale customers, and monitor the price movements of futures markets by comparing them with cash and other derivative markets' prices.

b. Trust Management and Structure

The Shares represent units of fractional undivided beneficial interest in and ownership of the Trust. The purpose of the Trust is to hold gold bullion. The investment objective of the Trust is for the Shares to reflect the performance of the price of gold, less the Trust's expenses.

The Trust is an investment trust and is not managed like a corporation or an active investment vehicle. The Trust has no board of directors or officers or persons acting in a similar capacity. The Trust is not a registered investment company under the Investment Company Act of 1940 (''1940 Act'') and is not required to register under the 1940 Act.

World Gold Trust Services, LLC, a wholly owned limited liability company of the World Gold Council,[12] is the sponsor of the Trust (''Sponsor''). The Bank of New York is the trustee of the Trust (''Trustee''). HSBC Bank USA, an indirect wholly owned subsidiary of HSBC Holdings plc, is the custodian of the Trust (''Custodian''). State Street Global Markets LLC, a wholly owned subsidiary of State Street Corporation, is the Marketing Agent of the Trust (''Marketing Agent''). The Marketing Agent and Custodian are registered broker-dealers. The Custodian and Marketing Agent and their affiliates, and affiliates of the Trustee, may act as Authorized Participants or purchase or sell gold or the Shares for their own account as agent for customers and for accounts over which they exercise investment discretion. To the extent deemed appropriate by these entities, information barriers will exist between the Custodian, Marketing Agent, Trustee, and their affiliates transacting in the gold cash market or the Shares; however, the Exchange will not require such information barriers. UBS Securities LLC was the initial purchaser of the Shares (''Initial Purchaser''), as described below. The Sponsor, Trustee, Custodian, and Initial Purchaser are not affiliated with one another or with the Exchange.

[8] Information regarding clearing volume estimates by the LBMA can be found at *http://www.lbma.org.uk/clearing_table.htm*. The three measures published by the LBMA are: Volume, the amount of metal transferred on average each day measured in million of troy ounces; value, measured in U.S. dollars, using the monthly average London p.m. fixing price; and the number of transfers, which is the average number recorded each day. The statistics exclude allocated and unallocated balance transfers where the sole purpose is for overnight credit and physical movements arranged by clearing members in locations other than London.

[9] See NYSE Approval Order, 69 FR at 64614.

[10] Information regarding average daily volume estimates by COMEX can be found at *http://www.nymex.com/jsp/markets/md_annual_volume6.jsp#2*. The statistics are based on gold futures contracts, each of which relates to 100 troy ounces of gold.

[11] There are other gold exchange markets, such as the Istanbul Gold Exchange, the Shanghai Gold Exchange, and the Hong Kong Chinese Gold & Silver Exchange Society.

[12] The World Gold Council is a not-for-profit association registered under Swiss law.

c. Trust Expenses and Management Fees

Generally, the assets of the Trust (*e.g.*, gold bullion) will be sold to pay Trust expenses and management fees. These expenses and fees will reduce the value of an investor's Share as gold bullion is sold to pay such costs. Ordinary operating expenses of the Trust include: (1) Fees paid to the Sponsor; (2) fees paid to the Trustee; (3) fees paid to the Custodian; (4) fees paid to the Marketing Agent; and (5) various Trust administration fees, including printing and mailing costs, legal and audit fees, registration fees, and NYSE listing fees. The Trust's estimated ordinary operating expenses are accrued daily and reflected in the net asset value (''NAV'') of the Trust.

d. Description and Characteristics of the Shares

(1) Liquidity

The Shares may trade at a discount or premium relative to the NAV per Share because of non-concurrent trading hours between the major gold markets and the Exchange. While the Shares will trade on the Exchange until 4:15 p.m. Eastern Time, liquidity in the OTC market for gold will be reduced after the close of COMEX at 1:30 p.m. Eastern Time. During this time, trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity in the OTC gold market.

Because of the potential for arbitrage inherent in the structure of the Trust, the Sponsor believes that the Shares will not trade at a material discount or premium to the underlying gold held by the Trust. The arbitrage process, which in general provides investors the opportunity to profit from differences in prices of assets, increases the efficiency of the markets, serves to prevent potentially manipulative efforts, and can be expected to operate efficiently in the case of the Shares and gold.

(2) Creation and Redemption of Trust Shares

The Trust will create Shares on a continuous basis only in aggregations of 100,000 Shares (such aggregation referred to as a ''Basket''). Authorized Participants are the only persons that may place orders to create and redeem Baskets. Authorized Participants purchasing Baskets will be able to separate a Basket into individual Shares for resale.

Authorized Participants purchasing a Basket must make an in-kind deposit of gold (''Gold Deposit''), together with, if applicable, a specified cash payment (''Cash Deposit'' [13] and together with the Gold Deposit, the ''Creation Basket Deposit''). The Sponsor anticipates that in the ordinary course of the Trust's operations a cash deposit will not be required for the creation of Baskets. Similarly, the Trust will redeem Shares only in Baskets, principally in exchange for gold and, if applicable, a cash payment (''Cash Redemption Amount'' [14] and together with the gold, the ''Redemption Distribution'').

The Exchange expects that certain Authorized Participants will be able to participate directly in the gold bullion market and the gold futures market. The Sponsor believes that the size and operation of the gold bullion market make it unlikely that an Authorized Participant's direct activities in the gold or securities markets would impact the price of gold or the price of the Shares. Each Authorized Participant is: (1) Regulated as a broker-dealer regulated under the Act and registered with NASD; or (2) is exempt from being, or otherwise is not required to be, regulated as a broker-dealer under the Act or registered with NASD, and in either case is qualified to act as a broker or dealer in the states or other jurisdictions where the nature of its business so requires. Certain Authorized Participants will be regulated under Federal and State banking laws and regulations. Each Authorized Participant will have its own set of rules and procedures, internal controls, and information barriers as it determines is appropriate in light of its own regulatory regime. Authorized Participants may act for their own accounts or as agents for broker-dealers, custodians, and other securities market participants that wish to create or redeem Baskets. An order for one or more Baskets may be placed by an Authorized Participant on behalf of multiple clients.

The total amount of gold and any cash required for the creation or redemption of each Basket will be in the same proportion to the total assets of the Trust (net of accrued and unpaid fees, expenses, and other liabilities) on the date the Purchase Order is properly received as the number of Shares to be created in respect of the Creation Basket Deposit bears to the total number of Shares outstanding on the date the Purchase Order is received. Except when aggregated in Baskets, the Shares are not redeemable. The Trust will impose transaction fees in connection with creation and redemption transactions.

The Trustee will determine the NAV [15] and daily adjusted NAV (''ANAV'') of the Trust on each business day at the earlier of the London p.m. fix for such day or 12 p.m. Eastern Time.[16] In determining the Trust's NAV and ANAV, the Trustee will value the gold held by the Trust based on the London p.m. fix price for a troy ounce of gold. Once the value of the gold has been determined, the Trustee will determine the ANAV of the Trust by subtracting all accrued fees (other than the fees to be computed by reference to the ANAV or custody fees based on the value of the gold held by the Trust), expenses, and other liabilities of the Trust from the total value of the gold and all other assets of the Trust (other than any amounts credited to the Trust's reserve account, if established). Then the ANAV of the Trust is used to compute the Trustee's, the Sponsor's, and Marketing Agent's fees.[17] To determine the Trust's NAV, the Trustee will subtract from the ANAV the amount of estimated accrued

[13] The amount of any required Cash Deposit will be determined as follows: (1) The fees, expenses, and liabilities of the Trust will be subtracted from any cash held or receivable by the Trust as of the date an Authorized Participant places an order to purchase one or more Baskets (''Purchase Order''); and (2) the remaining amount will be divided by the number of Baskets outstanding and then multiplied by the number of Baskets being created pursuant to the Purchase Order. If the resulting amount is positive, that amount will be the required Cash Deposit. If the resulting amount is negative, the amount of the required Gold Deposit will be reduced by a number of fine ounces of gold equal in value to that resulting amount, determined by reference to the price of gold used in calculating the NAV of the Trust on the Purchase Order date. Fractions of an ounce of gold of less than 0.001 of an ounce included in the Gold Deposit amount will be disregarded.

[14] The Cash Redemption Amount is equal to the excess (if any) of all assets of the Trust other than gold, less all estimated accrued but unpaid fees, expenses, and other liabilities, divided by the number of Baskets outstanding and multiplied by the number of Baskets included in the Authorized Participant's order to redeem one or more Baskets (''Redemption Order''). The Trustee will distribute any positive Cash Redemption Amount through the Depository Trust Company (''DTC'') to the account of the Authorized Participant at DTC. If the Cash Redemption Amount is negative, the credit to the Authorized Participant's unallocated account (''Authorized Participant Unallocated Account'') will be reduced by the number of fine ounces of gold equal in value to that resulting amount, determined by reference to the price of gold used in calculating the NAV of the Trust on the Redemption Order date. Fractions of a fine ounce of gold included in the Redemption Distribution of less than 0.001 of an ounce will be disregarded. Redemption Distributions will be subject to the deduction of any applicable tax or other governmental charges due.

[15] The NAV of the Trust is the aggregate value of the Trust's assets less its liabilities (which include accrued expenses).

[16] The London fix is the most widely used benchmark for daily gold prices and is quoted by various financial information sources.

[17] The Custodian's fee is not calculated based on ANAV, but rather the value of the gold held by the Trust.

but unpaid fees that are based on the ANAV (*e.g.*, the Trustee's, the Sponsor's, and Marketing Agent's fees) and the amount of custody fees, which are based on the value of the gold held by the Trust. The Trustee will also determine the NAV per Share by dividing the NAV of the Trust by the number of the Shares outstanding as of the close of trading on NYSE.

The Exchange understands that, upon initiation of trading on NYSE, UBS Securities LLC, the Initial Purchaser, purchased 100,000 Shares, which comprised the seed Basket. The Initial Purchaser also purchased 900,000 Shares, which comprise the initial Baskets. The Trust received all proceeds from the offering of the seed Basket and the initial Baskets in gold bullion. In connection with the offering and sale of the initial Baskets, the Sponsor paid a fee to the Initial Purchaser at the time of its purchase of the initial Baskets. In addition, the Initial Purchaser received commissions/fees from investors who purchased Shares from the initial Baskets through their commission/fee-based brokerage accounts.

(3) Information About Underlying Gold Holdings

The last-sale price for the Shares will be disseminated, on a real-time basis, over the Consolidated Tape by each market trading the Shares. There is a considerable amount of gold price and gold market information available on public Web sites and through professional and subscription services. In most instances, real-time information is available only for a fee, and information available free of charge is subject to delay (typically, 20 minutes).

Investors may obtain on a 24-hour basis gold pricing information based on the spot price for a troy ounce of gold from various financial information service providers, such as Reuters and Bloomberg. Reuters and Bloomberg provide at no charge on their Web sites delayed information regarding the spot price of gold and last sale prices of gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on gold prices directly from market participants. An organization named EBS provides an electronic trading platform to institutions such as bullion banks and dealers for the trading of spot gold, as well as a feed of live streaming prices to Reuters and Moneyline Telerate subscribers. Complete real-time data for gold futures and options prices traded on COMEX are available by subscription from Reuters and Bloomberg. NYMEX also provides delayed futures and options information on current and past trading sessions and market news free of charge on its Web site. The Exchange notes that there are a variety of other public Web sites providing information on gold, ranging from those specializing in precious metals to sites maintained by major newspapers, such as *The Washington Post*. Many of these sites offer price quotations drawn from other published sources, and as the information is supplied free of charge, it generally is subject to time delays.[18] Current gold spot prices are also available with bid/ask spreads from gold bullion dealers.

In addition, the Exchange, via a link to the Trust's Web site (*http://www.streettracksgoldshares.com*), will provide at no charge continuously updated bids and offers indicative of the spot price of gold on its own public Web site, *http://www.bostonstock.com*.[19] The Trust Web site provides a calculation of the estimated NAV (also known as the Intraday Indicative Value or ''IIV'') of a Share, as calculated by multiplying the indicative spot price of gold by the quantity of gold backing each Share. Comparing the IIV with the last sale price of the Shares helps an investor to determine whether, and to what extent, Shares may be selling at a premium or a discount to the NAV. Although provided free of charge, the indicative spot price and IIV per Share will be provided on an essentially real-time basis.[20] The Trust Web site provides the NAV of the Trust as calculated each business day by the Sponsor. In addition, the Trust Web site contains the following information, on a per-Share basis, for the Trust: (1) The IIV as of the close of the prior business day and the midpoint of the bid/ask price[21] in relation to such IIV (''Bid/Ask Price''), and a calculation of the premium or discount of such price against such IIV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the IIV, within appropriate ranges, for each of the four previous calendar quarters. The Trust Web site also provides the Trust's prospectus, as well as the two most recent reports to stockholders. Finally, the Trust Web site provides the last sale price of the Shares as traded in the U.S. market, subject to a 20-minute delay.[22]

e. Initial Share Issuance and Continued Trading

The Exchange understands that a minimum of three Baskets were outstanding at the commencement of trading on NYSE. The number of Shares per Basket is 100,000.

The Exchange's applicable continued trading criteria require it to delist the Shares if any of the following occur: (1) The value of gold is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the Sponsor, the Trust, the Custodian, Marketing Agent, or the Exchange, or the Exchange stops providing the hyperlink on its Web site to any such unaffiliated gold value; (2) the IIV is no longer made available on at least a 15-second delayed basis; or (3) such other event shall occur or condition exist that, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. In addition, the Exchange will remove the Shares from trading upon termination of the Trust or delisting from the NYSE without immediate re-listing on another exchange.

f. Exchange Trading Rules and Policies

Proposed BSE Chapter XXIV–C, Section 1 deals with the trading of the Shares. Paragraph (c) of that Section states that the Shares are included in the definition of ''securities'' under the Exchange's Constitution and Rules and are subject to all applicable Exchange trading rules. In addition, proposed BSE Chapter XXIV–C, Section 1 sets forth that an equity specialist, his member organization, other member, allied member, or approved person in such member organization or officer or employee thereof, is prohibited from acting as a market maker or functioning in any capacity involving market-making responsibilities in the physical

[18] There may be incremental differences in the gold spot price among the various information service sources. While the Exchange believes the differences in the gold spot price may be relevant to those entities engaging in arbitrage or in the active daily trading of gold or gold-based products, the Exchange believes such differences are likely of less concern to individual investors intending to hold the Shares as part of a long-term investment strategy.

[19] The Trust Web site's gold spot price will be provided by The Bullion Desk (*http://www.thebulliondesk.com*). The Trust Web site will indicate that there are other sources for obtaining the gold spot price. In the event that the Trust Web site should cease to provide this indicative spot price from an unaffiliated source (and the intraday indicative value) of the Shares, the Exchange will cease to trade the Shares.

[20] The Trust's Web site, to which the Exchange's Web sites will link, will disseminate an indicative spot price of gold and the IIV and indicate that these values are subject to an average delay of 5 to 10 seconds.

[21] The bid/ask price is determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day IIV.

[22] The last sale price of the Shares in the secondary market is available on a real-time basis for a fee from regular data vendors.

gold, gold futures or options on gold futures, or any other gold derivatives. However, an approved person of an equity specialist that has established and obtained Exchange approval of procedures restricting the flow of material, non-public market information between itself and the specialist member organization pursuant to BSE Chapter II, Section 36 and any member, officer, or employee associated therewith, may act in a market-making capacity, other than as a specialist in the Shares on another market center, in physical gold, gold futures or options on gold futures, or any other gold derivatives.

Proposed BSE Chapter IIIV–C, Section 2 requires trading and information barriers for member organizations acting as specialist in the Shares. Specifically, a member organization acting as specialist in the Shares is obligated to conduct all trading in the Shares in its specialist account, subject only to the ability to have one or more investment accounts, all of which must be reported to the Exchange. Such member organization acting as specialist must also report to the Exchange and keep current a list identifying all accounts for trading physical gold, gold futures or options on gold futures, or any other gold derivatives, which the specialist may have or over which it may exercise investment discretion. Under the rule, any trading by the member organization that is the specialist in GLD of physical gold or gold derivatives in an account over which the member organization controls, directly or indirectly, trading activities or has a direct interest in the profits or losses is prohibited, except to the extent such accounts and trading activities are reported to the Exchange as required under the rule. Furthermore, a member organization that is the specialist in the Shares will be required to make its books, records, and other relevant information pertaining to its transactions and those of any member, allied member, approved person, registered or non-registered employee affiliated with the member for its or their own accounts in physical gold and gold derivatives available to the Exchange upon request. In addition, the registered specialist in GLD will be prohibited from using any material nonpublic information from any person associated with a member or employee of such person regarding trading of physical gold or any gold derivative products.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in gold, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in the Shares is subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule.[23]

Trading in the Shares on the Exchange will be effected normally until 4:15 p.m. Eastern Time each business day. The minimum trading increment for the Shares on the Exchange will be $0.01, in accordance with BSE Chapter II, Section 41. Additionally, the Shares will be subject to the Exchange's rules pertaining to odd-lot trading, as set forth in BSE Chapter XII, as well as the Exchange's rules governing trading over the Intermarket Trading System (''ITS'') set forth in Chapter XXXI, including those provisions in Section 4 governing trade-throughs and locked markets.

g. Surveillance

BSE represents that the surveillance procedures it will utilize to surveil trading activity in the Shares are sufficient to detect and deter manipulation of the market. The Exchange's existing surveillance procedures for exchange-traded funds (''ETFs'') will be utilized for the Shares. In addition, for intermarket surveillance purposes, the Exchange has entered into a reciprocal Memorandum of Understanding (''MOU'') with NYMEX for the sharing of information related to any financial instrument based, in whole or in part, upon an interest in or performance of gold.

The Exchange is also proposing the adoption of BSE Chapter XXIV–C, Section 2 to ensure that specialists handling the Shares provide the Exchange with all necessary information relating to their trading in physical gold and in gold futures contracts and options thereon or any other gold derivative.[24] As a general matter, the Exchange has regulatory jurisdiction over its member organizations and any person or entity controlling a member organization. The Exchange also has regulatory jurisdiction over a subsidiary or affiliate of a member organization that is in the securities business. A member organization subsidiary or affiliate that does business only in commodities would not be subject to BSE jurisdiction, but the Exchange could obtain certain information regarding the activities of such subsidiary or affiliate through reciprocal agreements with regulatory organizations of which such subsidiary or affiliate is a member.

h. Suitability

Under the general principals of customer suitability, as discussed in BSE Chapter VII, Section 2, before a member, member organization, allied member, or employee of such member organization undertakes to recommend a transaction in the Shares, such member or member organization should make a determination that the Shares are suitable for such customer. Before any recommendation is made with respect to the Shares, the person making the recommendation should have a reasonable basis for believing at the time of making the recommendation that the customer has such knowledge and experience in financial matters that he or she may reasonably be expected to be capable of evaluating the risks and any special characteristics of the recommended transaction, and is financially able to bear the risks of the recommended transaction.

i. Information Circular

The Exchange will distribute an information circular to its members in connection with the trading in the Shares. The circular will discuss the special characteristics and risks of trading this type of security. Specifically, the circular, among other things, will discuss what the Shares are, how a Basket is created and redeemed, the requirement that members and member firms deliver a prospectus to investors purchasing the Shares prior to or concurrently with the confirmation of a transaction, applicable Exchange rules, dissemination information regarding the indicative price of gold and the IIV, trading information, and the applicability of the Exchange suitability rule. The information circular will also explain that the Trust is subject to various fees and expenses described in the Registration Statement, and that the number of ounces of gold required to create a Basket or to be delivered upon a redemption of a Basket will gradually decrease over time because the Shares comprising a Basket will represent a decreasing amount of gold due to the

[23] Chapter II, Section 34A of the BSE Rules.

[24] The proposed section also states that, in connection with trading physical gold, gold futures or options on gold futures, or any other gold derivatives (including the Shares), the specialist shall not use any material nonpublic information received from any person associated with a member or employee of such person regarding trading by such person or employee in physical gold, gold futures or options on gold futures, or any other gold derivatives.

sale of the Trust's gold to pay the Trust's expenses. The information circular will also reference the fact that there is no regulated source of last-sale information regarding physical gold, and that the Commission has no jurisdiction over the trading of gold as a physical commodity.

In the information circular, members and member organizations will be informed that procedures for purchases and redemptions of the Shares in Baskets and that the Shares are not individually redeemable but are redeemable only in Basket-size aggregations or multiples thereof. The information circular will also advise members of their suitability obligations with respect to recommended transactions to customers in the Shares. The circular will also discuss any relief if granted by the Commission or the staff from any rules under the Act.

The information circular will likewise disclose that the NAV for the Shares will be calculated as of the earlier of the London p.m. fix for such day or 12 p.m. Eastern Time each day that BSE is open for trading.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,[25] in general, and furthers the objectives of Section 6(b)(5) of the Act,[26] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would 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

Written comments on the proposed rule change were neither solicited nor received.

III. 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. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BSE–2004–54 on the subject line.

Paper Comments

- Send 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 SR–BSE–2004–54. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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 also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BSE–2004–54 and should be submitted on or before April 21, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[27] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[28] which requires that an exchange have rules designed, among other things, 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. The Commission believes that the proposal will benefit investors by increasing competition among markets that trade GLD.

In addition, the Commission believes that the proposal is consistent with Section 12(f) of the Act,[29] which permits an exchange to trade, pursuant to UTP, a security that is listed and traded on another exchange.[30] The Commission notes that it previously approved the listing and trading of the Shares on NYSE.[31] The Commission also believes that the proposal is consistent with Rule 12f–5 under the Act,[32] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange represented that it meets this requirement because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the existing rules of the Exchange governing the trading of equity securities, including rules relating to ITS, trading halts, odd-lots, and the minimum trading increment.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[33] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last sale information regarding GLD are disseminated through the Consolidated Quotation System. Furthermore, as noted by the Exchange, various means exist for investors to

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

[27] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78*l*(f).

[30] Section 12(a) of the Act, 15 U.S.C. 78*l*(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange ''extends UTP.'' When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[31] *See* NYSE Approval Order, *supra* note 3.

[32] 17 CFR 240.12f–5.

[33] 15 U.S.C. 78k–1(a)(1)(C)(iii).

obtain reliable gold price information and thereby to monitor the underlying spot market in gold relative to the NAV of their Shares. Additionally, the Trust's Web site will provide an updated IIV at least every 15 seconds. If the Trust ceases to maintain or to calculate the IIV or if the IIV ceases to be widely available, the Exchange would cease trading GLD.

The Commission notes that, if GLD were to be delisted by NYSE, the Exchange would no longer have authority to trade GLD pursuant to this order.

In support of the proposal, the Exchange made the following representations:

1. The Exchange's surveillance procedures for reviewing trading in GLD will be sufficient to detect and deter manipulation and comparable to the procedures used for reviewing trading in other securities (including ETFs) on the Exchange. In addition, the Exchange entered into an MOU with NYMEX for the sharing of information related to any financial instrument based, in whole or in part, upon an interest in or the performance of gold.

2. The Exchange will distribute an information circular prior to the commencement of trading of GLD on the Exchange that explains its terms, characteristics, and risks of trading GLD.

3. The Exchange will require a member organization with a customer that purchases the Shares on the Exchange to provide that customer with a product prospectus and will note this prospectus delivery requirement in the information circular.

This approval order is conditioned on the Exchange's adherence to these representations.

Finally, the Commission believes that the Exchange's rules imposing trading restrictions and information barriers on specialists in GLD are reasonable and consistent with the Act. These rules generally require a specialist to report to the Exchange a list of all accounts for trading gold or gold derivatives over which the specialist exercises investment discretion or has an interest. Furthermore, specialists and their affiliated persons will be required to make available to the Exchange, upon request, their books and records pertaining to transactions in gold and gold derivatives.

The Commission finds good cause for approving the proposal prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. As noted previously, the Commission previously found that the listing and trading of GLD on NYSE is consistent with the Act.[34] The Commission presently is not aware of any regulatory issue that should cause the Commission to revisit that earlier finding or preclude the trading of GLD on the Exchange pursuant to UTP. Therefore, accelerating approval of the proposal should benefit investors by creating, without undue delay, additional competition in the market for GLD.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[35] that the proposed rule change (SR–BSE–2004–54) as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[36]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–1410 Filed 3–30–05; 8:45 am]

BILLING CODE 8010–01–P

[34] *See supra* note 3.

[35] 15 U.S.C. 78s(b)(2).

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51429; File No. SR–CBOE–2004–58]

Self-Regulatory Organizations; Order Granting Accelerated Approval to a Proposed Rule Change and Amendments No. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendments No. 3 and 4 to the Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Market-Maker Quoting Obligations and Market-Maker Appointments

March 24, 2005.

I. Introduction

On August 19, 2004, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend existing CBOE rules and to adopt new rules governing quoting by CBOE Market-Makers (''Market-Makers'' or ''MMs''). On February 2, 2005, CBOE filed Amendment No. 1 to the proposed rule change.[3] On February 17, 2005, CBOE filed Amendment No. 2 to the proposed rule change.[4] The proposed rule change and Amendments No. 1 and 2 were published for comment in the **Federal Register** on March 1, 2005.[5] The Commission received no comments on the proposal. On March 18, 2005, CBOE filed Amendment No. 3 to the proposed rule change.[6] On March 23, 2005, CBOE filed Amendment No. 4 to the proposed rule change.[7] This order approves the proposed rule change and Amendments No. 1 and 2 on an accelerated basis, and publishes notice of and grants accelerated approval to Amendments No. 3 and 4 thereto.

II. Discussion

CBOE's Hybrid Trading System merges the electronic and open outcry trading models, offering market participants the ability to stream electronically their own firm disseminated market quotes representing their trading interest. On July 12, 2004, the Commission approved a CBOE proposal to add a new category of market participant called ''e-DPMs,'' who function as remote competing specialists in their allocated securities. By contrast, regular Designated Primary Market-Makers (''DPMs'') and MMs on CBOE are required to operate from

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superceded CBOE's original 19b–4 filing in its entirety.

[4] Amendment No. 2 replaced and superceded CBOE's original 19b–4 filing and Amendment No. 1 in their entirety.

[5] *See* Securities Exchange Act Release No. 51234 (February 22, 2005), 70 FR 10006 (''Notice'').

[6] In Amendment No. 3, CBOE proposes to (1) amend the reference date contained in CBOE Rule 8.3A from January 6 to March 18, 2005, (2) adopt on a one-year pilot basis that portion of proposed CBOE Rule 8.3(c) governing a MM's ability to quote from a location outside of his/her trading station, (3) adopt procedures governing ''temporary appointments'' during the rollout of its Initial Remote Market-Market (''RMM'') Appointment Process (''IRAP''), and (4) incorporate changes to the rule language as a result of the approval of a corresponding CBOE rule filing relating to RMMs. *See* Securities Exchange Act Release No. 51366 (March 14, 2005), 70 FR 13217 (March 18, 2005) (order approving ''RMM filing''). The text of Amendment No. 3 is available on CBOE's Web site (*http://www.cboe.com*), at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

[7] In Amendment No. 4, CBOE proposes to amend CBOE Rule 8.3(c) to codify that any MM affiliated with an RMM would be prohibited from submitting electronic quotations from outside of its appointed trading station in any class in which the affiliated RMM has an appointment. This prohibition was specifically published for comment in the Notice. *See* Notice, *supra* note 5, at footnote 13 (''* * * *See also* proposed CBOE Rule 8.4(c)(i) in the Exchange's proposed RMM filing. The same prohibition would apply to MMs affiliated with RMMs and is contingent upon SEC approval of the Exchange's RMM filing * * *''). The text of Amendment No. 4 is available on CBOE's Web site (*http://www.cboe.com*), at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

within their appointed trading station.[8] Under the current proposal, CBOE proposes to grant its MMs the ability to stream quotes from locations other than their appointed trading stations.[9] Accordingly, CBOE proposes to amend its rules governing the MM appointment process (CBOE Rule 8.3) and MM quoting obligations (CBOE Rule 8.7).

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[10] and, in particular, the requirements of Section 6 of the Act[11] and the rules and regulations thereunder. The Commission specifically finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act[12] in that it is designed 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.

A. Market-Maker Appointments

Currently, a MM's appointment consists of all classes traded at a particular trading station, regardless of the number of classes actually trading at that station and regardless of whether the MM owns or leases a membership. In addition, CBOE Rule 8.3(c) currently provides that MMs may have appointments in up to ten trading stations on the floor. The Exchange proposes to amend these requirements in several respects.

As proposed, a MM's appointment would confer the right to quote in open outcry all classes traded on the Exchange, regardless of the trading station at which they are located.[13] A MM's appointment would also confer the right to quote electronically in all Hybrid classes traded on the Hybrid Trading System that are located in one designated/appointed trading station, and, with respect to Hybrid 2.0 Classes (as defined in CBOE Rule 1.1(aaa)), the ability to submit electronic quotations in up to 40 classes for each Exchange membership it owns or up to 30 classes for each Exchange membership it leases, all of which must be located in the MM's one appointed trading station.[14] However, a MM affiliated with an e-DPM or an RMM would be prohibited from submitting electronic quotations from outside of its appointed trading station in any class in which the affiliated e-DPM or affiliated RMM has an appointment.[15]

Under the proposal, a MM that trades in open outcry away from his/her appointed trading station would be restricted to open outcry trading only for classes at that trading station and would not be eligible to quote electronically in those classes until such time that the MM notifies the Exchange of his/her request to change his/her appointment and such request is approved in accordance with CBOE's rules. On any day a MM trades in open outcry outside of his/her appointed trading station, that MM may be required to undertake market-making obligations in those classes in which the MM trades in open outcry at the request of the Order Book Official.[16]

The proposal limits a MM's appointments to the classes located at one trading station. In Hybrid, MMs currently may only stream quotes where they are physically present in the trading crowd, which in essence already creates a ''one trading station'' appointment.[17] As is the case today, MMs would continue to be able to leave one trading station and trade in another trading station; however, they would be required to notify the Exchange *prior* to switching trading stations and request an appointment in the classes located at a new trading station, which would be granted on a space-available basis (as described in more detail in CBOE Rule 8.3A). A MM's ability to trade in non-appointed classes would be limited to submitting orders for automatic execution pursuant to CBOE Rules 6.8 or 6.13.[18]

Proposed CBOE Rule 8.3(c) provides that a MM would be presumed to have an appointment in all non-Hybrid 2.0 classes located at his/her appointed trading station unless the MM specifically indicates to the Exchange that he/she does not want to include a particular class(es) as part of his/her appointment (''excluded classes'').[19] When a MM excludes a class, the Exchange would be able to provide an appointment in that excluded class to a MM that does not currently trade that class but who has an interest in doing so. A MM is not eligible to submit electronic quotations into any class it designates as an excluded class. Any request by a MM to receive a subsequent appointment in a previously excluded class would be handled in accordance with CBOE Rule 8.3A.

The Commission believes that the proposed amendments to CBOE Rule 8.3 to allow MMs the ability to stream quotes electronically from remote locations outside of a MM's appointed trading station are consistent with the Act.

B. Market-Maker Quoting Obligations

The Exchange proposes several changes to CBOE Rule 8.7 to accommodate MMs quoting from outside of their appointed trading stations. The Exchange proposes to revise CBOE Rule 8.7(b)(i) to obligate MMs to compete with other MMs to improve markets in all series of options classes comprising the MM's appointment, whether trading electronically or in person. In addition, the Exchange proposes to amend CBOE Rule 8.7(b)(iii) in two primary respects. The first change proposes to obligate a MM to update quotes in his/her appointed classes at the trading station where the MM quotes, whether in person or electronically. The second change is designed to clarify the permissible methods by which a MM may submit quotes and orders in both appointed and non-appointed classes. Specifically, proposed CBOE Rule 8.7(b)(iii)(A) provides that, with respect

[8] The current Hybrid rules allow MMs on CBOE to stream electronic quotes only when they are physically present in their appointed trading stations.

[9] For example, rather than ''calling in sick'' to work and thereby relinquishing the ability to quote altogether, a MM would be able to stream quotes from his/her home office. This proposal, as amended, only allows current MMs to quote remotely (*i.e.*, from outside of their appointed trading stations) on a one-year pilot basis. *See* proposed CBOE Rule 8.3(c). *See also* CBOE Rule 8.4 and RMM filing for rules governing Remote Market-Makers.

[10] In approving this proposed rule change, as amended, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

[13] For margin purposes, these transactions would qualify as MM transactions.

[14] If a trading station consists of fewer than 40 (30) Hybrid 2.0 Classes, each MM that owns (leases) a membership would be eligible to submit electronic quotations in each of the Hybrid 2.0 Classes at that trading station, in accordance with the requirements of CBOE Rule 8.3A. In addition, Amendment No. 3 places MMs ability to quote electronically in his/her appointed Hybrid and Hybrid 2.0 classes from a location outside of his/her appointed trading station on a one-year pilot. *See* proposed CBOE Rule 8.3(c).

[15] *See* CBOE Rules 8.93(vii) and 8.4(c)(ii). *See also* Amendment No. 4.

[16] *See* CBOE Rule 8.7(c), discussed *infra*.

[17] The Exchange represents that it is gradually transferring all equity classes to the Hybrid Trading System and anticipates having all such classes on Hybrid within the first quarter of 2005.

[18] As part of its appointment, a MM may trade in open outcry all classes located on the Exchange. *See* proposed CBOE Rule 8.7(b)(iii) for the permissible methods by which MMs may submit quotes and orders in appointed and non-appointed classes. CBOE Rule 6.8 applies to non-Hybrid classes, while CBOE Rule 6.13 applies to Hybrid classes.

[19] Because MMs must specifically designate which Hybrid 2.0 Classes they would trade as part of their appointment, there is no need to have them designate which Hybrid 2.0 Classes they would not trade.

to trading in appointed classes: (1) MMs who are physically present in their appointed trading station may enter quotes and orders in their appointed classes by public outcry in response to a request for a quote or, in classes in which Hybrid or Hybrid 2.0 is implemented, through an Exchange-approved electronic interface via an Exchange-approved quote generation device; (2) MMs may also enter quotes and orders in their appointed Hybrid and Hybrid 2.0 classes from outside of their appointed trading stations (pursuant to CBOE Rule 8.3) through an Exchange-approved electronic interface via an Exchange-approved quote generation device; and (3) MMs, whether physically present in their appointed trading stations or not, may also submit orders for automatic execution in accordance with the requirements of CBOE Rules 6.8 or 6.13. Proposed CBOE Rule 8.7(b)(iii)(B) provides that, with respect to trading in non-appointed classes, MMs may submit orders for automatic execution in accordance with the requirements of CBOE Rules 6.8 or 6.13.[20]

The Exchange also proposes changes to CBOE Rule 8.7(c) to ensure that a MM who trades in classes located outside of his appointed trading station would be required to fulfill all obligations imposed by CBOE Rule 8.7(b) and, for the rest of the trading day, the MM may be called back to that station to make markets in open outcry in the classes in which he/she traded.

Current CBOE Rule 8.7(d) governs market-making obligations in Hybrid classes. Generally, the extent of a MM's obligations is dictated by the amount of volume a MM transacts electronically. The Exchange intends to retain CBOE Rule 8.7(d)(i) [21] and to amend CBOE Rule 8.7(d)(ii). As amended, MMs that transact more than 20% of their volume electronically would be obligated to comply with the bid-ask width requirements of CBOE Rule 8.7(b)(iv),[22] maintain continuous quotes for at least ten contracts in 60% of the series of his/her appointed classes,[23] and respond to all open outcry requests for quotes with a ten-up, legal width market.[24] Proposed for elimination is the tiered continuous quoting requirement that is dependent upon the amount of volume transacted electronically on the Exchange. CBOE believes an across-the-board 60% quoting requirement is simpler and more effective.

The Exchange also proposes changes to Interpretations and Policies .03 to CBOE Rule 8.7. All MMs would still be required to comply with CBOE Rule 8.7.03(A), which requires 75% of a MM's volume to be in his/her appointed classes. The Exchange intends to retain the in-person requirement contained in current paragraph (B), but limit its application to non-Hybrid classes. Because MMs would have the ability to quote from outside of their appointed trading stations, CBOE believes that an in-person requirement no longer makes sense.[25] The Exchange further proposes changes to Interpretations and Policies .09 to CBOE Rule 8.7 to clarify the applicability of the rule to a MM electronically quoting outside of his/her appointed trading station in accordance with proposed CBOE Rule 8.3(c).

The Commission believes that the proposed changes to MM quoting obligations are appropriate to accommodate MMs' ability to electronically stream quotes in their appointed Hybrid classes and appointed Hybrid 2.0 classes from outside of their appointed trading stations. As such, the Commission finds the changes to CBOE Rule 8.7 relating to MM obligations to be consistent with the Act.

C. Amendments No. 3 and 4 to the Proposed Rule Change

Amendment No. 3 to the proposed rule change (1) amends the reference date contained in CBOE Rule 8.3A, (2) adopts on a one-year pilot basis that portion of proposed CBOE Rule 8.3(c) governing a MM's ability to quote electronically from outside his/her appointed trading station, (3) adopts procedures governing ''temporary appointments,'' and (4) incorporates changes to rule language as a result of the approval of CBOE's RMM filing.[26]

1. Changing the Grandfather Date From January 6 to March 18, 2005

CBOE Rule 8.3A establishes procedures for determining the maximum number of market participants that may quote electronically in a given class. As part of those procedures, the Exchange has used a January 6, 2005 ''grandfather'' date for the purpose of determining who will be entitled to quote electronically. The Exchange proposes to amend this rule to substitute March 18, 2005, as the new ''grandfather'' date.[27] Using a later date allows the Exchange to ensure that members would be ''grandfathered'' into the crowds in which they are quoting as of a date that is more close to the actual rollout of its RMM program.[28]

2. Adoption of CBOE Rule 8.3(c) on Pilot Basis

One of the proposed changes to CBOE Rule 8.3(c) would allow a MM to submit electronic quotations from a location outside of the appointed trading station in his/her appointed Hybrid classes and his/her appointed Hybrid 2.0 Classes. The Exchange proposes to further amend this aspect of the rule such that it is on a one-year pilot basis. As part of a pilot program, the Exchange would have the ability to evaluate this provision's effectiveness. At the end of the one-year period, based upon the conclusions reached, the Exchange could propose to extend the pilot or request permanent approval, in which case it would need to submit a rule filing pursuant to Section 19 of the Act and receive Commission approval. Alternatively, the Exchange could determine to allow this provision to lapse, in which case MMs no longer would have the ability to quote from outside of their appointed trading stations.

3. ''Temporary Appointments''

The Exchange proposes to adopt procedures governing the ability of MMs to change their appointed trading stations from the period between the ''grandfather'' date (described above) and the end of the IRAP. The IRAP is the process by which Exchange will grant appointments to RMMs and it will work on a time priority basis. The Exchange expects the process to begin the week of April 18, 2005 and to be finalized by April 22, 2005.

[20] In this regard, CBOE Rule 8.3 also would prohibit a MM from quoting electronically into a non-appointed class.

[21] CBOE Rule 8.7(d)(i) applies to MMs that transact less than 20% of their contract volume electronically.

[22] Bid-ask width requirements are currently $5 except during the opening rotation.

[23] A MM's undecremented quote must be for ten contracts unless the underlying market disseminates a 1-up market, in which case MMs who have automated the process may similarly quote 1-up. This ''1-up'' pilot program is scheduled to expire on August 17, 2005. *See* CBOE Rules 8.7(d)(i)(B) and (d)(ii)(B).

[24] Only MMs physically present in a trading station would have the ability to provide markets in open outcry.

[25] A MM's ability to quote electronically from outside of its appointed trading station is limited to appointed Hybrid and Hybrid 2.0 classes, as described and proposed in CBOE Rule 8.3(c).

[26] *See* RMM filing, *supra* note 6.

[27] The practical effect of this rule is to ensure that the DPMs, all MMs, and all e-DPMs would be guaranteed the ability to quote electronically in products trading at their primary trading stations as of March 18, 2005. CBOE represents that there were no products as of this date for which the number of members quoting electronically exceeded the Class Quoting Limit (''CQL'') for that product.

[28] The Exchange made a similar change in Amendment No. 2 to the RMM filing when it ''pushed back'' the previous ''grandfather'' date from December to January 6, 2005. *See* RMM filing, *supra* note 6, for a more detailed description of the RMM program.

In this regard, the purpose of these procedures is to enable the Exchange to know with certainty the number of electronic appointments that will be available in each product during the IRAP. If MMs that receive ''grandfathered'' appointments were able to change their trading stations, it would be extremely difficult for the Exchange to know with certainty how many electronic appointments were available on a per product basis. For this reason, the Exchange proposes that, for the limited period from March 21, 2005, through the end of the IRAP, MMs would be able to switch trading stations, albeit on a temporary basis, as described below.

Under proposed Interpretations and Policies .02 to CBOE Rule 8.3A (''Temporary Appointments'' for the Period from March 21, 2005 through the end of the Initial RMM Appointment Process), the following procedures would apply to MMs' requests to change their appointed trading stations during the period commencing March 21, 2005, and lasting until the end of the IRAP.

1. Beginning March 21, 2005, until the termination of the IRAP, all MM requests to change their appointed trading stations would be granted on a temporary basis (''temporary appointment''), provided the CQL for the requisite product has not been met (*i.e.*, on a space-available basis, as described in Rule 8.3A.01). Each temporary appointment terminates at 3:15 p.m. (CT) on the last day of the IRAP, at which point all MMs' appointed trading stations would revert to the appointed trading station the MM held on March 18, 2005.

2. In order to receive a permanent appointment in a product in which a MM previously held a temporary appointment, a MM must participate in the IRAP and be allocated such product.

3. Upon termination of the IRAP, all MM (including RMM) requests for appointments and/or appointed trading stations would be handled subject to the requirements of Rule 8.3A (Class Quoting Limits) and in accordance with the appointment procedures of Rules 8.3 (MM appointments) and 8.4 (RMM appointments), as applicable.

Amendment No. 4 to the proposed rule change proposes to amend CBOE Rule 8.3(c) to codify that any MM affiliated with an RMM would be prohibited from submitting electronic quotations from outside of its appointed trading station in any class in which the affiliated RMM has an appointment.[29]

The Commission believes that the proposed changes in Amendment No. 3 are necessary and appropriate to allow the Exchange to commence its IRAP knowing exactly how many electronic quoting appointments would be available in each of the products included in the RMM program based on the number of grandfathered MM appointments in particular classes. This certainty would enable the appointment process to operate efficiently and expediently. In addition, the Commission believes that placing that portion of proposed CBOE Rule 8.3(c) governing MMs' ability to stream electronic quotes from locations outside of their appointed trading stations on a one-year pilot should allow the Exchange ample opportunity to evaluate the effectiveness such pilot. Furthermore, the Commission notes that the proposed amendment to CBOE Rule 8.3(c) in Amendment No. 4 simply incorporates into the proposed rule a prohibition against a MM affiliated with an RMM from streaming electronic quotes from outside of his/her appointed trading station into any class in which the affiliated RMM has an appointment.[30] As a result, the Commission finds that Amendments No. 3 and 4 are consistent with the Act.

D. Accelerated Approval of the Proposed Rule Change and Amendments No. 1, 2, 3 and 4

The Commission finds good cause for approving the proposed rule change and Amendments No. 1, 2, 3, and 4 thereto prior to the thirtieth day after the amendment is published for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[31] The Commission believes that accelerating approval of the proposal, as amended, is necessary to the proper operation of the CBOE's Hybrid Trading System and Hybrid 2.0 Platform because it would allow MMs to quote electronically from outside of their appointed trading stations at approximately the same time that CBOE begins the rollout of its RMM program, and would allow CBOE to commence its IRAP with a better understanding of how many electronic appointments would be available in products included in the RMM program. The Commission therefore believes that accelerated approval of the proposed rule change and Amendments No. 1, 2, 3, and 4 is appropriate, and finds that it is consistent with the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendments No. 3 and 4 to the proposed rule change are consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2004–58 on the subject line.

Paper Comments

- Send 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 SR–CBOE–2004–58. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2004–58 and should be submitted on or before April 21, 2005.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[32] that the

[29] *See supra* note 7.

[30] The Commission notes that this prohibition was specifically published for comment in the Notice. *See supra* note 5.

[31] 15 U.S.C. 78s(b)(2).

[32] 15 U.S.C. 78s(b)(2).

proposed rule change (SR–CBOE–2004–58), as amended, be approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[33]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–1408 Filed 3–30–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51430; File No. SR–CHX–2005–03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Stock Exchange, Inc. Relating to Participant Fees and Credits

March 24, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on March 1, 2005, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the CHX. On March 18, 2005, the Exchange filed Amendment No. 1 to the proposal to clarify three issues in the original filing.[3] The proposed rule change has been filed by the CHX as establishing or changing a due, fee, or other charge, pursuant to Section 19(b)(3)(A)(ii) of the Act,[4] and Rule 19b–4(f)(2)[5] thereunder, 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to amend its Participant Fee Schedule to exempt, from the fixed fees paid by specialist firms, securities in which CHXpress™ orders are processed by the Exchange. Below is the text of the proposed rule change. Proposed new language is in *italics*.

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Participant Fees and Credits

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E. Specialist Fixed Fees

Except in the case of Tape B Exemption Eligible Securities (as defined above in Section D), *and Designated CHXpress Securities (as defined below),* which shall be exempt from assessment of fixed fees, specialists will be assigned a fixed fee per assigned stock on a monthly basis, to be calculated as follows:

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''Designated CHXpress Securities'' are those issues which have been designated by the Exchange on a monthly basis as fixed-fee exempt.

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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 CHX 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 CHX 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 stated that it is rolling out a new, automated functionality for the handling of particular orders, called CHXpress.™ According to the Exchange, the CHXpress functionality is designed to provide additional opportunities for the Exchange's participants to seek and receive liquidity through automated executions of orders at the Exchange.[6] With a few exceptions, CHXpress orders will be executed immediately and automatically against same or better-priced orders in the specialist's book, or against the specialist's quote (when that functionality is available).[7] If a CHXpress order cannot be immediately executed, it will be placed in the specialist's book for instantaneous display or later execution.[8] A CHX specialist may not cancel or place a CHXpress order on hold or otherwise prevent the order-sending firm from canceling the order.

The Exchange stated that this new functionality currently is available in select issues, and the Exchange plans to extend the use of this functionality to additional issues in upcoming weeks. The Exchange also stated that the implementation of the CHXpress functionality has been somewhat slower than it anticipated because of the need for the Exchange to focus on other trading system improvements. According to the Exchange, two CHXpress-related projects—to automate the execution of inbound ITS commitments and to provide for the automatic execution of a specialist's quote—are among the projects that have not yet been completed.[9]

The Exchange believes that the CHXpress functionality has provided the speed and certainty sought by some of the Exchange's participants and plans to extend the functionality to new securities over the next several weeks. According to the Exchange, CHX specialist firms, on the other hand, have

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[33] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Form 19b–4, dated March 18, 2005 (''Amendment No. 1''), which replaced the original filing in its entirety. The Exchange filed Amendment No. 1 to: (a) Remove the inadvertent underlining of the term ''Tape B'' in the proposed rule text; (b) clarify the language in footnote 8 by using the term ''NBBO'' instead of using both the terms ''NBBO'' and ''ITS BBO'' when confirming how CHXpress orders will be handled when they would improperly lock or cross the best bid or offer in the market; and (c) clarify that the Exchange proposes to classify as ''Designated CHX Securities'' all securities in which the CHXpress functionality is enabled.

For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on March 18, 2005, the date the Exchange filed Amendment No. 1.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

[6] *See* Securities Exchange Act Release No. 50481 (Sept. 30, 2004); 69 FR 60197 (Oct. 7, 2004) (SR–CHX–2004–12).

[7] CHXpress orders will not be executed if those executions would improperly trade-through another ITS market or if trading in the issue had been halted. CHXpress orders that would improperly trade through an ITS market or that are received during a trading halt will be cancelled. If trading in an issue has been halted, CHXpress orders in the book will be cancelled.

[8] A CHXpress order will be instantaneously and automatically displayed when it constitutes the best bid or offer in the CHX book. *See* Article XX, Rule 37(b)11(D). CHXpress orders, like all other orders at the Exchange, will not be eligible for automated display if that display would improperly lock or cross the NBBO. A CHXpress order that would improperly lock or cross the NBBO will be cancelled. CHXpress orders cannot be excluded from the CHX's quote.

[9] The Exchange stated that it is also working to enhance its systems' ability to process the many order messages that will be sent when the CHXpress functionality is rolled out to all securities. The Exchange stated that it has seen that the firms currently using this functionality typically will send an order and, if the order is not immediately executed, will send an immediate cancellation message. In general terms, these messages greatly increase the number of slots (one slot for each message) that must be available within the Exchange's systems.

noted that they will be best able to handle issues associated with the automatic execution of CHXpress orders when inbound ITS commitments are automatically executed and when they can display (and have automatically executed) their manual proprietary quotes—issues that will be addressed with upcoming systems work.[10] In the interim, the Exchange is proposing to exempt, from the specialist fixed fees, all securities in which CHXpress orders are processed by the Exchange.[11] The Exchange intends to identify these securities, on a monthly basis, at the beginning of each month, based on business factors including the interest demonstrated by order-sending firms in trading a particular security. The Exchange stated that the CHXpress functionality would be enabled for these Designated CHXpress Securities throughout the month.

2. Statutory Basis

The CHX believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(4) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

[10] According to the Exchange, it is currently possible for a specialist to receive an ITS commitment seeking execution at a displayed quote, and to be in the process of manually executing that commitment, when a CHXpress order seeking execution against the same interest automatically executes at that price. In these situations, a specialist is obligated to fill the earlier-received ITS commitment, even though the displayed bid or offer has already been satisfied. The Exchange believes that the automatic execution of inbound ITS commitments would resolve this double liability by taking down (or decrementing, when appropriate) the bid or offer immediately upon the automatic execution of the ITS commitment. Any later-received CHXpress order would then be executed, if possible, against the CHX's updated quote.

The Exchange also stated that, when a CHX specialist displays a manual, proprietary bid or offer, the Exchange's systems are not currently able to allow incoming orders, including CHXpress order, to automatically execute against that quote. As a result, in securities where the CHXpress functionality is enabled (and where automated executions are required against displayed quotes), a CHX specialist does not display manual bids and offers.

[11] The Exchange stated that the proposed elimination of the fixed fee is designed to compensate specialists for the potential double liability associated with the handling of ITS commitments when CHXpress orders are automatically executing against displayed bids and offers and for their inability to manually post bids and offers in CHXpress-eligible securities.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[14] and Rule 19b–4(f)(2)[15] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CHX–2005–03 on the subject line.

Paper Comments

- Send 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 SR–CHX–2005–03. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2005–03 and should be submitted on or before April 21, 2005.

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–1409 Filed 3–30–05; 8:45 am]

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[16] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5037]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Tibet Professional, Educational and Cultural Exchange Program

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/WHA/EAP–05–58.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates:

Application Deadline: May 9, 2005.

Executive Summary

The Office of Citizen Exchanges welcomes proposals in an open competition for Tibet Professional, Educational and Cultural Exchange Projects that focus on the themes of Cultural Preservation and Economic Self-sufficiency. The Office seeks proposals that train and assist Tibetans living in Tibetan communities in China by providing professional experience and exposure to American life and

culture through internships, workshops and other learning and sharing experiences hosted by local U.S. institutions. The experiences also will provide Americans the opportunity to learn about Tibetan culture and the social and economic challenges Tibetans face today. These two-way exchanges should not be simply academic in nature but should provide practical, hands-on experience in U.S. public or private sector settings that may be adapted to an individual's institution upon return home. Proposals may combine elements of professional enrichment, job shadowing and internships appropriate to the language ability and interests of the participants.

Applicants should ensure that their proposals comply with the Tibet Policy Act of 2002, particularly that their projects promote in all stages the active participation of Tibetans. Section 616 (d) of the Foreign Relations Authorization Act, 2003 (Pub. L. 107–228) defines the Tibet Project Principles.

(d) Tibet Project Principles—Projects in Tibet supported by international financial institutions, other international organizations, nongovernmental organizations, and the United States entities referred to in subsection (c), should (1) Be implemented only after conducting a thorough assessment of the needs of the Tibetan people through field visits and interviews; (2) Be preceded by cultural and environmental impact assessments; (3) Foster self-sufficiency and self-reliance of Tibetans; (4) Promote accountability of the development agencies to the Tibetan people and active participation of Tibetans in all project stages; (5) Respect Tibetan culture, traditions, and the Tibetan knowledge and wisdom about their landscape and survival techniques; (6) Be subject to on-site monitoring by the development agencies to ensure that the intended target group benefits; (7) Be implemented by development agencies prepared to use Tibetan as the working language of the projects; (8) neither provide incentive for, nor facilitate the migration and settlement of, non-Tibetans into Tibet; and (9) neither provide incentive for, nor facilitate the transfer of ownership of, Tibetan land or natural resources to non-Tibetans.

1. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose

The Office of Citizen Exchanges welcomes proposals that focus on the themes of Cultural Preservation and Economic Self-sufficiency under this competition for FY–2005 Tibet Professional, Educational and Cultural Exchange Projects.

Cultural Preservation

Projects under this theme should aim to assist Tibetans in preserving their cultural heritage through activities designed to reduce the pillage of irreplaceable cultural heritage and to create opportunities to develop long-term strategies for preserving cultural property through training and conservation, museum development, and public education. Projects might include supporting the preservation of cultural sites; objects in a site, museum or similar institution; or forms of traditional cultural expression. The proposals may encompass topics such as museum needs, historic buildings, collections, archaeological sites, rare manuscripts, language, or traditional arts, crafts, or music.

Economic Self-Sufficiency

Vocational Education

Proposals are sought which emphasize vocational training or administration and development of vocational schools targeted towards the practical needs of Tibetan communities. Discussion of how to integrate education with economic planning, how to diversify revenue sources, and how to recruit, train and retain strong faculty would all contribute towards increased emphasis on vocational education and its importance to both Americans and Tibetans in a modern and changing economy. Vocational education may include practical training of entrepreneurs, development of Tibetan-language educational materials (such as Tibetan-English teaching guides or Tibetan-language public health education materials), or development of distance-learning technology solutions for remote rural schools. English-language training projects that are held in China are preferred over ones that would bring Tibetans to the U.S. for training.

Developing Entrepreneurship

Projects under this theme may focus on the skills Tibetans, many of whom come from rural backgrounds with rudimentary economies, need to function effectively in a modern economy (*e.g.* finance, accounting, and language skills). Projects will be favored that explore ways in which both the government and the private sector can help promote sustainable entrepreneurship, including access to credit, ecologically conscious tourism policies and investment, or English language training for trade or tourism purposes. Programs that train budding entrepreneurs and develop micro-finance programs for them are welcome.

Sustainable Growth and Eco-Tourism

Exchanges funded under this theme would help American and Tibetan conservationists, tourism planners, and economic planners share their experience in managing tourism resources and development projects, particularly in ecologically fragile areas, and would contribute to better understanding of conservation and concepts essential to responsible economic growth. Local community projects are invited in fields such as eco-tourism, renewable energy, or poverty alleviation projects, including farm technology, animal husbandry, or agricultural marketing.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: Fiscal Year 2005.

Approximate Total Funding: $500,000.

Approximate Number of Awards: Four.

Approximate Average Award: $125,000.

Floor of Award Range: $60,000.

Ceiling of Award Range: $135,000.

Anticipated Award Date: September 1, 2005.

Anticipated Project Completion Date: December 31, 2007.

III. Eligibility Information

III.1. Eligible applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs that are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

IV. Application and Submission Information

Note: Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information To Request an Application Package

Please contact the Office of Citizen Exchanges, ECA/PE/C, Room 224, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone number 202–453–8154 and fax number 202–453–8168, *McnealDB@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/WHA/EAP–050–58 located at the top of this announcement when making your request.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document that consists of required application forms, and standard guidelines for proposal preparation.

Please specify Douglas McNeal and refer to the Funding Opportunity Number ECA/PE/C/WHA/EAP–05–58 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm.* Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The original and ten copies of the application should be sent per the instructions under IV.3e. ''Submission Dates and Times section'' below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 *Adherence To All Regulations Governing The J Visa.* The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.*, including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 401–9810, FAX: (202) 401–9809.

IV.3d.2 *Diversity, Freedom and Democracy Guidelines.* Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion,

geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. *Program Monitoring and Evaluation.* Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes*. *Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.
2. *Participant learning,* such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. *Participant behavior,* concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. *Institutional changes,* such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.*, surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. Awards may not exceed $135,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

Travel costs: International and domestic airfares; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs. Please note that Tibetan participants may not travel to the U.S. primarily for English language instruction.

Per Diem: For the U.S. program, organizations have the option of using a flat $160/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used. NOTE: U.S. escorting staff must use the published Federal per diem rates, not the flat rate. Per diem rates may be accessed at *http://www.policyworks.gov/*.

Interpreters: If needed, interpreters for the U.S. program are available through the U.S. Department of State Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. Bureau grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $160/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget. Locally arranged interpreters with adequate skills and experience may be used by the grantee in lieu of State Department interpreters, with the same 1:4 interpreter to participant ratio. Costs associated with using their services may not exceed rates for U.S. Department of State interpreters.

Book and cultural allowance: Foreign participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a

participant book allowance of $50. U.S. program staff members are not eligible to receive these benefits.

Consultants: Consultants may be used to provide specialized expertise, design or manage development projects or to make presentations. Honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal. Subcontracts should be itemized in the budget.

Room rental: Room rental may not exceed $250 per day. Materials development: Proposals may contain costs to purchase, develop, and translate materials for participants.

Equipment: Proposals may contain limited costs to purchase equipment crucial to the success of the program, such as computers, fax machines and copy machines. However, equipment costs must be kept to a minimum, and costs for furniture are not allowed.

Working Meal: The grant budget may provide for only one working meal during the program. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. Interpreters must be included as participants.

Return travel allowance: A return travel allowance of $70 for each foreign participant may be included in the budget. This may be used for incidental expenses incurred during international travel.

Health Insurance: Foreign participants will be covered under the terms of a U.S. Department of State-sponsored health insurance policy. The premium is paid by the U.S. Department of State directly to the insurance company. Applicants are permitted to included costs for travel insurance for U.S. participants in the budget.

Administrative Costs: Costs necessary for the effective administration of the program may include salaries for grant organization employees, benefits, and other direct or indirect costs per detailed instructions in the proposal submission instructions.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. *Submission Dates and Times: Application Deadline Date:* Monday, May 9, 2005.

Explanation of Deadlines: Due to heightened security measures, proposal submissions must be sent via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. ECA will *not* notify you upon receipt of application. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered. Applications may not be submitted electronically at this time.

Applicants must follow all instructions in the Solicitation Package.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and ten copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/WHA/EAP–05–58, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3g. *Intergovernmental Review of Applications:* Executive Order 12372 does not apply to this program.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. embassy(ies) for its (their) review.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards grants resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program Planning and Ability To Achieve Objectives:* Program objectives should be stated clearly and should reflect the applicant's expertise in the subject area and region. Objectives should respond to the priority topics in this announcement and should relate to the current conditions in the target country/countries. A detailed agenda and relevant work plan should explain how objectives will be achieved and should include a timetable for completion of major tasks. The substance of workshops, internships, seminars and/or consulting should be described in detail. Sample training schedules should be outlined. Responsibilities of proposed in-country partners should be clearly described.

2. *Institutional Capacity:* Proposals should include (1) the institution's mission and date of establishment; (2) detailed information about proposed in-country partner(s) and the history of the partnership; (3) an outline of prior awards—U.S. government and/or private support received for the target theme/country/region; and (4) descriptions of experienced staff members who will implement the program. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/countries. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new

applicants. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The Bureau strongly encourages applicants to submit letters of support from proposed in-country partners.

3. *Cost Effectiveness and Cost Sharing:* Overhead and administrative costs in the proposal budget, including salaries, honoraria and subcontracts for services, should be kept to a minimum. Priority will be given to proposals whose administrative costs are less than thirty (30) percent of the total funds requested from the Bureau. Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost sharing, including contributions from the applicant, proposed in-country partner(s), and other sources should be included in the budget request. Proposal budgets that do not reflect cost sharing will be deemed not competitive in this category.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities). Applicants should refer to the Bureau's Diversity, Freedom and Democracy Guidelines in the Proposal Submission Instructions (PSI) and the Diversity, Freedom and Democracy Guidelines section above for additional guidance.

5. *Post-Grant Activities:* Applicants should provide a plan to conduct activities after the Bureau-funded project has concluded in order to ensure that Bureau-supported programs are not isolated events. Funds for all post-grant activities must be in the form of contributions from the applicant or sources outside of the Bureau. Costs for these activities should not appear in the proposal budget, but should be outlined in the narrative.

6. *Evaluation:* Proposals should include a detailed plan to evaluate the program. Applicants must identify objectives that respond to our goals listed in the RFGP. Objectives should state what the concrete results of the program would be. Clearly stated objectives are needed to enable an evaluation plan to determine whether the program has done what it has set out to do. Applicant's staff must plan to evaluate the project's success, after each program phase and at the completion of the program activity. As part of the evaluation process, your evaluation plan should clearly distinguish between program outputs and outcomes. Outputs are the units of service (number of participants, number of events conducted, number of documents translated or distributed). Outcomes are the impacts on individual participants in the exchanges, the larger beneficiary audience, and institutional structures. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes. The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the stronger will be the evaluation. The Bureau also requires that grantee institutions submit a final narrative and financial report.

VI. Award Administration Information

VI.1. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following websites for additional information:

http://www.whitehouse.gov/omb/grants.

http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus two copies of the following reports:

1. A final program and financial report no more than 90 days after the expiration of the award;

2. A program report should be submitted after each program phase.

3. A financial report will be submitted quarterly.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Douglas McNeal, Office of Citizen Exchanges, ECA/PE/C Room 216, ECA/PE/C/WHA/EAP–05–58, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone number 202–453–8154 and fax number 202–453–8168, e-mail address *mcnealDB@state.gov*.

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/WHA/EAP–05–58.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding.

Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 25, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 05–6384 Filed 3–30–05; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5018]

Meeting of Advisory Committee on International Communications and Information Policy

The Department of State announces the next meeting of its Advisory Committee on International Communications and Information Policy (ACICIP) to be held on Thursday, April 21, 2005, from 10 a.m. to 12:30 p.m., in Room 1105 of the Harry S. Truman Building of the U.S. Department of State. The Truman Building is located at 2201 C Street, NW., Washington, DC 20520.

The committee provides a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communications services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country issues.

The meeting will be led by ACICIP Chair Mr. Richard E. Wiley of Wiley Rein & Fielding LLP. Ambassador David A. Gross, Deputy Assistant Secretary and U.S. Coordinator for International Communications and Information Policy, and other senior State Department officials will also address the meeting. The main focus of the event will be to discuss U.S.-Asia political and economic relations, with an emphasis on China, and also to discuss information and communications technology issues concerning China and the Asia Pacific Economic Cooperation forum. A report from the member-organized Subcommittee on Emerging Technologies on Voice Over Internet Protocol will be presented for the Committee's consideration.

Members of the public may attend these meetings up to the seating capacity of the room. While the meeting is open to the public, admittance to the Department of State building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, date of birth, and citizenship to Robert M. Watts at *wattsrm@state.gov* no later than 5 p.m. on Tuesday, April 19, 2005. All attendees for this meeting must use the 23rd Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. government agency ID. Non-U.S. government attendees must be escorted by Department of State personnel at all times when in the building.

For further information, please contact Robert M. Watts, Executive Secretary of the Committee, at 202–647–4736 or by e-mail at *wattsrm@state.gov*.

Dated: March 24, 2005.

Robert M. Watts,

Executive Secretary, ACICIP, Department of State.

[FR Doc. 05–6382 Filed 3–30–05; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice 5017]

Notice of Meeting; United States International Telecommunication Advisory Committee; Information Meeting on the World Summit on the Information Society

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee (ITAC). The purpose of the Committee is to advise the Department on matters related to telecommunication and information policy matters in preparation for international meetings pertaining to telecommunication and information issues.

The ITAC will meet to discuss the matters related to the second phase of the World Summit on the Information Society (WSIS). The meeting will take place on Tuesday, April 19, 2005 from 10:30 a.m. to 12 p.m. in the auditorium of the Historic National Academy of Science Building. The National Academy of Sciences is located at 2100 C St. NW., Washington, DC.

Members of the public are welcome to participate and may join in the discussions, subject to the discretion of the Chair. Persons planning to attend this meeting should send the following data by fax to (202) 647–5957 or e-mail to *jillsonad@state.gov* not later than 24 hours before the meeting: (1) Name of the meeting, (2) your name, and (3) organizational affiliation. A valid photo ID must be presented to gain entrance to the National Academy of Sciences Building. Directions to the meeting location may be obtained by calling the ITAC Secretariat at (202) 647–5205.

Dated: March 22, 2005.

Anne Jillson,

Foreign Affairs Officer, International Communications and Information Policy, Department of State.

[FR Doc. 05–6381 Filed 3–30–05; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flight Instructor Refresher Clinic Approvals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of policy change.

SUMMARY: This notice is provided to inform the aviation community that effective immediately, the FAA's General Aviation And Commercial Division, AFS–800, will accept for approval new Flight Instructor Refresher Clinic (FIRC) training course outlines that meet the standards set forth in Advisory Circular (AC) 61–83E, Nationally Scheduled Federal Aviation Administration Approved Industry-Conducted Flight Instructor Refresher Clinics. This rescinds the **Federal Register** notice (FR Doc. 04–6149) issued March 11, 2004.

FOR FURTHER INFORMATION CONTACT: Mike Brown, Certification and Flight Training Branch, AFS–840, FAA, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–7653; fax (202) 267–5094; or e-mail *michael.w.brown@faa.gov*.

BACKGROUND: During the last year, AFS–800 has continued to work with industry to develop and implement system safety principles within the flight training community. The response to these efforts has been overwhelmingly positive, and several training providers have come forward requesting FIRC approvals for programs that highlight the FAA's system safety initiatives. Unfortunately, the FAA was

unable to consider approval of these FIRC programs due to standing policy. However, it has become apparent that existing FAA policy does not best serve the flight training community. Accordingly, that policy is hereby rescinded.

The FAA encourages training providers who wish to develop new FIRC programs to contact the AFS–800 organization for further details concerning the approval process. These same providers should also familiarize themselves with the contents of AC61–83E, as well as Volumes 1–3 of the FAA/Industry Training Standards (FITS) and System Safety training documents located on the FAA's Web site at *http://www.faa.gov/avr/afs/FITS/training.cfm*.

Issued in Washington DC on March 28, 2005.

Robert A. Wright,

Manager, General Aviation and Commercial Division.

[FR Doc. 05–6387 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34675]

BNSF Railway Company—Temporary Trackage Rights Exemption—The Kansas City Southern Railway Company

The Kansas City Southern Railway Company (KCS) has agreed to grant temporary overhead trackage rights to BNSF Railway Company (BNSF) over KCS's rail line between Jefferson, TX, and Metro, TX, a distance of approximately 200.9 miles.

The transaction was scheduled to be consummated on March 23, 2005, and the temporary trackage rights are intended to expire on May 20, 2005. The purpose of the temporary trackage rights is to allow BNSF to bridge its train service while its main lines are out of service due to programmed track, roadbed, and structural maintenance.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34675, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Sarah W. Bailiff, 2500 Lou Menk Drive, P.O. Box 961039, Fort Worth, TX 76161–0039.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov*.''

Decided: March 23, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–6130 Filed 3–30–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 28, 2005.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000,1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 2, 2005 to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0061.

Regulation Number: PL–101–453.

Type of Review: Extension.

Title: ''CMIA'' Annual Report and Interest Calculation Cost Claims.

Description: PL 101–453 requires that States and Territories must report interest liabilities for major Federal assistant programs annually. States and Territories may report interest calculation cost claims for compensation of administrative costs.

Respondents: Federal Government, State, Local, or Tribal Government.

Estimated Number of Respondents: 56.

Estimated Burden Hours Per Respondent: 403 Hours.

Frequency of Response: Recordkeeping Annually.

Estimated Total Reporting Burden: 22,579 Hours.

Clearance Officer: Jiovannah L. Diggs, (202) 874–7662, Financial Management Service, Administrative Programs Division, Records and Information Management Program, 3700 East West Highway, Room 144, Hyattsville, MD 20782.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Christopher L. Davis,

Treasury PRA Assistant.

[FR Doc. 05–6365 Filed 3–30–05; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

Proposed Information Collection; Comment Request

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Currently, we are seeking comments on the TTB Questionnaire titled ''Methanol Levels & Good Manufacturing Practices for Fruit Brandies.''

DATES: We must receive your written comments on or before May 31, 2005.

ADDRESSES: You may send comments to Jeffrey A. Salisbury, Alcohol and Tobacco Tax and Trade Bureau, at any of these addresses:

- P.O. Box 14412, Washington, DC 20044–4412;
- 202–927–8525 (facsimile); or
- *formcomments@ttb.gov* (e-mail).

Please reference the information collection's title in your comment. If you submit your comment via facsimile, send no more than five 8.5 x 11 inch

pages in order to ensure electronic access to our equipment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, copies of the information collection and its instructions, or copies of any comments received, contact Jeffrey A. Salisbury, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412; or telephone 202–927–1188.

SUPPLEMENTARY INFORMATION:

Title: Methanol Levels & Good Manufacturing Practices for Fruit Brandies.

OMB Number: To be assigned.

Abstract: TTB has authority under the Internal Revenue Code of 1986, Title 26 U.S.C., and the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 201 *et seq.*, over distilled spirits, wines, and malt beverage products. Section 105 of the FAA Act provides TTB with the authority to promulgate regulations regarding the labeling and advertising of alcohol beverages to provide consumers with adequate information concerning the identity and quality of such products.

TTB is proposing a voluntary collection of information from fruit brandy producers and importers to identify good manufacturing practices used in producing fruit brandies. Under the Memorandum of Understanding Between the Food and Drug Administration (FDA) and the Bureau of Alcohol, Tobacco and Firearms (TTB's predecessor agency), 52 FR 45502, November 30, 1987 (MOU), (still in force after the Homeland Security Act of 2002, which established TTB), TTB is responsible for testing alcohol beverages for the presence of substances, which if detected, may make the product adulterated under the Federal Food, Drug and Cosmetic Act of 1938, as amended, 21 U.S.C. 301, *et seq.* (FD & C Act). TTB may in certain instances seek a ''health hazard evaluation'' from FDA to determine if a particular alcohol beverage is adulterated under the FD & C Act. As a result of FDA's recommendations, TTB may take enforcement action against importers and manufacturers in cases involving adulterated alcohol beverages based upon violations of TTB laws.

With regard to methanol and fruit brandy specifically, FDA is responsible for issuing guidance on the safe level of methanol in fruit brandy marketed to consumers, while TTB is responsible for testing the level of methanol in fruit brandy to determine if it is adulterated under the FD & C Act. FDA is considering revising the maximum permitted level of methanol in fruit brandy, which is currently 0.35% by volume. Consequently, FDA is also considering revising or replacing their current guidance on fruit brandy (see Compliance Policy Guide (CPG) 7119.09, October 1, 1980). As part of this effort, FDA has requested TTB's assistance to identify current manufacturing practices in the production of brandy. Based on the information obtained in the survey, FDA may identify good manufacturing practices used to make fruit brandies and utilize such information in developing guidance for industry.

Accordingly, responses to the following questions will provide TTB with the required information to identify good manufacturing practices in the making of fruit brandy.

Questionnaire

1. Where is your distilled spirits plant(s) located?
2. On average, how much fruit brandy, by volume, do you produce in one year? (If you produce brandy from more than one fruit, please provide a breakdown of production volume by each type of fruit).
3. What percentage of fruit brandy produced by you is sold in the United States? (If you produce brandy from more than one fruit, please provide a breakdown of production volume by each type of fruit).
4. From what geographic location do you obtain the fruit used in the production of your fruit brandies?
5. What quality control procedures do you have in place regarding the fruit used in your brandy production? (*i.e.* inspections, age of fruit, condition requirements, washing, etc.)
6. How do you prepare the fruit to create the mash for fermentation?
7. Do you use any additional enzymes in the mash to aid in the fermentation? If so, please describe the specific enzymes that you are using.
8. Please describe the type of still you use in the production of your fruit brandies. (*e.g.* Pot, Alembic, Pot Rectified, Armagnac, Continuous, Other).
9. What is the degree of proof of your fruit brandies at distillation, before dilution and bottling?
10. In the case of brandies produced by pot still, what is the composite proof at distillation?
11. What is the heads/tails cutoff distillation and how do you determine the cutoff points?
12. What is your process for diluting the distillate in order to adjust the proof for bottling?
13. What is the proof of your finished product after bottling?
14. Are your fruit brandies aged before bottling? If yes, please describe the aging process and the aging period. Also, please indicate the proof of the product before and after aging.
15. What quality control practices do you use, other than those previously mentioned, to control the level of methanol in your finished fruit brandies?
16. Do you monitor the level of methanol in your fruit brandies? If you do monitor the level of methanol, describe your monitoring process and provide data on methanol levels for the past 3 years.

Current Actions: New information collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 43.

Estimated Total Annual Burden Hours: 91.75.

Request for Comments

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of this information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Dated: March 25, 2005.

William H. Foster,

Chief, Regulations and Procedures Division.

[FR Doc. 05–6346 Filed 3–30–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 12885

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 12885, Supplement to OF–612, Optional Application for Federal Employment.

DATES: Written comments should be received on or before May 31, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Supplement to OF–612, Optional Application for Federal Employment.

OMB Number: 1545–1918.

Form Number: 12885.

Abstract: Form 12885 is used as a supplement to the OF–612 to provide additional space for capturing work history.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 24,813.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 12,406.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 24, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1407 Filed 3–30–05; 8:45 am]

BILLING CODE 4830–01–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, Tennessee, 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 25, 2005, 9 a.m. to 4 p.m., and Tuesday, April 26, 2005, 8 a.m. to 11 a.m., Central 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 25, 2005, 9 a.m. to 4 p.m., and Tuesday, April 26, 8 a.m. to 11 a.m., Central Time, at the Memphis Marriott Downtown, 250 North Main Street, Memphis, TN 38103. 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 *http://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 22, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–1403 Filed 3–30–05; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 70, No. 61

Thursday, March 31, 2005

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 THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029-0083

Correction

In notice document 05–5692 beginning on page 14712 in the issue of Wednesday, March 23, 2005, make the following correction:

On page 14712, in the third column, under the **DATES** heading, in the third line, ''April 22, 2005'' should read, ''May 23, 2005.''

[FR Doc. C5–5692 Filed 3–30–05; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–19458; Airspace Docket No. 04–AEA–11]

Establishment of Class E Airspace; Mifflintown, PA

Correction

In rule document 05–4981 appearing on page 12414 in the issue of Monday, March 14, 2005, make the following correction:

§ 71.1 [Corrected]

On page 12414, in the second column, in §71.1, under the heading **AEA PA E5 Mifflintown, PA [New],** in the second line, ''(Lat. 40°36′18″ N.,'' should read ''(Lat. 40°36′04″ N.,''.

[FR Doc. C5–4981 Filed 3–30–05; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
March 31, 2005

Part II

Department of Housing and Urban Development

Notice of Funding Availability for Revitalization of Severely Distressed Public Housing HOPE VI Revitalization Grants Fiscal Year 2005; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4982–N–01]

Notice of Funding Availability for Revitalization of Severely Distressed Public Housing HOPE VI Revitalization Grants Fiscal Year 2005

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability.

Overview Information

A. Federal Agency Name. Department of Housing and Urban Development, Office of Public and Indian Housing.

B. Funding Opportunity Title. Revitalization of Severely Distressed Public Housing HOPE VI Revitalization Grants Fiscal Year 2005.

C. Announcement Type. Initial announcement.

D. Funding Opportunity Number. The **Federal Register** number for this NOFA is: FR–4982–N–01. The OMB approval number for this program is: 2577–0208.

E. Catalog of Federal Domestic Assistance (CFDA) Number. The CFDA number for this NOFA is 14–866, ''Demolition and Revitalization of Severely Distressed Public Housing (HOPE VI).''

F. Dates. 1. Application Submission Date: The application submission date shall be June 29, 2005. See the General Section for application submission and timely receipt requirements.

2. Estimated Grant Award Date: The estimated award date will be approximately September 27, 2005.

G. Optional, Additional Overview Content Information. 1. Available Funds. This NOFA announces the availability of approximately $110 million in FY2005 funds for HOPE VI Revitalization Program grants, plus approximately $25 million additional for grantees' first-year, grant-related housing choice voucher (HCV) assistance.

2. Proposed Rescission of Funds. The public is hereby notified that although this NOFA announces the availability of FY 2005 HOPE VI Funds, the FY 2006 proposed budget includes the rescission of the FY 2005 HOPE VI Appropriation. Therefore, this NOFA may be cancelled at a later date and applications made under this NOFA may not be funded.

3. The maximum amount of each grant award is $20 million. It is anticipated that six grant awards will be made.

4. Housing choice voucher assistance is available to successful applicants that receive the revitalization grant awards. The dollar amount of HCV assistance is in addition to the $20 million maximum award amount and will be based upon resident relocation needs.

5. All non-troubled public housing authorities (PHAs) with severely distressed public housing are eligible to apply. Troubled PHAs must have received HUD approval to be considered eligible to apply. PHAs that manage only a HCV program, tribal PHAs and tribally-designated housing entities are not eligible.

6. A match of at least five percent is required.

7. Each applicant may submit only one HOPE VI revitalization application.

8. Application materials may be obtained from the **Federal Register** or over the Internet from *http://www.grants.gov/FIND*. Technical corrections will be published in the **Federal Register**. Both technical corrections and frequently asked questions will be posted on the grants.gov website.

9. HUD's general policy requirements apply to all HUD Federal financial assistance NOFAs for Fiscal Year (FY) 2005. These policies cover those NOFAs issued under HUD's Super Notice of Funding Availability (SuperNOFA) General Section (70 FR 13576), published in the **Federal Register** on March 21, 2005, as well as those issued after the General Section is published in the **Federal Register**.

Full Text of Announcement

I. Funding Opportunity Description

A. Program Description. In accordance with Section 24(a) of the United States Housing Act of 1937 (1937 Act) (42 U.S.C. 1437v), the purpose of HOPE VI revitalization grants is to assist PHAs to: 1. Improve the living environment for public housing residents of severely distressed public housing projects through the demolition, rehabilitation, reconfiguration, or replacement of obsolete public housing projects (or portions thereof);

2. Revitalize sites (including remaining public housing dwelling units) on which such public housing projects are located and contribute to the improvement of the surrounding neighborhood;

3. Provide housing that will avoid or decrease the concentration of very low-income families; and

4. Build sustainable communities.

B. Authority. 1. The funding authority for HOPE VI revitalization grants under this HOPE VI NOFA is provided by the Consolidated Appropriations Act, 2005 (Pub. L. 108–447, approved December 8, 2004) under the heading ''Revitalization of Severely Distressed Public Housing (HOPE VI).''

2. The program authority for the HOPE VI program is Section 24 of the 1937 Act, as amended by Section 402 of the HOPE VI Program Reauthorization and Small Community Mainstreet Rejuvenation and Housing Act of 2003 (Pub. L. 108–186, approved December 16, 2003).

C. Definitions. 1. Developer. A developer is an entity contracted to develop (and possibly operate) a mixed finance development that includes public housing units, pursuant to 24 CFR part 941, subpart F. A developer most often has an ownership interest in the entity that is established to own and operate the replacement units (*e.g.*, as the general partner of a limited partnership).

2. Public Housing Project. A public housing project is a group of assisted housing units that has a single Project Number assigned by the Director of Public Housing of a HUD Field Office and has, or had (in the case of previously demolished units) housing units under an Annual Contributions Contract.

3. Replacement Housing. Under this HOPE VI NOFA, a HOPE VI replacement housing unit shall be deemed to be any combination of public housing rental units, eligible homeownership units under Section 24(d)(1)(J) of the 1937 Act, and HCV assistance that does not exceed the number of units demolished and disposed of at the targeted severely distressed public housing project.

4. Severely Distressed. a. In accordance with section 24(j)(2) of the 1937 Act, the term ''severely distressed public housing'' means a public housing project (or building in a project) that:

(1) Requires major redesign, reconstruction, or redevelopment—or partial or total demolition—to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plan of the project;

(2) Is a significant contributing factor to the physical decline of, and disinvestment by public and private entities in, the surrounding neighborhood;

(3) (a) Is occupied predominantly by families who are very low-income families with children, have unemployed members, and are dependent on various forms of public assistance; (b) has high rates of vandalism and criminal activity

(including drug-related criminal activity) in comparison to other housing in the area; or (c) is lacking in sufficient appropriate transportation, supportive services, economic opportunity, schools, civic and religious institutions, or public services, resulting in severe social distress in the project;

(4) Cannot be revitalized through assistance under other programs, such as the Capital Fund and Operating Fund programs for public housing under the 1937 Act, or the programs under Sections 9 or 14 of the 1937 Act (as in effect before the effective date under Section 503(a) of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105–276, approved October 21, 1998), because of cost constraints and inadequacy of available amounts; and

(5) In the case of an individual building that currently forms a portion of the public housing project targeted by the application to this NOFA:

(a) Is sufficiently separable from the remainder of the project of which the building is part, such that the revitalization of the building is feasible; or

(b) Was part of the targeted public housing project that has been legally vacated or demolished, but for which HUD has not yet provided replacement housing assistance (other than tenant-based assistance). ''Replacement housing assistance'' is defined as funds that have been furnished by HUD to perform major rehabilitation on, or reconstruction of, the public housing units that have been legally vacated or demolished.

b. A severely distressed project that has been legally vacated or demolished (but for which HUD has not yet provided replacement housing assistance, other than tenant-based assistance) must have met the definition of physical distress not later than the day the demolition application approval letter was dated by HUD.

5. Targeted Project. The targeted project is the current public housing project that will be revitalized with funding from this NOFA. The targeted project may include more than one public housing project or be a part of a public housing project. *See* Section III.C.1. of this NOFA for eligibility of multiple public housing projects and separability of a part of a public housing project.

6. Temporary Relocation. There are no provisions for ''temporary relocation'' under the Uniform Relocation Assistance and Real Property Acquisition Policies Act Of 1970 (URA). *See* Notice CPD 04–2, ''Guidance on the Application of the Uniform Relocation Assistance and Real Property Acquisition Policies Act Of 1970 (URA), As Amended, in HOPE VI Projects,'' paragraph IV.A.2. for the definition of ''temporary relocation'' as it applies to HOPE VI projects. The Notice can be obtained through HUDClips at *http://www.hudclips.org/.*

D. Eligible Revitalization Activities. HOPE VI Revitalization grants may be used for activities to carry out revitalization programs for severely distressed public housing in accordance with Section 24(d) of the 1937 Act. Revitalization activities approved by HUD must be conducted in accordance with the requirements of this NOFA. The following is a list of eligible activities.

1. Relocation. Relocation, including reasonable moving expenses, for residents displaced as a result of the revitalization of the project. *See* Sections III.C.4. and V.A.6. of this NOFA for relocation requirements.

2. Demolition. Demolition of dwelling units or non-dwelling facilities, in whole or in part, although demolition is not a required element of a HOPE VI Revitalization Plan.

3. Disposition. Disposition of a severely distressed public housing site, by sale or lease, in whole or in part, in accordance with Section 18 of the 1937 Act and implementing regulations at 24 CFR part 970. A lease of one year or more that is not incident to the normal operation of a project is considered a disposition that is subject to Section 18 of the 1937 Act.

4. Rehabilitation and Physical Improvement. Rehabilitation and physical improvement of:

a. Public housing; and

b. Community facilities, provided that the community facilities are primarily intended to facilitate the delivery of community and supportive services for residents of the public housing project and residents of off-site replacement housing, in accordance with 24 CFR 968.112(b), (d), (e), and (g)-(o) and 24 CFR 968.130 and 968.135(b) and (d) or successor regulations, as applicable.

5. Development. Development of:

a. Public housing replacement units; and

b. Other units (*e.g.*, market-rate units), provided a need exists for such units and such development is performed with non-public housing funds.

6. Homeownership Activities. Assistance involving the rehabilitation and development of homeownership units. Assistance may include:

a. Down payment or closing cost assistance;

b. Hard or soft second mortgages; or

c. Construction or permanent financing for new construction, acquisition, or rehabilitation costs related to homeownership replacement units.

7. Acquisition. Acquisition of:

a. Rental units and homeownership units;

b. Land for the development of off-site replacement units and community facilities (provided that the community facilities are primarily intended to facilitate the delivery of community and supportive services for residents of the public housing project and residents of off-site replacement housing);

c. Land for economic development-related activities, provided that such acquisition is performed with non-public housing funds.

8. Management Improvements. Necessary management improvements, including transitional security activities.

9. Administration, Planning, Etc. Administration, planning, technical assistance, and other activities (including architectural and engineering work, program management, and reasonable legal fees) that are related to the implementation of the Revitalization Plan, as approved by HUD. *See* Cost Control Standards in Section IV.E. of this NOFA.

10. Community and Supportive Services (CSS).

a. The CSS component of the HOPE VI program encompasses all activities that are designed to promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing project involved.

b. CSS activities. CSS activities may include, but are not limited to:

(1) Educational activities that promote learning and serve as the foundation for young people from infancy through high school graduation, helping them to succeed in academia and the professional world. Such activities, which include after-school programs, mentoring, and tutoring, must be created with strong partnerships with public and private educational institutions.

(2) Adult educational activities, including remedial education, literacy training, tutoring for completion of secondary or postsecondary education, assistance in the attainment of certificates of high school equivalency, and English as a Second Language courses, as needed.

(3) Readiness and retention activities, which frequently are key to securing private sector commitments to the provision of jobs.

(4) Employment training activities that include results-based job training, preparation, counseling, development, placement, and follow-up assistance after job placement.

(5) Programs that provide entry-level, registered apprenticeships in construction, construction-related, maintenance, or other related activities. A registered apprenticeship program is a program that has been registered with either a State Apprenticeship Agency recognized by the Department of Labor's (DOL) Office of Apprenticeship Training, Employer and Labor Services (OATELS) or, if there is no recognized state agency, by OATELS. *See also* DOL regulations at 29 CFR part 29.

(6) Training on topics such as parenting skills, consumer education, family budgeting, and credit management.

(7) Homeownership counseling that is scheduled to begin promptly after grant award so that, to the maximum extent possible, qualified residents will be ready to purchase new homeownership units when they are completed. The Family Self-Sufficiency program can also be used to promote homeownership, providing assistance with escrow accounts and counseling.

(8) Coordinating with health care providers or providing on-site space for health clinics, doctors, wellness centers, dentists, etc. that will primarily serve the public housing residents. HOPE VI funds may not be used to provide direct medical care to residents.

(9) Substance and alcohol abuse treatment and counseling.

(10) Activities that address domestic violence treatment and prevention.

(11) Child care services that provide sufficient hours of operation to facilitate parental access to education and job opportunities, serve appropriate age groups, and stimulate children to learn.

(12) Transportation, as necessary, to enable all family members to participate in available CSS activities and to commute to their places of employment.

(13) Entrepreneurship training and mentoring, with the goal of establishing resident-owned businesses.

11. Leveraging. Leveraging other resources, including additional housing resources, supportive services, job creation, and other economic development uses on or near the project that will benefit future residents of the site.

12. General Section Reference. Section I, ''Funding Opportunity Description,'' of the *Notice of HUD's Fiscal Year 2005 Notice of Funding Availability (NOFA) Policy Requirements and General Section to the Super NOFA for HUD's Discretionary Programs* (General Section), Docket No. FR–4950–N–01, published in the **Federal Register** on March 21, 2005, is hereby incorporated by reference.

II. Award Information

A. Availability of HOPE VI Funds

1. Proposed Rescission of Funds. The public is hereby notified that although this NOFA announces the availability of FY 2005 HOPE VI Funds, the FY 2006 proposed budget includes the rescission of the FY 2005 HOPE VI Appropriation. Therefore, this NOFA may be cancelled at a later date and applications made under this NOFA may not be funded.

Type of assistance	Funds available for award in this HOPE VI NOFA (approximate)
Revitalization Grants	$110,000,000
Housing Choice Voucher Assistance	25,000,000
Total	135,000,000

2. Revitalization Grants. Approximately $110 million of the FY2005 HOPE VI appropriation has been allocated to fund HOPE VI Revitalization grants and will be awarded in accordance with this NOFA. There will be approximately six awards.

3. The maximum amount you may request in your application for grant award is limited to $20 million or the sum of the amounts in Section IV.E.5. below, whichever is lower. HCV assistance is in addition to this amount.

4. Housing Choice Voucher Assistance. Approximately $25 million of the HOPE VI appropriation will be allocated for Housing Choice Voucher (HCV) assistance. HCV assistance will be provided to HOPE VI Revitalization NOFA awardees. If $25 million is more than the amount necessary to fund the HOPE VI grantee's HCV needs, the remaining funds will be used for other eligible activities under Section 24 of the 1937 Act.

5. Grant term. The period for completion shall not exceed 54 months from the date the NOFA award is executed by HUD.

III. Eligibility Information

A. Eligible Applicants

1. PHAs that have severely distressed housing in their inventory and are otherwise in conformance with the threshold requirements provided in Section III.C. of this NOFA. *See* Section IV.B.4. of this NOFA for threshold documentation requirements.

2. Housing Choice Voucher Programs Only and Tribal Housing Agencies. PHAs that only administer HCV programs, *e.g.*, Section 8, HCV, and tribal PHAs and tribally-designated housing entities, are not eligible to apply.

3. Troubled Status. If HUD has designated your housing authority as troubled pursuant to Section 6(j)(2) of the 1937 Act, HUD will use documents and information available to it to determine whether you qualify as an eligible applicant. In accordance with Section 24(j) of the 1937 Act, the term ''applicant'' means:

a. Any PHA that is not designated as ''troubled'' pursuant to Section 6(j)(2) of the 1937 Act;

b. Any PHA for which a private housing management agent has been selected, or a receiver has been appointed, pursuant to Section 6(j)(3) of the 1937 Act; and

c. Any PHA that is designated as ''troubled'' pursuant to Section 6(j)(2) of the 1937 Act and that:

(1) Is designated as troubled principally for reasons that will not affect its capacity to carry out a revitalization program;

(2) Is making substantial progress toward eliminating the deficiencies of the agency that resulted in its troubled status;

(3) Has not been found to be in non-compliance with fair housing or other civil rights requirements; or

(4) Is otherwise determined by HUD to be capable of carrying out a revitalization program.

B. Cost Sharing or Matching

1. Match Requirements

a. Revitalization Grant Match. HUD is required by the 1937 Act (42 U.S.C. 1437v(c)(1)(A)) to include the requirement for matching funds for all HOPE VI-related grants. You are required to have in place a match in the amount of five percent of the requested grant amount in cash or in-kind donations. Applications that do not demonstrate the minimum 5 percent match will not be considered for funding.

b. Additional Community and Supportive Services (CSS) Match. (1) In accordance with the 1937 Act (42 U.S.C. 1437v(c)(1)(B)), in addition to the 5 percent revitalization grant match in Section a. above, you may be required to have in place a CSS match. Funds used for the Revitalization grant match cannot be used for the CSS match.

(2) If you are selected for funding through this NOFA, you may use up to 15 percent of your grant for CSS activities. However, if you propose to use more than 5 percent of your HOPE VI grant for CSS activities, you must have in place funds from sources other than HOPE VI, that match the amount between 5 and 15 percent of the grant that you will use for CSS activities.

c. No HOPE VI Funding in Match. In accordance with Section 24(c) of the Act, for purposes of calculating the amount of matching funds required by Sections a. and b. above, you may not include amounts from HOPE VI program funding, including HOPE VI Revitalization, HOPE VI Demolition, HOPE VI Neighborhood Networks or HOPE VI Main Street grants. You may include funding from other public housing sources (*e.g.*, Capital Funds), other federal sources, any state or local government source and any private contributions. You may also include the value of donated material or buildings, the value of any lease on a building, the value of the time and services contributed by volunteers, and the value of any other in-kind services or administrative costs provided.

d. Firmly and Irrevocably Committed. (1) Match donations must be firmly committed. ''Firmly committed'' means that the amount of match resources and their dedication to HOPE VI Revitalization activities must be explicit, in writing, and signed by a person authorized to make the commitment. *See* Section IV.F. of the General Section for instructions on how to electronically submit third party documents.

(2) Match donations must be irrevocably committed. *See* Section VI.B.5.a. of this NOFA.

e. Matching funds must be directly applicable to the revitalization of the targeted project and the transformation of the lives of residents.

f. The PHA's staff time is not an eligible cash or in-kind match.

g. *See* Section IV.B.3 of this NOFA for match documentation requirements.

C. Other

1. Thresholds

If you have not met a threshold, or, when required by this NOFA, have not included in the application the complete, correct, required documentation that demonstrates the threshold has been met, the application will not be considered for funding. Threshold insufficiency cannot be cured after the application submission date. *See* Section IV.B. of this NOFA for documentation requirements.

a. One application. Each applicant may submit only one HOPE VI Revitalization application as described in this NOFA. If a single applicant submits more than one application, all applications will be disqualified and no application will be eligible for funding.

b. Appropriateness of Proposal. In accordance with Section 24(e)(1) of the 1937 Act, each application must demonstrate the appropriateness of the proposal (revitalization plan) in the context of the local housing market relative to other alternatives. You must discuss other possible alternatives in the local housing market and explain why the housing envisioned in the application is more appropriate. This is a statutory requirement and an application threshold. If you do not demonstrate the appropriateness of the proposal (revitalization plan) in the context of the local housing market relative to other alternatives, your application will not be considered for funding. Examples of alternative proposals may include:

(1) Rebuilding or rehabilitating an existing project or units at an off-site location that is in an isolated, non-residential, or otherwise inappropriate area;

(2) Proposing a range of incomes, housing types (rental, homeownership, market-rate, public housing, townhouse, detached house, etc.), or costs which cannot be supported by a market analysis; or

(3) Proposing to use the land in a manner that is contrary to the goals of your agency.

(4) *See* Section IV.B.4.a. of this NOFA for documentation requirements.

c. Contiguous, Single, and Scattered-Site Projects. Except as provided in sections (1) and (2) below, each application must target one severely distressed public housing project.

(1) Contiguous Projects. Each application may request funds for more than one project if those projects are immediately adjacent to one another or within a quarter-mile of each other. If you include more than one project in your application, you must provide a map that clearly indicates that the projects are within a quarter-mile of each other. If HUD determines that they are not, your application will not be considered for funding.

(2) Scattered Site Projects. Your application may request funds to revitalize a scattered site public housing project. The sites targeted in an application proposing to revitalize scattered sites (regardless of whether the scattered sites are under multiple project numbers) must fall within an area with a one-mile radius. You may identify a larger site if you can show that all of the targeted scattered site units are located within the hard edges (*e.g.*, major highways, railroad tracks, lakeshore, etc.) of a neighborhood. If you propose to revitalize a project that extends beyond a one-mile radius or is otherwise beyond the hard edges of a neighborhood, your application will not be considered for funding. *See* Section IV.B.4.b. of this NOFA for documentation requirements.

d. Desegregation Orders. You must be in full compliance with any desegregation or other court order, and voluntary compliance agreements related to Fair Housing (*e.g.*, Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Section 504 of the Rehabilitation Act of 1973) that affects your public housing program and that is in effect on the date of application submission. If you are not in full compliance with any desegregation or other court orders, your application will be ineligible for funding.

e. Non-Public Housing Funding for Non-Public Housing or Replacement Units. If the application demonstrates that you are planning to use public housing funds, which include HOPE VI funds, to develop: Retail or commercial space; economic development space; or housing units that are not Replacement Housing (*See* Section I.C. of this NOFA), your application will not be considered for funding. *See* Section IV.B.4.c. for documentation requirements regarding this threshold.

f. Open Inspector General Audits. (1) If you have an open Inspector General (IG) audit finding that has not been resolved to HUD's satisfaction before the submission date of this NOFA, the application will not be considered for funding.

(2) HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based on whether appropriate actions have been taken to address the findings.

g. Performance of Existing HOPE VI Grantees. (1) The application will not be considered for funding if you have an existing HOPE VI Revitalization grant, and

(a) The grant development is delinquent due to actions or inactions that are not beyond the control of the grantee; and

(b) The grantee is not making substantial progress toward eliminating the delinquency.

(2) ''Delinquent'' means that resident relocation, unit demolition, unit construction, unit rehabilitation, unit occupancy, or unit re-occupancy have not occurred in accordance with the grantee's current Revitalization Plan.

(3) Reasons that are beyond the control of the grantee include, but are not limited to, the following:

(a) Litigation;

(b) Court Orders;

(c) Unforeseen environmental conditions; and

(d) Emergency and natural disasters.

(4) HUD will use documents and information available to it to determine

whether the grant is delinquent due to reasons that are beyond the control of the grantee and whether the grantee is making substantial progress toward eliminating the delinquency.

h. Previously Funded Sites. You may submit a Revitalization application that targets part of a project that is being revitalized or replaced under an existing HOPE VI Revitalization grant. You may not apply for new HOPE VI Revitalization funds for units in that project that were funded by the existing HOPE VI Revitalization grant or other HUD funds which are used to achieve significant revitalization of units (as opposed to regular upkeep), even if those funds are inadequate to pay the costs to revitalize or replace all of the targeted units. However, *Replacement Housing Factor funds will not be considered as funds which are used to achieve significant revitalization of units.* For example, if a project has 700 units and you were awarded a HOPE VI Revitalization grant or other HUD public housing funds to address 300 of those units, you may submit an FY–2005 HOPE VI Revitalization application to revitalize the remaining 400 units. You may not apply for funds to supplement work on the original 300 units. If you request funds to revitalize units or buildings that have been funded by an existing HOPE VI Revitalization grant or other HUD funds, your application will not be considered for funding.

i. Program Schedule. Your application must contain a program schedule that provides a feasible plan to meet the schedule requirements of Section VI.B.2. of this NOFA, with no impediments such as litigation that would prevent timely startup. The program schedule must indicate the date on which the development proposal for each phase of the revitalization plan will be submitted to HUD. A development proposal may by for a mixed-finance development, homeownership development, etc., will be submitted to HUD. If your application does not contain a program schedule, as described above, the application will not be considered for funding. *See* Section IV.B.4.d. of this NOFA for documentation requirements.

j. Separability. In accordance with Section 24(j)(2)(A)(v) of the 1937 Act, if you propose to target only a portion of a project for revitalization, you must:

(1) Demonstrate to HUD's satisfaction that the severely distressed public housing is sufficiently separable from the remainder of the project of which the building is part to make use of the building feasible for revitalization. Separations may include a road, berm, catch basin, or other recognized neighborhood distinction.

(2) Demonstrate that the site plan and building designs of the revitalized portion will provide defensible space for the occupants of the revitalized building(s) and that the properties that remain will not have a negative influence on the revitalized buildings(s), either physically or socially.

(3) If your application does not demonstrate separability, your application will not be considered for funding.

k. Severe Distress of Targeted Project. The targeted public housing project must be severely distressed. See Section I.C. of this NOFA for the definition of ''severely distressed.'' If the targeted project is not severely distressed, your application will not be considered for funding. *See* Section IV.B.5.a. of this NOFA for documentation requirements.

l. Site Control. (1) If you propose to develop off-site housing in any phase of your proposed revitalization plan, you MUST provide evidence in your application that you (not your developer) have site control of the property(ies).

(2) Site control may only be contingent upon:

(a) The receipt of the HOPE VI grant;

(b) Satisfactory compliance with the environmental review requirements of this NOFA; and

(c) The site and neighborhood standards in Section III.C.4.n.(1) of this NOFA.

(3) If you demonstrate site control through an option to purchase, the option must extend for at least 180 days after the application submission date.

(4) If you propose to develop off-site housing and you do not provide acceptable evidence of site control, your ENTIRE application will not be considered for funding.

(5) *See* Section IV.B.4.e. of this NOFA for documentation requirements.

m. Zoning Approval. (1) If you are proposing to use off-site parcels of land for housing development or other uses that, until this point in time, have been zoned for a purpose different than the one proposed in your revitalization plan, your application must include the documentation described in Section IV.B.4.f. of this NOFA:

(2) If zoning approval/certification is not properly included in your application, the application will not be considered for funding.

n. Compliance with Fair Housing and Civil Rights Laws. (1) All applicants must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a), as applicable.

(2) If you, the applicant:

(a) Have been charged with an on-going systemic violation of the Fair Housing Act; or

(b) Are a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an on-going pattern or practice of discrimination; or

(c) Have received a letter of findings identifying ongoing systemic noncompliance under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, or Section 109 of the Housing and Community Development Act of 1974; and

(d) The charge, lawsuit or letter of findings referenced in subpart (a), (b) or (c) above has not been resolved to HUD's satisfaction before the application deadline, then the application will not be considered for funding. *See* Section III.C.2.c. of the General Section.

o. Requirements and Procedures Applicable to All Programs:

(1) General Section References. The following subsections of Section III.C. of the General Section are hereby incorporated by reference:

(a) Dun and Bradstreet Data Universal Numbering System (DUNS) Number Requirement;

(b) Compliance with Fair Housing and Civil Rights Laws;

(c) Conducting Business In Accordance with Core Values and Ethical Standards;

(d) Delinquent Federal Debts;

(e) Name Check Review;

(f) False Statements;

(g) Prohibition Against Lobbying Activities;

(h) Debarment and Suspension.

(i) Statutory and Regulatory Requirements; and

(j) Ineligible Applicants.

(2) Salary Limitation for Consultants. FY–2005 funds may not be used to pay or to provide reimbursement for payment of the salary of a consultant whether retained by the federal government or the grantee at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

2. Thresholds—Applicant Certifications

a. Standard Form 424. By signing and submitting the Application for Federal Assistance, Standard Form 424, you are certifying to all of the thresholds listed in this section. A false statement in an application is grounds for denial or termination of an award and grounds for possible punishment as provided in 18 U.S.C. 1001, 1010, and 1012, and 32 U.S.C. 3729 and 3802. *See* Section IV.B. of this NOFA for any documentation requirements related to these certifications.

b. Non-Curable Certifications. If you have not met a threshold on or before the application submission date, or have not included in the application the complete, correct, required documentation that demonstrates the threshold has been met, the application will not be considered for funding. For these thresholds, insufficiency cannot be cured after the application submission date. *See* Section IV.B. of this NOFA for documentation requirements.

(1) Selection of Developer. You must certify that:

(a) You have initiated an RFQ by the application submission date for the competitive procurement of a developer for your first phase of construction, in accordance with 24 CFR 85.36 and 24 CFR 941.602(d) (as applicable). If you change developers after you are selected for funding, HUD reserves the right to rescind the grant; or

(b) You will act as your own developer for the proposed project. If you change your plan and procure an outside developer after you are selected for funding, HUD reserves the right to rescind the grant.

(2) *See* Section IV.B.5.g. of this NOFA for documentation requirements.

c. Curable Certifications. Omission of, or error in the signature of, any of the mandatory documentation (as listed in Section IV.B. of this NOFA) related to the items listed below is considered a Technical Deficiency and must be cured (corrected) within the cure period stated in Section V.B. of the General Section. Applications that remain deficient after the cure period ends will not be considered for funding.

(1) Operation and Management Principles and Policies Certification. You must certify that you will implement the Operation and Management Principles and Policies stated in Section III.C.4. of this NOFA. *See* Section IV.B.5.c. of this NOFA for documentation requirements.

(2) Relocation Plan Certification.

(a) You must certify that the HOPE VI Relocation Plan has been completed and:

(i) That it conforms to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) requirements; and

(ii) That it implements HOPE VI relocation goals, as described in Section V.A.6. of this NOFA.

(b) If relocation was completed (*i.e.*, the targeted public housing site is vacant) as of the application submission date, rather than certifying that the HOPE VI Relocation Plan has been completed, you must certify that the relocation was completed in accordance with URA requirements.

(c) *See* Section IV.B.5.d. of this NOFA for documentation requirements.

(3) Resident Involvement in the Revitalization Program Certification. You must certify that you have involved affected public housing residents at the beginning and during the planning process for the revitalization program, prior to submission of your application. If you have not included affected residents in the planning process, your application will not be considered for funding. *See* Section III.C.4. of this NOFA for minimum training and meeting requirements and Section IV.B.5.e. of this NOFA for documentation requirements.

(4) Standard Certifications. The last part of your application will be comprised of standard certifications common to many HUD programs. Required forms must be included in the HOPE VI application and will be available over the Internet at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm. See* Section IV.B.5.i. of this NOFA for documentation requirements.

3. Thresholds—Third-Party Certifications

The following third-party certifications must be included in your application.

a. Non-Curable. If you have not included in the application, on or before the application submission date, the complete, correct, required documentation that demonstrates the threshold has been met, the application will not be rated or ranked and will be either ineligible for funding or have its funding limited, based upon the threshold. For these thresholds, insufficiency regarding these thresholds cannot be cured after the application submission date. *See* Section IV.B. of this NOFA for any documentation requirements related to these certifications.

(1) Cost Control Standards.

Your cost estimates must be certified to meet the cost control standards stated in Section IV.E. The certification must be made by an independent cost estimator, architect, engineer, contractor, or other qualified third party professional. If your costs are not certified, your application will not be considered for funding. *See* Section IV.B.5.h. of this NOFA for documentation requirements.

(2) Severely Distressed Certification. Your application must include a certification that the targeted project is severely distressed. *See* Section IV.B.5.g. for documentation requirements.

b. Curable. Omission of any of the mandatory documentation listed in this section is considered a technical deficiency and must be cured (corrected) within the cure period stated in Section V.B. of the General Section. Applications that remain deficient after the cure period will not be considered for funding. *See* Section IV.B. of this NOFA for any documentation requirements related to these certifications.

(1) Market Assessment Certification for Market-Rate Housing. If you include market-rate housing, economic development, or retail structures in your Revitalization Plan, you must provide a certification by an independent, third party, credentialed market research firm, or professional that describes its assessment of the demand and associated pricing structure for the proposed residential units, economic development or retail structures, based on the market and economic conditions of the project area. *See* Section IV.B.5.a. of this NOFA for documentation requirements.

(2) HOPE VI Revitalization Applicant Certifications. You must include in your application a certification from the Chairman of your Board of Commissioners to the requirements listed in the HOPE VI Revitalization Applicant Certifications. *See* Section IV.B.5.b. of this NOFA for documentation requirements.

4. Program Requirements

a. Demolition

(1) You may not carry out nor permit others to carry out the demolition of the targeted project or any portion of the project until HUD approves, in writing, one of the following ((a)–(c)), and until HUD has also I) approved a Request for Release of Funds submitted in accordance with 24 CFR part 58, or, II) if HUD performs an environmental review under 24 CFR part 50, approved the property for demolition, in writing, following its environmental review.

(a) Information regarding demolition in your HOPE VI Revitalization Application, along with Supplemental Submissions requested by HUD after the award of the grant. Section 24(g) of the 1937 Act provides that severely distressed public housing that is demolished pursuant to a Revitalization Plan is not required to be approved through a demolition application under Section 18 of the 1937 Act or regulations at 24 CFR part 970. If you do not receive a HOPE VI Revitalization grant, the information in your

application will not be used to process a request for demolition;

(b) A demolition application under Section 18 of the 1937 Act. While a Section 18 approval is not required for HOPE VI related demolition, you will not have to wait for demolition approval through your supplemental submissions, as described in Section (a) above; or

(c) A Section 202 Mandatory Conversion Plan, in compliance with regulations at 24 CFR part 971 and other applicable HUD requirements, if the project is subject to Mandatory Conversion (Section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 Pub. L. 104–134, approved on April 26, 1996). A Mandatory Conversion Plan concerns the removal of a public housing project from a PHA's inventory.

b. Development

(1) For any standard (non-mixed finance) public housing development activity (whether on-site reconstruction or off-site development), you must obtain HUD approval of a standard development proposal submitted under 24 CFR part 941 (or successor part).

(2) For mixed-finance housing development, you must obtain HUD approval of a mixed finance proposal, submitted under 24 CFR part 941, subpart F (or successor part and subpart).

(3) For new construction of community facilities primarily intended to facilitate the delivery of community and supportive services for residents of the project and residents of off-site replacement housing, you must comply with 24 CFR part 941 (or successor part). Information required for this activity must be included in either a standard or mixed finance development proposal, as applicable.

c. Homeownership

(1) For homeownership replacement units developed under a Revitalization Plan, you must obtain HUD approval of a homeownership proposal. Your homeownership proposal must conform to either:

(a) Section 24(d)(1)(J) of the 1937 Act; or

(b) Section 32 of the 1937 Act (see 24 CFR part 906). Additional information on this option may be found at *www.hud.gov/offices/pih/centers/sac/homeownership.*

(2) The homeownership proposal must be consistent with the Section 8 Area Median Income (AMI) limitations (80 percent of AMI) and any other applicable provisions under the 1937 Act. (HUD publishes AMI tables for each family size in each locality annually. The income limit tables can be found at *http://www.huduser.org/datasets/il/il05/index.html.*)

d. Acquisition

(1) Acquisition Proposal. Before you undertake any acquisition activities with HOPE VI or other public housing funds, you must obtain HUD approval of an acquisition proposal that meets the requirements of 24 CFR 941.303.

(2) Rental Units. For acquisition of rental units in existing or new apartment buildings, single family subdivisions, etc., with or without rehabilitation, for use as public housing replacement units, you must obtain HUD approval of a Development Proposal in accordance with 24 CFR 941.304 (conventional development) or 24 CFR 941.606 (mixed finance development).

(3) Land for Off-Site Replacement Units. For acquisition of land for public housing or homeownership development, you must comply with 24 CFR part 941 or successor part.

(4) Land for Economic Development-Related Activities.

(a) Acquisition of land for this purpose is eligible only if the economic development-related activities specifically promote the economic self-sufficiency of residents.

(b) Limited infrastructure and site improvements associated with developing retail, commercial, or office facilities, such as rough grading and bringing utilities to (but not on) the site are eligible activities with prior HUD approval.

e. Leverage

(1) You must actively enlist other stakeholders who are vested in and can provide significant financial assistance to your revitalization effort, both for physical development and CSS.

(2) Types of Leverage Resources. HUD seeks to fund mixed-finance developments that use HOPE VI funds to leverage the maximum amount of other funds, particularly from private sources, that will result in revitalized public housing, other types of assisted and market-rate housing, and private retail and economic development. There are four types of Leverage: Development, CSS, Anticipatory, and Collateral. Development and CSS leverage are program requirements and will be described here. Anticipatory and Collateral leverage are included only in the Leverage rating factor and are described in Section V.A.3. of this NOFA.

(3) Development Leverage.

(a) Development resources include:

(i) Private mortgage-secured loans and other debt.

(ii) Insured loans.

(iii) Donations and contributions.

(iv) Housing trust funds.

(v) Net sales proceeds from a homeownership project. Down payments from homebuyers will not be counted. Down payment assistance may be counted as a physical development resource if it is provided by a third party entity not related to the homebuyer.

(vi) Funds committed to build private sector housing in direct connection with the HOPE VI Revitalization plan.

(vii) Tax Increment Funding (TIF).

(viii) Tax Exempt Bonds. Your application must include a description of the use and term.

(ix) Other Public Housing Funds. Other public housing sources include HOPE VI Revitalization funds from other grants, HOPE VI Demolition funds, Capital Fund program funds, and proposals to use operating subsidy for debt service. These HUD public housing funds will not be counted for points under CSS, Development and Collateral leverage in this NOFA. However, they can be used as part of your revitalization plan. Other public housing sources, except for HOPE VI Revitalization funds, will be counted toward your leverage rating for anticipatory leverage and may be used toward your match requirement.

(x) Other Federal Funds. Other Federal sources may include non-public housing funds provided by HUD.

(xi) Sale of Land. The value of land may be included as a development resource only if this value is a sales proceed. Absent a sales transaction, the value of land may not be counted.

(xii) Donations of Land. Donations of land may be counted as a development resource, only if the donating entity owns the land to be donated. Donating entities may include a city, county/parish, church, community organization, etc. The application must include documentation of this ownership, signed by the appropriate authorizing official.

(xiii) Low-Income Housing Tax Credits (LIHTC). Low-Income Tax Credits are authorized by Section 42 of the IRS Code which allows investors to receive a credit against federal tax owed in return for providing funds to developers to help build or renovate housing that will be rented only to lower-income households for a minimum period of 15 years. There are two types of credits, both of which are available over a 10-year period: a nine percent credit on construction/rehab costs, and a four percent credit on acquisition costs and all development costs financed partially with below-market Federal loans (*e.g.*, tax exempt bonds). Tax credits are generally reserved annually through State

Housing Finance Agencies, a directory of which can be found at *http://www.ncsha.org/ncsha/public/statehfadirectory/index.htm.*

(b) Sources of Development Leverage. Sources of Development Leverage may include:

(i) Public, private, and nonprofit entities, including LIHTC purchasers;

(ii) State and local housing finance agencies;

(iii) Local governments;

(iv) The city's housing and redevelopment agency or other comparable agency. HUD will consider this to be a separate entity with which you are partnering if your PHA is also a redevelopment agency or otherwise has citywide responsibilities.

(A) You are strongly urged to seek a pledge of Community Development Block Grant (CDBG) funds for improvements to public infrastructure such as streets, water mains, etc. related to the revitalization effort. CDBG funds are awarded by HUD by formula to units of general local government and to states, which may then award a grant or loan to a PHA, a partnership, a nonprofit organization, or other entity for revitalization activities, including loans to a project's for-profit partnership. More information about the CDBG Program can be found at *http://www.hud.gov/offices/cpd/index.cfm.*

(B) The city, county/parish, or state may provide HOME funds to be used in conjunction with HOPE VI funds. The Home Investment Partnership program provides housing funds that are distributed from HUD to units of general local governments and states. Funds may be used for new construction, rehabilitation, acquisition of standard housing, assistance to homebuyers, and tenant-based rental assistance. Current legislation allows HOME funds to be used in conjunction with HOPE VI funds, but they may not be used in conjunction with public housing capital funds under Section 9(d) of the 1937 Act. Information about the HOME program can be found at: *http://www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm.*

(v) Foundations;

(vi) Government Sponsored Enterprises such as the Federal Home Loan Bank, Fannie Mae, and Freddie Mac;

(vii) HUD and other Federal agencies;

(viii) Financial institutions, banks, or insurers; and

(ix) Other private funders.

(4) Community and Supportive Services Leverage.

(a) HUD seeks to fund mixed-finance developments that use HOPE VI funds to leverage the maximum amount of other resources to support CSS activities in order to ensure the successful transformation of the lives of residents and the sustainability of the revitalized public housing development. Leveraging HOPE VI CSS funds with other funds and services is critical to the sustainability of CSS activities so that they will continue after the HOPE VI funds have been expended. Commitments of funding or in-kind services related to the provision of CSS activities may be counted as CSS resources and toward the calculation of CSS leverage. *See* Section V.A.3. of this NOFA.

(b) Types of CSS Leverage.

Types of resources include, but are not limited to:

(i) Materials;

(ii) A building;

(iii) A lease on a building;

(iv) Other infrastructure;

(v) Time and services contributed by volunteers;

(vi) Staff salaries and benefits;

(vii) Supplies; and

(viii) Other types of CSS resources as described in Section III.C.4.l. of this NOFA.

(c) TANF cash benefits themselves will not be counted as leverage.

(d) ONLY funds and in-kind services that will be newly generated for HOPE VI activities in this NOFA are considered CSS leverage.

(5) Sources of CSS Leverage. In order to achieve quantifiable self-sufficiency results, you must form partnerships with organizations that are skilled in the delivery of services to residents of public housing and that can provide commitments of resources to support those services. You must actively enlist as partners other stakeholders who are vested in and can provide commitments of funds and in-kind services for the CSS portion of your revitalization effort. *See* Section III.C.4.m. for a list of the kinds of organizations, agencies, and other providers that may be used as sources of CSS leverage.

f. Access to Services

For both on-site and any off-site units, your overall Revitalization Plan must result in increased access to municipal services, jobs, mentoring opportunities, transportation, and educational facilities; *i.e.*, the physical plan and self-sufficiency strategy must be well-integrated and strong linkages must be established with the appropriate federal, state, and local agencies, nonprofit organizations, and the private sector to achieve such access.

g. Building Standards

(1) Building Codes. All activities that include construction, rehabilitation, lead-based paint removal, and related activities must meet or exceed local building codes. You are encouraged to read the policy statement and final report of the HUD Review of Model Building Codes that identifies the variances between the design and construction requirements of the Fair Housing Act and several model building codes. That report can be found on the HUD Web site at *http://www.hud.gov/fhe/modelcodes.*

(2) Deconstruction. HUD encourages you to design programs that incorporate sustainable construction and demolition practices, such as the dismantling or ''deconstruction'' of public housing units, recycling of demolition debris, and reusing of salvage materials in new construction. ''A Guide to Deconstruction'' can be found at *www.hud.gov/deconstr.pdf.*

(3) Partnership for Advancing Technology in Housing (PATH). HUD encourages you to use PATH technologies in the construction and delivery of replacement housing. PATH is a voluntary initiative that seeks to accelerate the creation and widespread use of advanced technologies to radically improve the quality, durability, environmental performance, energy efficiency, and affordability of our Nation's housing.

(a) PATH's goal is to achieve dramatic improvement in the quality of American housing by the year 2010. PATH encourages leaders from the home building, product manufacturing, insurance and financial industries, and representatives from federal agencies dealing with housing issues to work together to spur housing design and construction innovations. PATH will provide technical support in design and cost analysis of advanced technologies to be incorporated in project construction.

(b) Applicants are encouraged to employ PATH technologies to exceed prevailing national building practices by:

(i) Reducing costs;

(ii) Improving durability;

(iii) Increasing energy efficiency;

(iv) Improving disaster resistance; and

(v) Reducing environmental impact.

(c) More information, the list of technologies, the latest PATH Newsletter, results from field demonstrations, and PATH projects can be found at *www.pathnet.org.*

(4) Energy Efficiency.

(a) New construction must comply with the latest HUD-adopted Model Energy Code issued by the Council of American Building Officials.

(b) HUD encourages you to set higher standards for energy and water

efficiency in HOPE VI new construction, which can achieve utility savings of 30 to 50 percent with minimal extra cost.

(c) You are encouraged to negotiate with your local utility company to obtain a lower rate. Utility rates and tax laws vary widely throughout the country. In some areas, PHAs are exempt or partially exempt from utility rate taxes. Some PHAs have paid unnecessarily high utility rates because they were billed at an incorrect rate classification.

(d) Local utility companies may be able to provide grant funds to assist in energy efficiency activities. States may also have programs that will assist in energy efficient building techniques.

(e) You must use new technologies that will conserve energy and decrease operating costs where cost effective. Examples of such technologies include:

(i) Geothermal heating and cooling;

(ii) Placement of buildings and size of eaves that take advantage of the directions of the sun throughout the year;

(iii) Photovoltaics (technologies that convert light into electrical power);

(iv) Extra insulation;

(v) Smart windows; and

(vi) Energy Star appliances.

(5) Universal Design. HUD encourages you to incorporate the principles of universal design in the construction or rehabilitation of housing, retail establishments, and community facilities, or when communicating with community residents at public meetings or events. Universal design is the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. The intent of universal design is to simplify life for everyone by making products, communications, and the built environment more usable by as many people as possible at little or no extra cost. Universal design benefits people of all ages and abilities. Examples include designing wider doorways, installing levers instead of doorknobs, and putting bathtub/shower grab bars in all units. Computers and telephones can also be set up in ways that enable as many residents as possible to use them. The Department has a publication that contains a number of ideas about how the principles of Universal Design can benefit persons with disabilities. To order a copy of *Strategies for Providing Accessibility and Visitability for HOPE VI and Mixed Finance Homeownership,* go to the publications and resource page of the HOPE VI Web site at *http://www.huduser.org/publications/pubasst/strategies.html.*

(6) Energy Star. HUD has adopted a wide-ranging energy action plan for improving energy efficiency in all program areas. As a first step in implementing the energy plan, HUD, the Environmental Protection Agency (EPA), and the Department of Energy (DoE) have signed a joint partnership to promote energy efficiency in HUD's affordable housing efforts and programs. The purpose of the Energy Star partnership is to promote energy efficiency of the affordable housing stock, but also to help protect the environment. Applicants constructing, rehabilitating, or maintaining housing or community facilities are encouraged to promote energy efficiency in design and operations. They are urged especially to purchase and use Energy Star-labeled products. Applicants providing housing assistance or counseling services are encouraged to promote Energy Star building by homebuyers and renters. Program activities can include developing Energy Star promotional and information materials, outreach to low- and moderate-income renters and buyers on the benefits and savings when using Energy Star products and appliances, and promoting the designation of community buildings and homes as Energy Star compliant. For further information about Energy Star, *see http://www.energystar.gov* or call 888–STAR–YES (888–782–7937), or for the hearing-impaired, call 888–588–9920 TTY. *See also* the energy efficiency requirements in Section III.C.4.g.(4) above. *See* Section V.9.f. of this NOFA for the Energy Star Rating Factor.

(7) Lead-Based Paint. You must comply with lead-based paint evaluation and reduction requirements as provided for under the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, *et seq.*). You also must comply with regulations at 24 CFR part 35, 24 CFR 965.701, and 24 CFR 968.110(k), as they may be amended or revised from time to time. Unless otherwise provided, you will be responsible for lead-based paint evaluation and reduction activities. The National Lead Information Hotline is 800–424–5323.

h. Labor Standards

The following standards must be implemented as appropriate in regard to HOPE VI grants.

(1) Labor Standards.

(a) Davis-Bacon wage rates apply to development of any public housing rental units or homeownership units developed with HOPE VI grant funds and to demolition followed by construction on the site. Davis-Bacon rates are ''prevailing'' minimum wage rates set by the Secretary of Labor that all laborers and mechanics employed in the development, including rehabilitation, of a public housing project must be paid, as set forth in a wage determination that the PHA must obtain prior to bidding on each construction contract. The wage determination and provisions requiring payment of these wage rates must be included in the construction contract;

(b) HUD-determined wage rates apply to:

(i) Operation (including nonroutine maintenance) of revitalized housing, and

(ii) Demolition followed only by filling in the site and establishing a lawn.

(2) Exclusions. Under Section 12(b) of the 1937 Act, wage rate requirements do not apply to individuals who:

(a) Perform services for which they volunteered;

(b) Do not receive compensation for those services or are paid expenses, reasonable benefits, or a nominal fee for the services; and

(c) Are not otherwise employed in the work involved (24 CFR part 70).

(3) If other federal programs are used in connection with your HOPE VI activities, labor standards requirements apply to the extent required by the other federal programs on portions of the project that are not subject to Davis-Bacon rates under the 1937 Act.

i. Operation and Management Principles and Policies

(1) You and your procured property manager, if applicable, must comply (to the extent required) with the provisions of 24 CFR part 966 in planning for the implementation of the operation and management principles and policies described below.

(a) Rewarding work and promoting family stability by promoting positive incentives such as income disregards and ceiling rents;

(b) Instituting a system of local preferences adopted in response to local housing needs and priorities, *e.g.*, preferences for victims of domestic violence, residency preferences, and disaster victims. Note that local preferences for public housing must comply with Fair Housing requirements at 24 CFR 960.206;

(c) Encouraging self-sufficiency by including lease requirements that promote involvement in the resident association, performance of community service, participation in self-sufficiency activities, and transitioning from public housing;

(d) Implementing site-based waiting lists that follow project-based management principles for the

redeveloped public housing. Note that site-based waiting lists for public housing must comply with Fair Housing requirements at 24 CFR 903.7(b)(2);

(e) Instituting strict applicant screening requirements such as credit checks, references, home visits, and criminal records checks;

(f) Strictly enforcing lease and eviction provisions;

(g) Improving the safety and security of residents through the implementation of defensible space principles and the installation of physical security systems such as surveillance equipment, control engineering systems, etc;

(h) Enhancing ongoing efforts to eliminate drugs and crime from neighborhoods through collaborative efforts with federal, state, and local crime prevention programs and entities such as:

(i) Local law enforcement agencies;

(ii) Your local United States Attorney;

(iii) The Weed and Seed Program, if the targeted project is located in a designated Weed and Seed area. Operation Weed and Seed is a multi-agency strategy that ''weeds out'' violent crime, gang activity, drug use, and drug trafficking in targeted neighborhoods and then ''seeds'' the target area by restoring these neighborhoods through social and economic revitalization. Law enforcement activities constitute the ''weed'' portion of the program. Revitalization, which includes prevention, intervention, and treatment services as well as neighborhood restoration, constitutes the ''seed'' element. For more information, see the Community and Safety and Conservation Web site at *http://www.hud.gov/offices/pih/divisions/cscd/.*

j. Non-Fungibility for Moving To Work (MTW) PHAs

Funds awarded under this NOFA are not fungible under MTW agreements and must be accounted for separately, in accordance with the HOPE VI Revitalization Grant Agreement, the requirements in OMB Circulars A–87, ''Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments,'' A–133, ''Audits of States, Local Governments, and Non-Profit Organizations'' and the regulations 24 CFR part 85, ''Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments,'' and GAAP.

k. Resident and Community Involvement

(1) General. You are required to involve the affected public housing residents, state and local governments, private service providers, financing agencies, and developers in the planning process, proposed implementation, and management of your Revitalization Plan. This involvement must be continuous from the beginning of the planning process through the implementation and management of the grant, if awarded.

(2) Resident Training Session. You must conduct at least one training session for residents of the severely distressed project on the HOPE VI development process. HUD does not prescribe the content of this meeting.

(3) Public Meetings.

(a) You must conduct at least three public meetings with residents and the broader community, in order to involve them in a meaningful way in the process of developing the Revitalization Plan and preparing the application. One of these meetings must have taken place at the beginning of the planning process.

(b) These three public meetings must take place on different days from each other and from the resident training session.

(c) During the course of the three meetings, you must address the issues listed below (*i.e.*, all issues need not be addressed at each meeting):

(i) The HOPE VI planning and implementation process;

(ii) The proposed physical plan, including site and unit design, and whether the unit design is in compliance with Fair Housing Act and Uniform Federal Accessibility Standards (UFAS) standards;

(iii) The extent of proposed demolition;

(iv) Planned community and supportive service activities;

(v) Other proposed revitalization activities;

(vi) Relocation issues, including relocation planning, mobility counseling, and maintaining the HOPE VI community planning process during the demolition and reconstruction phases where temporary relocation, *i.e.*, relocation for a reasonable period (less than one year), is involved;

(vii) Reoccupancy plans and policies, including site-based waiting lists; and

(viii) Section 3 and employment opportunities to be created as a result of redevelopment activities.

(4) Accessibility. All training sessions and meetings must be held in facilities that are accessible to persons with disabilities, provide services such as day care, transportation, and sign language interpreters as appropriate, and as practical and applicable, be conducted in English and the language(s) most appropriate for the community.

(5) Allowable Time Period for Training and Meetings.

(a) At least one public meeting, which included representation from both the involved public housing residents and the community, must have been held at the beginning of the revitalization planning period;

(b) At least one training session must have been held after the publication date of this NOFA in the **Federal Register**; and

(c) The minimum of two more public meetings must have been held after the publication date of this NOFA in the **Federal Register**.

(d) The above minimum number of trainings and meetings are required to meet the Resident Involvement threshold in Section III.C. of this NOFA. Additional meetings and trainings will be counted toward demonstration of continual inclusion of the residents and community in the rating factors.

l. CSS Program Requirements

(1) Term Period. CSS programs and services must last for the life of the grant and must be carefully planned so that they will be sustainable after the HOPE VI grant period ends.

(2) Allowed Funding Mechanisms:

(a) Maximum CSS grant amount. Consistent with Sections 24(d)(1)(L) and 24(j)(3) of the 1937 Act, you may use up to 15 percent of the total HOPE VI grant to pay the costs of CSS activities. *See* Section III.B.1. of this NOFA for CSS grant matching requirements. You may spend additional sums on CSS activities using donations, other HUD funds made available for that purpose, other Federal, state, local, PHA, or private-sector donations (leverage).

(b) CSS Endowment Trust. Consistent with Section 24(d)(2) of the 1937 Act, you may deposit up to 15 percent of your HOPE VI grant (the maximum amount of the award allowable for CSS activities) into an endowment trust to provide CSS activities. In order to establish an endowment trust, you must first execute with HUD a HOPE VI Endowment Trust Addendum to the grant agreement. When reviewing your request to set up an endowment trust, HUD will take into consideration your ability to pay for current CSS activities with HOPE VI or other funds and the projected long-term sustainability of the endowment trust to carry out those activities.

(3) CSS Team and Partners.

(a) The term ''CSS Team'' refers to PHA staff members and any consultants who will have the responsibility to design, implement, and manage your CSS program.

(b) The term ''CSS Partners'' refers to the agencies and organizations that you

will work with to provide supportive services for residents. A partner could be a local service organization such as a Boys or Girls Club that donates its building and staff to the program, or an agency such as the local Temporary Assistance for Needy Families (TANF) agency that works with you to ensure that their services are coordinated and comprehensive.

(c) Partner Agreements. There are several relationships that you may have with your partners:

(i) Subgrant Agreements. You may enter into subgrant agreements with nonprofit organizations or state or local governments for the performance of CSS activities in accordance with your approved CSS work plan.

(ii) Contracts. You may enter into a contract with for-profit businesses, nonprofit organizations, or state or local governments for the performance of CSS activities in accordance with your approved CSS work plan.

(iii) Memoranda of Understanding (MOU). You may enter into an MOU with any entity that furnishes CSS services for the performance of activities in accordance with your approved CSS work plan. However, if money is to change hands, the MOU must be formalized with a contract or subgrant.

(iv) Informal Relationships. You may accept assistance from partners without prior documentation of your partner relationship. However, informal relationships do not lend themselves to planning and should definitely be formalized and memorialized with a binding contract or subgrant if money changes hands.

(4) Tracking and Case Management. If selected, the grantee is responsible for tracking and providing CSS programs and services to residents currently living on the targeted public housing site and residents already relocated from the site. It is imperative that case management services begin immediately upon award so that residents who will be relocated have time to participate in and benefit from CSS activities before leaving the site, and that residents who have already been relocated are able to participate in and benefit from CSS activities.

(5) CSS Strategy and Objectives Requirements

(a) Transition to Housing Self-Sufficiency. One of HUD's major priorities is to assist public housing residents in their efforts to become financially self-sufficient and less dependent upon direct government housing assistance. Your CSS program must include a well-defined, measurable endeavor that will enable public housing residents to transition to other affordable housing programs and to market housing. Family Self-Sufficiency (FSS) and CSS activities that are designed to increase education and income levels are considered a part of this endeavor, as is the establishment of reasonable limits on the length of time any household that is not headed by an elderly or disabled person can reside in a public housing unit within a HOPE VI Revitalization Development.

(b) Neighborhood Networks. All FY2005 Revitalization grantees will be required to establish Neighborhood Networks Centers (NNC) and to promote the inclusion of infrastructure that permits unit-based access to broadband internet connectivity in all new and replacement public housing units. This program provides residents with on-site access to computer and training resources that create knowledge and experience with computers and the Internet as tools to increase access to CSS, job training, and the job market. Grantees may use HOPE VI funds to establish NNCs and to provide unit-based Internet connectivity. More information on the requirements of the NNC program is available on the Neighborhood Networks Web site at *http://www.hud.gov/nnw/nnwindex.html.* There will not be a separate FY–2005 funded NOFA for HOPE VI Neighborhood Networks programs.

(c) Quantifiable Goals. The objectives of your CSS program must be results-oriented, with quantifiable goals and outcomes that can be used to measure progress and make changes in activities as necessary.

(d) Appropriate Scale and Type.

(i) CSS activities must be of an appropriate scale, type, and variety to meet the needs of all residents (including adults, seniors, youth ages 16 to 21, and children) of the severely distressed project, including residents remaining on-site, residents who will relocate permanently to other PHA units or Housing Choice Voucher-assisted housing, residents who will relocate temporarily during the construction phase, and new residents of the revitalized units.

(ii) Non-public housing residents may also participate in CSS activities, as long as the primary participants in the activities are residents as described in Section (i) above.

(e) Coordination.

(i) CSS activities must be consistent with state and local welfare reform requirements and goals.

(ii) Your CSS activities must be coordinated with the efforts of other service providers in your locality, including nonprofit organizations, educational institutions, and state and local programs.

(iii) CSS activities must be well-integrated with the physical development process, both in terms of timing and the provision of facilities to house on-site service and educational activities.

(f) Your CSS program must provide appropriate community and supportive services to residents prior to any relocation

m. CSS Partnerships and Resources

The following are the kinds of organizations and agencies that can provide you with resources necessary to carry out and sustain your CSS activities.

(1) Local Boards of Education, public libraries, local community colleges, institutions of higher learning, nonprofit or for-profit educational institutions, and public/private mentoring programs that will lead to new or improved educational facilities and improved educational achievement of young people in the revitalized development, from birth through higher education.

(2) TANF agencies/welfare departments for TANF and non-TANF in-kind services, and non-TANF cash donations, *e.g.*, donation of TANF agency staff.

(3) Job development organizations that link private sector or nonprofit employers with low-income prospective employees.

(4) Workforce Development Agencies.

(5) Organizations that provide residents with job readiness and retention training and support.

(6) Economic development agencies such as the Small Business Administration, which provide entrepreneurial training and small business development centers.

(7) National corporations, local businesses, and other large institutions such as hospitals that can commit to provide entry-level jobs. Employers may agree to train residents or commit to hire residents after they complete jobs preparedness or training programs that are provided by you, other partners, or the employer itself.

(8) Programs that integrate employment training, education, and counseling, and where creative partnerships with local boards of education, state charter schools, TANF agencies, foundations, and private funding sources have been or could be established, such as:

(a) Youthbuild. HUD's Youthbuild program provides grants to organizations that provide education and job training to young adults ages 16 to 24 who have dropped out of school. Participants spend half their time

rehabilitating low-income housing and the other half in educational programs. Youthbuild provides a vehicle for achieving compliance with the objective of Section 3, as described in Section III.C.4.c. of the General Section. More information on HUD's Youthbuild program can be found at *http://www.hud.gov/progdesc/youthb.cfm.*

(b) Step-Up, an apprenticeship-based employment and training program that provides career potential for low-income persons by enabling them to work on construction projects that have certain prevailing wage requirements. Step-Up encourages work by offering apprenticeships through which low-income participants earn wages while learning skills on the job, supplemented by classroom-related instruction. Step-Up can also contribute to a PHA's effort to meet the requirements of Section 3. More information can be found at *http://www.hud.gov/progdesc/stepup.cfm.*

(9) Sources of capital such as foundations, banks, credit unions, and charitable, fraternal, and business organizations.

(10) Nonprofit organizations such as the Girl Scouts and the Urban League, each of which has a Memorandum of Agreement (MOA) with HUD. Copies of these MOAs can be found on the Community and Supportive Services page of the HOPE VI Web site at *http://www.hud.gov/hopevi.*

(11) Civil rights and fair housing organizations.

(12) Local area agencies on aging.

(13) Local agencies and organizations serving persons with disabilities.

(14) Nonprofit organizations such as grassroots faith-based and other community-based organizations. HUD encourages you to partner or subgrant with nonprofit organizations, including grassroots faith-based and other community-based organizations, to provide CSS activities. Such organizations have a strong history of providing vital community services such as job training, childcare, relocation supportive services, youth programs, technology training, transportation, substance abuse programs, crime prevention, health services, assistance to the homeless and homelessness prevention, counseling individuals and families on fair housing rights, providing elderly housing opportunities, and homeownership and rental housing opportunities in the neighborhood of their choice. HUD believes that grassroots organizations, *e.g.*, civic organizations, faith-communities, national and local self-help homeownership organizations, faith-based, and other community-based organizations should be more effectively used, and has placed a high priority on expanding opportunities for grassroots organizations to participate in developing solutions for their own neighborhoods. *See* HUD's Center for Faith-Based and Community Initiatives Web site at *http://www.hud.gov/offices/fbci/index.cfm.*

(a) HUD will consider an organization a ''grassroots'' organization if it is headquartered in the local community to which it provides services; and

(i) Has an annual social services budget of no more than $300,000. This cap includes only the portion of the organization's budget allocated to providing social services. It does not include other portions of the budget such as salaries and expenses; or

(ii) Has six or fewer full-time equivalent employees.

(b) Local affiliates of national organizations are not considered ''grassroots.''

n. Fair Housing and Equal Opportunity Requirements

(1) Site and Neighborhood Standards for Replacement Housing. You must comply with the Fair Housing Act and Title VI of the Civil Rights Act of 1964, and regulations thereunder. In determining the location of any replacement housing, you must comply with either the site and neighborhood standards regulations at 24 CFR 941.202 (b)–(d) or with the standards outlined in this NOFA. Because the objective of the HOPE VI program is to alleviate distressed conditions at the development and in the surrounding neighborhood, replacement housing under HOPE VI that is located on the site of the existing development or in its surrounding neighborhood will not require independent approval by HUD under Site and Neighborhood Standards. The term ''surrounding neighborhood'' means the neighborhood within a three-mile radius of the site of the existing development.

(a) HOPE VI Goals Related to Site and Neighborhood Standards. You are expected to ensure that your revitalization plan will expand assisted housing opportunities outside low-income areas and areas of minority concentration and will accomplish substantial revitalization in the project and its surrounding neighborhood. You are also expected to ensure that eligible households of all races and ethnic groups will have equal and meaningful access to the housing.

(b) Objectives in Selecting HUD-Assisted Sites. The fundamental goal of HUD's fair housing policy is to make full and free housing choice a reality. Housing choice requires that households of all races and ethnicity, or with disabilities, can freely decide the type of neighborhood where they wish to reside, that minority neighborhoods are no longer deprived of essential public and private resources, and that stable, racially-mixed neighborhoods are available as a meaningful choice for all. To make full and free housing choice a reality, sites for HUD-assisted housing investment should be selected so as to advance two complementary goals:

(i) Expand assisted housing opportunities in non-minority neighborhoods, opening up choices throughout the metropolitan area for all assisted households; and

(ii) Reinvest in minority neighborhoods, improving the quality and affordability of housing there to represent a real choice for assisted households.

(c) Compliance with Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. You must comply with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and implementing regulations in determining the location of any replacement housing.

(d) Grantee Election of Requirements. You may, at your election, separately with regard to each site you propose, comply with the development regulations regarding Site and Neighborhood Standards (24 CFR 941.202 (b)–(d)), or with the Site and Neighborhood Standards contained in this Section.

(e) Replacement housing located on site or in the surrounding neighborhood. Replacement housing under HOPE VI that is located on the site of the existing project or in its surrounding neighborhood will not require independent approval under Site and Neighborhood Standards, since HUD will consider the scope and impact of the proposed revitalization to alleviate severely distressed conditions at the public housing project and its surrounding neighborhood in assessing the application to be funded under this NOFA.

(f) Off-Site Replacement Housing Located Outside of the Surrounding Neighborhood. Unless you demonstrate that there are already significant opportunities in the metropolitan area for assisted households to choose non-minority neighborhoods (or these opportunities are under development), HOPE VI replacement housing not covered by Section (e) above may not be located in an area of minority concentration (as defined in paragraph (g) below) without the prior approval of HUD. Such approval may be granted if

you demonstrate to the satisfaction of HUD that:

(i) You have made determined and good faith efforts, and found it impossible with the resources available, to acquire an appropriate site(s) in an area not of minority concentration; or

(ii) The replacement housing, taking into consideration both the CSS activities or other revitalizing activities included in the Revitalization plan, and any other revitalization activities in operation or firmly planned, will contribute to the stabilization or improvement of the neighborhood in which it is located, by addressing any serious deficiencies in services, safety, economic opportunity, educational opportunity, and housing stock.

(g) Area of Minority Concentration. The term ''area of minority concentration'' is any neighborhood in which:

(i) The percentage of households in a particular racial or ethnic minority group is at least 20 percentage points higher than the percentage of that minority group for the housing market area; *i.e.*, the Metropolitan Statistical Area (MSA) in which the proposed housing is to be located;

(ii) The neighborhood's total percentage of minority persons is at least 20 percentage points higher than the total percentage of all minorities for the MSA as a whole; or

(iii) In the case of a metropolitan area, the neighborhood's total percentage of minority persons exceeds 50 percent of its population.

(2) Housing and Services for Persons with Disabilities.

(a) Accessibility Requirements. HOPE VI developments are subject to the accessibility requirements contained in several federal laws. All applicable laws must be read together and followed. PIH Notice 2003–31, available at *http://www.hud.gov/offices/pih/publications/notices/*, and subsequent updates, provides an overview of all pertinent laws and implementing regulations pertaining to HOPE VI. All HOPE VI multifamily housing projects, whether they involve new construction and rehabilitation, are subject to the Section 504 accessibility requirements described in 24 CFR Part 8. *See* in particular, 24 CFR §§ 8.20–8.24. In addition, under the Fair Housing Act, all new construction of covered multifamily buildings must contain certain features of accessible and adaptable design. Units covered are all those in elevator buildings with four or more units and all ground floor units in buildings without elevators. The relevant accessibility requirements are provided in HUD's FHEO Web site at *http://www.hud.gov/groups/fairhousing.cfm*.

(b) Specific Fair Housing requirements are:

(i) The Fair Housing Act (42 U.S.C. 3601–19) and regulations at 24 CFR part 100.

(ii) The prohibitions against discrimination on the basis of disability, including requirements that multifamily housing projects comply with the Uniform Federal Accessibility Standards, and that you make reasonable accommodations to individuals with disabilities under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations at 24 CFR part 8.

(iii) Title II of the Americans with Disabilities Act (42 U.S.C 12101 *et seq.*) and its implementing regulations at 28 CFR part 35.

(iv) The Architectural Barriers Act of 1968 (42 U.S.C. 4151) and the regulations at 24 CFR part 40.

(c) Accessible Technology. The Rehabilitation Act Amendments of 1998 apply to all electronic information technology (EIT) used by a grantee for transmitting, receiving, using, or storing information to carry out the responsibilities of any federal grant awarded. It includes, but is not limited to, computers (hardware, software, word processing, e-mail, and Web pages) facsimile machines, copiers, and telephones. When developing, procuring, maintaining, or using EIT, grantees must ensure that the EIT allows:

(i) Employees with disabilities to have access to and use information and data that is comparable to the access and use of data by employees who do not have disabilities; and

(ii) Members of the public with disabilities seeking information or service from a grantee must have access to and use of information and data that is comparable to the access and use of data by members of the public who do not have disabilities. If these standards impose an undue burden on a grantee, they may provide an alternative means to allow the individual to use the information and data. No grantee will be required to provide information services to a person with disabilities at any location other than the location at which the information services are generally provided.

o. Relocation Requirements

(1) Requirements.

(a) You must carry out relocation activities in compliance with a relocation plan that conforms to the following statutory and regulatory requirements, as applicable:

(i) Relocation or temporary relocation carried out as a result of rehabilitation under an approved Revitalization plan is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), the URA regulations at 49 CFR part 24, and regulations at 24 CFR 968.108 or successor part.

(ii) Relocation carried out as a result of acquisition under an approved Revitalization plan is subject to the URA and regulations at 24 CFR 941.207 or successor part.

(iii) Relocation carried out as a result of disposition under an approved Revitalization plan is subject to Section 18 of the 1937 Act, as amended.

(iv) Relocation carried out as a result of demolition under an approved Revitalization plan is subject to the URA regulations at 24 CFR part 24.

(b) You must provide suitable, accessible, decent, safe, and sanitary housing for each family required to relocate as a result of revitalization activities under your Revitalization plan. Any person (including individuals, partnerships, corporations, or associations) who moves from real property or moves personal property from real property directly (1) because of a written notice to acquire real property in whole or in part, or (2) because of the acquisition of the real property, in whole or in part, for a HUD-assisted activity, is covered by federal relocation statute and regulations. Specifically, this type of move is covered by the acquisition policies and procedures and the relocation requirements of the URA, and the implementing government-wide regulation at 49 CFR part 24, and Notice CPD 04–02, ''Revision to *Notice CPD 02–8*, Guidance on the Application of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as Amended, in HOPE VI Projects''. The relocation requirements of the URA and the government-wide regulations, as well as CPD Notice 02–08, cover any person who moves permanently from real property or moves personal property from real property directly because of acquisition, rehabilitation, or demolition for an activity undertaken with HUD assistance.

(2) Relocation Plan. Each applicant must complete a HOPE VI Relocation plan in accordance with the requirements stated in Section IV.B. of this NOFA.

(a) The HOPE VI Relocation plan is intended to ensure that PHAs adhere to the URA and that all residents who have been or will be temporarily or permanently relocated from the site are

provided with CSS activities such as mobility counseling and direct assistance in locating housing. Your HOPE VI Relocation plan must serve to minimize permanent displacement of current residents of the public housing site who wish to remain in or return to the revitalized community. Your HOPE VI Relocation plan must also furnish alternative permanent housing for current residents of the public housing site who do not wish to remain in or return to the revitalized community. Your CSS program must provide for the delivery of community and supportive services to residents prior to any relocation, temporary or permanent.

(b) You are encouraged to involve HUD-approved housing counseling agencies, including faith-based, nonprofit and other organizations, and individuals in the community to which relocatees choose to move, in order to ease the transition and minimize the impact on the neighborhood. HUD will view favorably innovative programs such as community mentors, support groups, and the like.

(c) If applicable, you are encouraged to work with surrounding jurisdictions to assure a smooth transition if residents choose to move from your jurisdiction to the surrounding area.

p. Well-Functioning Communities

See Section V.A.8. of this NOFA for requirements that the unit mix of on-site, off-site and homeownership units create a well-functioning community.

q. Soundness of Approach: Design

HUD is seeking excellence in design. You must carefully select your architects and planners, and enlist local affiliates of national architectural and planning organizations such as the American Institute of Architects, the American Society of Landscape Architects, the American Planning Association, the Congress for the New Urbanism, and the department of architecture at a local college or university to assist you in assessing qualifications of design professionals or participating on a selection panel that results in the procurement of excellent design services.

You should select a design team that is committed to a process in which residents, including young people and seniors, the broader community, and other stakeholders participate in designing the new community.

Your proposed site plan, new units, and other buildings must be designed to be compatible with and enrich the surrounding neighborhood. Local architecture and design elements and amenities should be incorporated into the new or rehabilitated homes so that the revitalized sites and structures will blend into the broader community and appeal to the market segments for which they are intended. Housing, community facilities, and economic development space must be well integrated. You must select members of your team who have the ability to meet these requirements.

r. Internet Access

You must have access to the Internet and provide HUD with email addresses of key staff and contact people.

5. Number of Units

The number of units that you plan to develop should reflect your need for replacement units, the need for other affordable units and the market demand for market units, along with financial feasibility. The total number of units to be developed may be less than, or more than, the original number of public housing units in the targeted public housing project. HUD will review requests to revitalize projects with small numbers of units on an equal basis with those with large numbers of units.

6. Environmental Requirements

a. HUD Approval. HUD notification that you have been selected to receive a HOPE VI grant constitutes only preliminary approval. Grant funds may not be released under this NOFA (except for activities that are excluded from environmental review under 24 CFR part 58 or 50) until the responsible entity, as defined in 24 CFR 58.2(a)(7), completes an environmental review and you submit and obtain HUD approval of a request for release of funds and the responsible entity's environmental certification in accordance with 24 CFR part 58 (or HUD has completed an environmental review under 24 CFR part 50 where HUD has determined to do the environmental review).

b. Responsibility. If you are selected for funding and an environmental review has not been conducted on the targeted site, the responsible entity must assume the environmental review responsibilities for projects being funded by HOPE VI. If you object to the responsible entity conducting the environmental review, on the basis of performance, timing, or compatibility of objectives, HUD will review the facts and determine who will perform the environmental review. At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing, or compatibility of objectives, or in accordance with 24 CFR 58.77(d)(1). If a responsible entity objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50. You must provide any documentation to the responsible entity (or HUD, where applicable) that is needed to perform the environmental review.

c. Phase I and Phase II Environmental Site Assessments. If you are selected for funding, you must have a Phase I environmental site assessment completed in accordance with the ASTM Standards E 1527–00, as amended, for each affected site. A Phase I assessment is required whether the environmental review is completed under 24 CFR part 50 or 24 CFR part 58. The results of the Phase I assessment must be included in the documents that must be provided to the responsible entity (or HUD) for the environmental review. If the Phase I assessment recognizes environmental concerns or if the results are inconclusive, a Phase II environmental site assessment will be required.

d. Request for Release of Funds. You, and any participant in the development process, may not undertake any actions with respect to the project that are choice-limiting or could have environmentally adverse effects, including demolishing, acquiring, rehabilitating, converting, leasing, repairing, or constructing property proposed to be assisted under this NOFA, and you, and any participant in the development process, may not commit or expend HUD or local funds for these activities, until HUD has approved a Request for Release of Funds following a responsible entity's environmental review under 24 CFR part 58, or until HUD has completed an environmental review and given approval for the action under 24 CFR part 50. In addition, you must carry out any mitigating/remedial measures required by the responsible entity (or HUD). If a remediation plan, where required, is not approved by HUD and a fully-funded contract with a qualified contractor licensed to perform the required type of remediation is not executed, HUD reserves the right to determine that the grant is in default.

e. If the environmental review is completed before HUD approval of the HOPE VI Supplemental Submissions and you have submitted your Request for Release of Funds (RROF), the supplemental submissions approval letter shall state any conditions, modifications, prohibitions, etc. as a result of the environmental review, including the need for any further environmental review. You must carry out any mitigating/remedial measures

required by HUD, or select an alternate eligible property, if permitted by HUD. If HUD does not approve the remediation plan and a fully funded contract with a qualified contractor licensed to perform the required type of remediation is not executed, HUD reserves the right to determine that the grant is in default.

f. If the environmental review is not completed and you have not submitted the RROF before HUD approval of the supplemental submissions, the letter approving the supplemental submissions will instruct you and any participant in the revitalization process to refrain from undertaking, obligating, or expending funds on physical activities or other choice-limiting actions until HUD approves your RROF and the related certification of the responsible entity (or HUD has completed the environmental review). The supplemental submissions approval letter also will advise you that the approved supplemental submissions may be modified on the basis of the results of the environmental review.

g. There must not be any environmental or public policy factors such as sewer moratoriums that would preclude development in the requested locality. You will certify to this when signing the HOPE VI Revitalization Grant Application Certifications.

h. HUD's environmental website is located at *http://www.hud.gov/offices/cpd/energyenviron/environment/index.cfm*.

7. General Section References

The following sub-sections of Section III.C. of the General Section are hereby incorporated by reference:

(1) The Americans with Disabilities Act of 1990;

(2) Affirmatively Furthering Fair Housing;

(3) Economic Opportunities for Low- and Very Low-Income Persons (Section 3);

(4) Executive Order 13166, Improving Access to Services for Persons With Limited English Proficiency (LEP);

(5) Accessible Technology;

(6) Procurement of Recovered Materials;

(7) Participation in HUD-Sponsored Program Evaluation;

(8) Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects;

(9) OMB Circulars and Government-wide Regulations Applicable to Financial Assistance Programs; and

(10) Drug-Free Workplace.

IV. Application and Submission Information

A. Addresses To Request Application Package

1. *Obtaining the NOFA.* Copies of this published NOFA and application forms for this program may be downloaded from the grants.gov Web site at *http://www.grants.gov*. If you have difficulty accessing the information you may call the grants.gov help line toll-free at (800) 518–GRANTS or e-mailing <*support@grants.gov*>. Help line customer representatives will assist you in accessing the information. For general information, you can contact the NOFA Information Center at (800) HUD–8929. If you are hearing impaired, you may reach the NOFA Information Center through (800) HUD–2209 (TTY) (these are toll-free numbers).

2. **Federal Register**. The published **Federal Register** document is the official document that HUD uses to evaluate applications. Therefore, if there is a discrepancy between any materials published by HUD in its **Federal Register** publications and other information provided by the above Web site, the **Federal Register** publication prevails. Please be sure to review your application submission against the requirements in the **Federal Register** file of the NOFA.

3. *Application Kits.* There are no application kits for our programs this year. All the information you need to apply will be in the NOFA and available on the Internet.

4. *Corrections to the NOFA.* Corrections to the NOFA will be posted to the grants.gov Web site, as described above. Any technical corrections will also be published in the **Federal Register**. As with the original NOFA, the published **Federal Register** document is the official document that HUD uses to evaluate applications. Therefore, if there is a discrepancy between any materials published by HUD in its **Federal Register** publications and other information provided by the above website, the **Federal Register** publication prevails. Applicants are responsible for monitoring these websites and the **Federal Register** during the application preparation period.

B. Content and Form of Application Submission

1. General

a. *Electronic Signature.* Applications submitted through grants.gov constitute submission as electronically signed applications. The registration and e-authentication process establishes the Authorized Organization Representative (AOR). When you submit the application through Grants.gov, the name of your authorized organization representative on file will be inserted into the signature line of the application. Applicants must register the individual who is able to make legally binding commitments for the applicant organization as the Authorized Organization Representative (AOR).

b. *Manual Signatures.* If your organization is granted a waiver to the electronic application submission requirement, you should follow the following instructions regarding manual signatures. Unless otherwise indicated, the Executive Director of the applicant PHA, or his or her designee, must sign each form or certification that is required to be submitted with the application, whether part of an attachment or a standard certification. Signatures need not be original in the duplicate Headquarters copy and the duplicate field office copy.

c. *Manual Page Layout.* If you are granted a waiver to the electronic submission requirement:

(1) Double-space your narrative pages. Single-spaced pages will be counted as two pages;

(2) Use 8½ x 11-inch paper, one side only. Only the city map may be submitted on an 8 ½ by 14-inch sheet of paper. Larger pages will be counted as two pages;

(3) All margins should be approximately 1 inch. If any margin is smaller than ½ inch the page will be counted as two pages;

(4) Use 12-point, Times New Roman font;

(5) Any pages marked as sub-pages (*e.g.,* with numbers and letters such as 75A, 75B, 75C), will be treated as separate pages;

(6) If a section is not applicable, omit it; do not insert a page marked n/a;

(7) Mark each Exhibit and Attachment with the appropriate tab listed in section IV.B.2. and in the Submission Instructions. No material on the tab will be considered for review purposes, although pictures are allowed;

(8) No more than one page of text may be placed on one sheet of paper; *i.e.,* you may not shrink pages to get two or more on a page. Shrunken pages will be counted as multiple pages;

(9) Do not format your narrative in columns. Pages with text in columns will be counted as two pages; and

(10) The applications (copy and original) should each be packaged in a three-ring binder.

d. *Manual Page Count.* If you are granted a waiver to the electronic submission requirement:

(1) Narrative Exhibits.

(a) The first part of your application will be comprised of narrative exhibits. Your narratives will respond to each rating factor in the NOFA and will also respond to threshold requirements. Among other things, your narratives must describe your overall planning activities, including but not limited to relocation, community, and supportive services, and development issues.

(b) Each HOPE VI Revitalization application must contain no more than 100 pages of narrative exhibits. Any pages after the first 100 pages of narrative exhibits will not be reviewed. Although submitting pages in excess of the page limitations will not disqualify an application, HUD will not consider the information on any excess pages, which may result in a lower score or failure of a threshold. Text submitted at the request of HUD to correct a technical deficiency will not be counted in the 100-page limit.

(2) Attachments.

(a) The second part of your application will be comprised of Attachments. These documents will also respond to the rating factors in the NOFA, as well as threshold and mandatory documentation requirements. They will include documents such as maps, photographs, letters of commitment, application data forms, various certifications unique to HOPE VI Revitalization, and other certifications.

(b) Each HOPE VI Revitalization application must contain no more than 125 pages of attachments. Any pages after the first 125 pages of attachments will not be considered. Although submitting pages in excess of the page limit will not disqualify an application, HUD will not consider the information on any excess pages, which may result in a lower score or failure to meet a threshold.

(3) Exceptions to page limits. The documents listed below constitute the only exceptions and are not counted in the page limits listed in Sections (1) and (2) above:

(a) Additional pages submitted at the request of HUD in response to a technical deficiency.

(b) Attachments that provide documentation of commitments from resource providers or CSS providers.

(c) Attachments that provide documentation of site control and site acquisition in accordance with Section IV.B.4. of this NOFA.

(d) Narratives and Attachments, as relevant, required to be submitted only by existing HOPE VI Revitalization grantees in accordance with Sections V.A.1.of this NOFA (Capacity).

(e) Information required of MTW applicants only.

e. *Electronic Format.* (1) Exhibits. Exhibits are as listed in Section IV.B.2.a. of this NOFA. Each Exhibit should be contained in a separate file and section of the application. Each file should contain one title page.

(a) Exhibit Title Pages. HUD will use title pages as tabs when it downloads and prints the application. Provided the information on the title page is limited to the list in Section (b) below, the title pages will not be counted when HUD determines the length of each Exhibit, or the overall length of the Exhibits.

(i) Each title page should only contain:

(A) The name of the Exhibit, as described in Section IV.B.2.a. of this NOFA, *e.g.,* ''Narrative Exhibit A: Summary Information';

(B) The name of the applicant; and

(C) The name of the file that contains the Exhibit.

(b) Exhibit File Names and Types.

(i) All Exhibit files in the application must be contained in one Exhibit ZIP file.

(ii) Each file within the ZIP file must be formatted so it can be read by MS Word 2000 (.DOC).

(iii) Each file name must include the information below, in the order stated:

(A) Short version of applicant's name, *e.g.,* town, city, county/parish, etc., and state; and

(B) The word ''Exhibit'' and the Exhibit letter (A through I), as listed in Section IV.B.2.a. of this NOFA;

(C) An example of an Exhibit file name is, ''Atlanta GA Exhibit A.''

(2) Attachments. Attachments are as listed in Section IV.B.2.b. of this NOFA. Each Attachment should be contained in a separate file and section of the application. Each Attachment that is not a HUD Form should contain one title page.

(a) Attachment Title Pages. HUD will use title pages as tabs if it downloads and prints the application. Provided the information on the title page is limited to the list in Section (b) below, the title pages will not be counted when HUD determines the length of each Attachment, or the overall length of the Attachments. HUD forms do not require title pages.

(i) Each title page should only contain:

(A) The name of the Attachment, as described in Section IV.B.2.b. of this NOFA, *e.g.,* ''Attachment 10: Extraordinary Site Costs Certification';

(B) The name of the applicant; and

(C) The name of the file that contains the Attachment.

(b) Attachment File Names and Types.

(i) All Attachments that are not listed separately on grants.gov and are formatted as PureEdge forms, *e.g.,* SF–424, must be contained in one Attachment ZIP file.

(ii) Each file within the ZIP file must be formatted so it can be read by MS Excel (.XLS) or Adobe Acrobat (.PDF).

(A) Attachments that are downloaded from grants.gov in MS Excel format may be submitted in Excel format.

(B) Attachments that are downloaded from grants.gov in text format, *e.g.,* certifications, should be submitted in Adobe Acrobat (PDF) format.

(C) Third-party documents, *e.g.,* leverage commitment letters, pictures, etc., should be submitted in Adobe Acrobat (PDF) format.

(iii) Each file name must include the information below, in the order stated:

(A) Short version of applicant's name, *e.g.,* town, city, county/parish, etc., and state; and

(B) The word ''Attachment'' and the Attachment number (1 through 41), as listed in Section IV.B.2.b. of this NOFA;

(C) An example of an Exhibit file name is, ''Atlanta GA Attachment 1''.

(3) Maximum Length of Application.

(i) Page Definition and Format.

(A) For Exhibits, a ''page'' contains a maximum of 23 double-spaced lines. The length of each line must be a maximum of 6½ inches. This is the equivalent of formatting to be printed on 8½″ x 11″ paper, with one inch top, bottom, left and right margins. The font must be 12-point Times New Roman. Each page must be numbered.

(B) For Attachments, an applicant formatted text page is defined as in (A) above. Third-party documents converted into PDF format must not be shrunk to fit more than one original page on each application page. Pages of HUD Forms and certification formats furnished by HUD are as numbered by HUD.

(C) The maximum total length of the Exhibits and of the Attachments is as stated in Section IV.B.1.d. above.

d. *See* Section IV.F. of the General Section for instructions on how to electronically submit third-party and large documents (*i.e.,* documents 8½ by 14-inch, etc.).

2. Application Content

The following is a list of narrative exhibits and attachments that are required as part of the application. Non-submission of these items may lower your rating score or make you ineligible for award under this NOFA. Review the threshold requirements in Section III.C.

of this NOFA and mandatory documentation requirements in Section IV.B. of this NOFA to ascertain the affects of non-submission. HUD forms required by this NOFA can be obtained on the Internet at *Grants.gov.* Applicants that are granted a waiver to the electronic submission requirement must include the narrative exhibits and attachments in the application in the order listed below.

a. Narrative Exhibits

(1) Acknowledgment of Application Receipt, form HUD–2993 (applies only if you are granted a waiver to the electronic submission requirement)
(2) Application for Federal Assistance, Standard Form SF–424
(3) HOPE VI Revitalization Application Table of Contents
(4) Narrative Exhibit A: Summary Information
(5) Narrative Exhibit B: Capacity
(6) Narrative Exhibit C: Need
(7) Narrative Exhibit D: Resident and Community Involvement
(8) Narrative Exhibit E: Community and Supportive Services
(9) Narrative Exhibit F: Relocation
(10) Narrative Exhibit G: Fair Housing and Equal Opportunity
(11) Narrative Exhibit H: Well-Functioning Communities
(12) Narrative Exhibit I: Soundness of Approach

b. Attachments

(1) Attachments 1 through 7: HOPE VI Application Data Form, form HUD–52860–A
(2) Attachment 8: HOPE VI Budget, form HUD–52825–A
(3) Attachment 9: TDC-Grant Limitations Worksheet, form HUD–52799
(4) Attachment 10: Extraordinary Site Costs Certification
(5) Attachment 11: Cost Control Standards Certification
(6) Attachment 12: City Map
(7) Attachment 13: Developer Certification
(8) Attachment 14: Property Management Policy Certification Documentation
(9) Attachment 15: Program Schedule
(10) Attachment 16: Certification of Severe Physical Distress
(11) Attachment 17: Photographs of the Severely Distressed Housing
(12) Attachment 18: Neighborhood Conditions
(13) Attachments 19 through 22: HOPE VI Revitalization Leverage Resources, form HUD–52797
(14) Attachment 23: HOPE VI Revitalization Resident Training & Public Meeting Certification, form HUD–52785
(15) Attachment 24: Commitments with CSS Providers
(16) Attachment 25: Relocation Plan Certification Documentation
(17) Attachment 26: Completed Relocation Certification Documentation
(18) Attachment 27: Documentation of Site Control for Off-Site Public Housing
(19) Attachment 28: Documentation of Environmental, & Neighborhood Standards
(20) Attachment 29: Preliminary Market Assessment Letter
(21) Attachment 30: Zoning Approval Certification or Documentation
(22) Attachment 31: HOPE VI Revitalization Project Readiness Certification, form HUD–52787
(23) Attachment 32: Current Site Plan
(24) Attachment 33: Photographs of Architecture in the Surrounding Community
(25) Attachment 34: Conceptual Site Plan
(26) Attachment 35: Conceptual Building Elevations
(27) Attachment 36: Evaluation Commitment Letter(s)
(28) Attachment 37: Portions of the PHA Plan
(29) Attachment 38: Logic Model, form HUD–96010
(30) Attachment 39: America's Affordable Communities Initiative, form HUD–27300
(31) Attachment 40: HOPE VI Revitalization Application Certifications
(32) Attachment 41: Standard Forms and Certifications
(a) Disclosure of Lobbying Activities, Standard Form LLL, as applicable
(b) Applicant/Recipient Disclosure/Update Report, form HUD–2880,
(c) Funding Application, Section 8 Tenant-Based Assistance Rental Certificate Program, Rental Voucher Program, form HUD–52515, if applicable.

3. Match Documentation

If the commitment document for any match funds/in-kind services is not included in the application and provided before the NOFA submission date, the related match will not be considered. Depending upon the specific Memorandum of Understanding (MOU), the MOU alone may not firmly and irrevocably commit Match funds, *e.g.,* the MOU states that a donation agreement may be discussed in the future. If the MOU does firmly and irrevocably commit funds, the MOU language that does so should be highlighted or mentioned in the application. To ensure inclusion of Match funds, MOUs should be accompanied by commitment letters or contracts. This is not a technical deficiency and cannot be corrected during the deficiency period. If the match is not met, the application will not be considered for funding.

4. Threshold Documentation

a. Appropriateness of Proposal. In accordance with Section 24(e)(1) of the 1937 Act, each application must demonstrate the appropriateness of the proposal in the context of the local housing market relative to other alternatives. You must briefly discuss other possible alternatives to your proposal and explain why your plan is more appropriate. This is a statutory requirement and an application threshold. Any deficiencies in your narrative may not be corrected after the application is submitted. For examples of alternative proposals, see the Appropriateness of Proposal Threshold in Section III.C.

b. Contiguous, Single, and Scattered-Site Projects. If you include more than one project in your application, you must provide a map that clearly indicates that the projects are within a quarter-mile of each other. *See* Section III.C.1.c of this NOFA for more information.

c. Non-Public Housing Funding for Non-Public Housing or Replacement Units. Public Housing funds must only be used to develop Replacement Housing Units. You must demonstrate that you have sufficient non-Public Housing Leverage funds to develop all housing units that do not qualify as Replacement Housing. *See* Section I.C.3. of this NOFA for the definition of Replacement Housing.

d. Program Schedule. Your application must contain a program schedule that provides a feasible plan to meet the schedule requirements of Section VI.B. of this NOFA, with no impediments such as litigation that would prevent timely startup. The program schedule must indicate the date when the development proposal, *i.e.*, whether public housing development, mixed-finance development, homeownership development, etc., for each phase of the revitalization plan will be submitted to HUD. For application evaluation only, you should assume the following award and post-award dates.

Milestone	Date
Grant Award	April 1, 2006.
Grant Agreement Execution	July 1, 2006.
HUD's written request for Supplemental Submissions	August 1, 2006.
HUD's approval of Supplemental Submissions	September 1, 2006.

If grant award takes place after April 1, 2006, the grantee's program schedule may be changed in the supplemental submissions to account for the period of time between April 1, 2006, and the actual date of grant award.

e. Site Control. If you propose to develop off-site housing in any phase of your proposed revitalization plan, you MUST provide evidence in your application that you (not your developer) have site control of the property(ies). Evidence may include an option to purchase the property, a sales agreement, a land swap, or a deed. Evidence may not include a letter from the Mayor or other official, letters of support from members of the appropriate municipal entities, or a resolution evidencing the PHA's intent to exercise its power of eminent domain. Evidence of site control may only be made contingent upon the receipt of the HOPE VI grant, satisfactory compliance with the environmental review requirements in accordance with this NOFA, and the site and neighborhood standards in Section III.C.4.n.(1) of this NOFA.

f. Zoning Approval. (a) If you are proposing to use off-site parcels of land for housing development or other uses that, until this point in time, have been zoned for a purpose different than the one proposed in your revitalization plan, your application must include:

(i) A certification from the appropriate local official documenting that all required zoning approvals have been secured for such parcels; or,

(ii) The actual zoning approval document for the parcel(s).

(b) If you are proposing to use off-site parcels of land for housing development or other uses and those parcels are already zoned for your chosen use, your application must include a certification signed by the Executive Director stating that all zoning is correct.

(c) For example, if you propose to develop housing on land that is currently zoned as parkland, you must provide evidence in the application that the zoning change has been secured to permit housing development. If you propose to keep the land as parkland, you must provide a certification in the application that the zoning is for parkland.

5. Certification Thresholds Documentation

Omission of, or incorrect/improper signature on, any of the following documents is considered a technical deficiency and must be cured (corrected) within the cure period stated in Section V.B. of the General Section. Applications that remain deficient after the cure period will not be considered for funding.

a. Market-Rate Housing: Market Assessment Letter

(1) If you include market-rate housing, community facilities (if market-driven, a community facility that is primarily intended to facilitate the delivery of community and supportive services for residents of the targeted severely distressed public housing project and of off-site replacement housing does not need to be addressed in the market assessment letter, *e.g.,* a YMCA), economic development and retail structures in your Revitalization plan, you must demonstrate that there is a demand for these market-rate housing units, community facilities, economic development and retail structures of the type, number, and size proposed in the location you have chosen.

(2) In your application you must provide a preliminary market assessment letter prepared by an independent, third party, credentialed market research firm, or professional that describes its assessment of the demand and associated pricing structure for the proposed residential units and any community facilities, economic development, and retail structures, based on the market and economic conditions of the project area.

(3) If, after the cure period, this letter is not included in your application, the application will not be considered for funding.

b. HOPE VI Revitalization Applicant Certifications

The Chairman of your Board of Commissioners must certify to the requirements listed in the HOPE VI Revitalization Applicant Certifications. A suggested format for this certification is provided on the Internet at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

c. Operation and Management Principles and Policies Certification

You must certify that you will implement the Operation and Management Principles and Policies stated in Section III.C. of this NOFA. The certification should reference 24 CFR part 966 and should outline the requirements in Section III.C.4.i. If, after the deficiency cure period, this certification is not properly included in your application, the application will not be considered for funding.

d. Relocation Plan Certification

You must certify that the HOPE VI Relocation plan has been completed and that it conforms to the URA requirements, and that it implements the goals stated in V.A.6. of this NOFA.

(a) You must certify that the HOPE VI Relocation Plan has been completed and:

(i) That it conforms to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) requirements as described in Sections III.C.4. of this NOFA; and

(ii) That it implements HOPE VI relocation goals, as described in Section V.A.6. of this NOFA.

(b) If relocation was completed (*i.e.,* the targeted public housing site is vacant) as of the application submission date, rather than certifying that the HOPE VI Relocation Plan has been completed, you must certify that the relocation was completed in accordance with URA requirements.

(c) If, after the deficiency cure period, this certification is not properly included in your application, the application will not be considered for funding.

e. Resident Involvement in the Revitalization Program Certification

You must submit a signed certification that resident training sessions and public meetings were held and that you involved affected public housing residents at the beginning and during the planning process for the revitalization program, prior to submission of an application. The certification must state that listed topics, as described in Section III.C.4. of this NOFA, were covered, that one of the meetings took place at the beginning of the revitalization planning process, and that two of the meetings and one

training session took place after the publication date of this NOFA in the **Federal Register**. The certification must include the dates of the training session and meetings. The certification must show that each of the public meetings and resident training took place on different days. If, after the deficiency cure period, this certification is not properly included in your application, the application will not be considered for funding.

f. Severely Distressed Certification

You must certify that the target project is severely distressed. *See* Section I.C. of this NOFA for the definition of ''severely distressed.'' In order to certify to severe physical distress, your application must include a certification that is signed by an engineer or architect licensed by a state licensing board. The license does not need to have been issued in the same state as the severely distressed project. The engineer or architect must include his or her license number and state of registration on the certification. The engineer or architect may not be an employee of the housing authority or the city. A format for a Certification of Severe Physical Distress is provided on the Internet at *http://www.grants.gov*.

g. Selection of Developer

In order to be eligible for funding, you must provide a signed certification that:

(1) You have initiated an RFQ by the required application submission date for the competitive procurement of a developer for your first phase of construction. It is not necessary to have executed a Master Development Agreement with the selected developer in order to meet the threshold; or,

(2) You will act as your own developer for the proposed project.

h. Cost Control Standards Certification

You must include a certification by an independent cost estimator, architect, engineer, contractor, or other qualified third party professional that your cost estimates meet the standards of Section IV.E. of this NOFA. The certifier cannot work for you.

i. Standard Forms and Certifications

(1) The last part of your application will be comprised of standard certifications common to many HUD programs. Required forms are included in the HOPE VI Application and will be available electronically on the grants.gov website.

(2) For applicants who are granted a waiver to the electronic application process, these forms must be placed at the back of the application, except for the Application for Federal Assistance (SF–424) and the Acknowledgment of Application Receipt (HUD–2993). These two forms must be the first two pages of your application.

j. TDC and Extraordinary Site Costs Certification

(1) An Extraordinary Site Costs Certification must be included in your application if such costs are included in the calculations you used to determine your requested award amount. If this certification is not included in the application on or before the end of the deficient application cure period, extraordinary site costs will not be allowed in the award amount.

(2) The certification must be signed by a licensed engineer or architect who is not an employee of the housing authority or the city. The certification must include an engineer's or architect's license number and state of registration.

6. Rating Factor Documentation

To receive points for certain rating factors, you must include specific documentation that is stated in this NOFA. When specific documentation is necessary, that documentation is stated in this section of the NOFA or is cross-referenced here and is included with the related rating factors in Section V.A. of this NOFA.

a. Documentation for Capacity. See Section V.A.1. of this NOFA for documentation requirements. Include information on capacity in Exhibits B and E. HUD will obtain information on Capital Fund Program availability internally. However, you must include information from your PHA Plan on Capital Fund Program funds that are planned for other uses. HUD will also obtain information on your scores for the *Public Housing Assessment System* (PHAS) and Section 8 Management Assessment Program (SEMAP) internally.

b. Documentation for Need.

(1) State the number of units that you currently have under ACC.

(2) *See* Sections V.A.2. and IV.B.7.c. of this NOFA for the subjects and items that you should include in your Rating Factor narrative.

(3) In order to document that you need HOPE VI funding to complete your proposed revitalization effort, you must include in your application:

(a) The portion of your PHA plan that lists each year's planned uses of your FY 2000–2005 Capital Funds (including CGP and CIAP funds). Funds earmarked in the PHA plan for uses other than the revitalization proposed in this application will not be considered available; and

(b) A table that states:

(i) The amount of your total FY 2000–2005 Capital Funds;

(ii) The amount of your total unobligated FY 2000–2005 Capital Funds; and

(iii) The planned amounts and uses of unobligated funds earmarked in your PHA plan for purposes other than your application's proposed HOPE VI activities.

(4) Applicants must ensure that their obligation and expenditure information was updated in LOCCS prior to the application deadline, except in the case of some moving to work applicants, which are not required to enter obligations into LOCCS in accordance with their MTW agreements.

(5) For MTW PHAs that do not record capital funds obligations in LOCCS, you must provide a certification of your obligation rate in order to receive any points for the Need for HOPE VI Funding rating factor.

c. Documentation for Leverage Resources. In your application, you will enter basic information about each resource on the appropriate resource summary form: name of the organization providing the resource, the dollar value of the resource, and its proposed use.

(1) Basic Documentation Requirements.

(a) For each resource you list, you must provide a commitment document that demonstrates firm and irrevocable commitments, such as a letter, memorandum of understanding (*See* (i) below.), agreement to participate, city council resolution, or other evidence of the resource to be committed, which may be subject to the receipt of a HOPE VI Revitalization grant. If the commitment document is not included in the application and provided before the NOFA submission date, the related leverage will not be considered. An official of the organization legally authorized to make commitments on behalf of the organization must sign the commitment document.

(i) Memoranda of Understanding (MOUs). Depending upon the specific MOU, the MOU alone may not firmly and irrevocably commit Leverage funds, *e.g.*, the MOU states that a donation agreement may be discussed in the future. If the MOU does firmly and irrevocably commit funds, the MOU language that does so should be highlighted or mentioned in the application. To ensure inclusion of Leverage funds, MOUs may be accompanied by commitment letters or contracts. This is not a technical deficiency and cannot be corrected during the deficiency period. *See* Section VI.B.5.a. of this NOFA.

(b) Each commitment document must include the dollar value and time duration of the commitment (*e.g.*, $10,000 will be provided each year for four years for a total commitment of $40,000). The dollar value must be consistent with the amount entered on the resource summary form. For electronic application submission, you will also need to identify, in the documentation Attachment section of the application, whether the document was submitted to HUD:

(i) As a scanned PDF document submitted through grants.gov (preferred); or

(ii) as an electronic facsimile. *See* Section IV.F. of this NOFA.

(c) Endorsements or general letters of support from organizations or vendors alone will not count as resources and should not be included in the application or on a Resources Summary Form.

(d) For CSS leverage resources, include only funds/in-kind services that will be newly generated for HOPE VI activities. If an existing service provider significantly increases the level of services provided at the site, the increased amount of funds may be counted, except for TANF cash benefits. HUD will not count any funds that have already been provided on a routine basis, such as TANF cash benefits and in-kind services that have been supporting ongoing CSS-type activities.

(e) Even though an in-kind CSS contribution may count as a resource, it may not be appropriate to include on the sources and uses attachment. Each source on the sources and uses attachment must be matched by a specific and appropriate use. For example, donations of staff time may not be used to offset costs for infrastructure.

(2) LIHTC Documentation. If you propose to include LIHTC equity as a development resource for any phase of development, your application must include a LIHTC reservation letter from your state or local housing finance agency in order to have the tax credit amounts counted as development leveraging. This letter must constitute a firm commitment and can only be conditioned on the receipt of the HOPE VI grant. HUD acknowledges that, depending on the housing finance agency, documentation for four percent tax credits may be represented in the form of a tax-exempt bond award letter. Accordingly, it will be accepted for leverage scoring purposes under Section V.A.3. of this NOFA, if you demonstrate that this is the only available evidence of four percent tax credits, and assuming that this documentation clearly indicates that tax-exempt bonds have been committed to the project.

(3) Private mortgage-secured loans and other debt.

(a) Your application must include each loan's expected term maturity and sources of repayment.

d. Documentation for Resident Involvement. See Sections IV.B.5.e. and V.A.4. of this NOFA for documentation requirements.

e. Documentation for CSS. Include CSS capacity information in Exhibit B, CSS Leverage in the Attachments and CSS program information in Exhibit E. *See* Sections III.C.4.l. and m. for program requirements and V.A.5. for CSS program Rating Factors. Note the importance of Housing Self-Sufficiency.

f. Documentation for Relocation. There is a program requirement that you must complete a HOPE VI Relocation plan. The Relocation Plan should be in accordance with HUD Community Planning and Development's CPD Notice 04–02, which is an extension of Notice 02–08.

(1) In your application, you must certify that the HOPE VI Relocation plan has been completed and that it:

(a) Conforms to the URA requirements as described in Section III.C.4.;

(b) Is designed to minimize permanent displacement of current residents of the public housing site who wish to remain in or return to the revitalized community, while furnishing alternative housing to current residents of the public housing site who do not wish to remain in or return to the revitalized community;

(c) Gives existing residents priority for occupancy in planned public housing units, or for residents that can afford to live in other units, priority for those planned units and

(d) In connection with your CSS program, provides for community and supportive services to residents prior to any relocation.

(2) If relocation was completed as of the application submission date (*i.e.*, the targeted public housing site is vacant), rather than providing a certification that the HOPE VI Relocation plan has been completed, a certification that the relocation was completed must be included in the application. This certification may be provided in the form of a letter.

g. Documentation for Fair Housing and Equal Opportunity. See Sections III.C.4., and V.A.7. for documentation requirements.

h. Documentation for Well-Functioning Community. See Sections III.C.4., and V.A.8. of this NOFA for documentation requirements. Include a summary of unit data that relates to need for affordable housing. Include information relating the Rating Factors to your Physical Plan, as described in Exhibit A.

i. Documentation for Soundness of Approach. See Section and V.A.9. of this NOFA for documentation requirements.

j. Documentation for Incentive Criteria on Regulatory Barrier Removal. You must include the completed form HUD–27300 in your application. You must answer the questions in either Part A or Part B of the form, but not both.

6. Housing Choice Voucher (HCV) Assistance

(1) This NOFA will fund HCVs that are necessary to relocate HOPE VI affected public housing residents. In accordance with HUD Notice PIH 2004–4 (HA), *Submission and Processing of Public Housing Agency (PHA) Applications for Housing Choice Vouchers for Relocation or Replacement Housing Related to Demolition or Disposition (Including HOPE VI), and Plans for Removal (Required/Voluntary Conversion Under Section 33 of the 1937 Act, As Amended, and Mandatory Conversion Under Section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996) of Public Housing Units,* you should determine the number of vouchers that it is eligible for, that are related to this HOPE VI Revitalization development.

(2) You should submit the HCV application, in accordance with HUD Notice PIH 2004–4 (HA), for these HOPE VI related vouchers, as a part of the application.

(a) If you are funded by this NOFA, the HCV application will be processed.

(b) If you are not funded by this NOFA, the HCV application will not be processed.

(3) For applicants who are granted a waiver to the electronic application process, the HCV request should be located with the Standard Forms and Certifications at the back of the application.

(4) The notice can be obtained through the Internet at *http://www.hudclips.org/cgi/index.cgi.*

(5) To assist HUD in estimating the overall cost of HCV assistance, you should include a copy of the Funding Application, Section 8 Tenant-Based Assistance Rental Certificate Program, Rental Voucher Program, form HUD–52515, in your NOFA application.

7. Further Documentation Guidance on Narrative Exhibits and Specific Attachments

a. Exhibit A. Verify that you have included information relating to the following:

(1) Executive Summary. Provide an Executive Summary, not to exceed three pages. Describe your Revitalization Plan, as clearly and thoroughly as possible. Do not argue for the need for the HOPE VI grant, but explain what you would do if you received a grant. Briefly describe why the targeted project is severely distressed, provide the number of units, and indicate how many of the units are occupied. Describe specific plans for the revitalization of the site. Include income mix, basic features (such as restoration of streets), and any mixed use or non-housing components. If you are proposing off site replacement housing, provide the number and type of units and describe the off site locations. Describe any homeownership components included in your Plan, including numbers of units. Briefly summarize your plans for community and supportive services. State the amount of HOPE VI funds you are requesting, and list the other major funding sources you will use for your mixed-finance development. Identify whether you have procured a developer or whether you will act as your own developer.

(2) Physical Plan. Describe your planned physical revitalization activities:

(a) Rehabilitation of severely distressed public housing units;

(b) Development of public housing replacement rental housing, both on-site and off-site;

(c) Indicate whether you plan to use PATH technologies and Energy Star in the construction of replacement housing;

(d) Market rate housing units;

(e) Units to be financed with low-income housing tax credits;

(f) Replacement homeownership assistance for displaced public housing residents or other public housing-eligible low-income families. Also describe any market-rate homeownership units planned, sources and uses of funds. Describe the relationship between the HOPE VI activities and costs and the development of homeownership units, both public housing and market rate. If you are selected for funding, you will be required to submit a Homeownership Proposal (homeownership term sheet);

(g) Rehabilitation or new construction of community facilities primarily intended to facilitate the delivery of community and supportive services for residents of the targeted development and residents of off-site replacement housing. Describe the type and amount of such space and how the facilities will be used in CSS program delivery or other activities;

(h) Land acquisition, and infrastructure and site improvements. Note that HOPE VI grant funds may not be used to pay hard development costs or to buy equipment for retail or commercial facilities;

(3) *Hazard Reduction*. For units to be rehabilitated or demolished, describe the extent of any required abatement of environmentally hazardous materials such as asbestos.

(4) *Demolition*. Describe your plans for demolition, including the buildings (dwelling and non-dwelling units) proposed to be demolished, the purpose of the demolition, and the use of the site after demolition. If the proposed demolition was previously approved as a Section 18 demolition application, state the date the Section 18 demolition application was submitted to HUD and the date it was approved by HUD. Indicate whether you plan to implement the concept of Deconstruction.

(5) *Disposition*. Describe the extent of any planned disposition of any portion of the site. Cite the number of units or acreage to be disposed, the method of disposition (sale, lease, trade), and the status of any disposition application made to HUD.

(6) *Site Improvements*. Describe any proposed on-site improvements, including infrastructure requirements, changes in streets, etc. Describe all public improvements needed to ensure the viability of the proposed project with a narrative description of the sources of funds available to carry out such improvements.

(7) *Site Conditions*. Describe the conditions of the site to be used for replacement housing. Listing all potential contamination or danger sources (*e.g.* smells, fire heat, explosion and noise) that might be hazardous or cause discomfort to residents, PHA personnel, or construction workers. List potential danger sources, including commercial and industrial facilities, brownfields and other sites with potentially contaminated soil, commercial airports and military airfields. Note any facilities and/or activities within one mile of the proposed site.

(8) *Separability*. If applicable, address the separability of the revitalized building(s) within the targeted project.

(9) *Proximity*. If applicable, describe how two contiguous projects or scattered sites meet the NOFA requirements.

b. Exhibit B. Verify that you have included information relating to the following:

(1) *PHAS, Maintenance, and SEMAP*.

(2) *Development Capacity of Developer*.

(3) *Development Capacity of Applicant*.

(4) *Capacity of Existing HOPE VI Revitalization Grantees*. This rating factor applies only to PHAs with existing HOPE VI Revitalization grants from fiscal years 1993–2002. Production achievement numbers will be taken from the HOPE VI Quarterly Progress Reports for the quarter ending December 31, 2004.

(5) *CSS Program Capacity*.

(6) Property Management Capacity.

(7) *PHA Plan*.

c. Exhibit C. Verify that you have included information relating to the following:

(1) *Need for Revitalization: Severe Physical Distress of the Public Housing Site*.

(2) *Need for Revitalization: Impact of the Severely Distressed Site on the Surrounding Neighborhood*.

(3) *Need for HOPE VI Funding (Obligation of Capital Funds*). If you are a Moving to Work participant and are not required to enter obligations into LOCCS, provide a certification of your obligation rate of your FY 2000–2005 Capital Funds. If you are not a participant in MTW, you must provide information on your Capital Funds. The portion of the PHA Plan that lists the planned uses of your FY 2000–2005 Capital Funds should included in the application.

(4) *Previously-Funded Sites*.

(5) *Need for Affordable, Accessible Housing in the Community*.

d. Exhibit D. Verify that you have included information relating to the following:

(1) *Resident and Community Involvement*. Discuss your communications about your development plan and HUD communications with residents, community members, and other interested parties. Include the resident training attachment.

e. Exhibit E. Verify that you have included information relating to the following: *Endowment Trust*. If you plan to place CSS funds in an Endowment Trust, state the dollar amount and percentage of the entire grant that you plan to place in the Trust.

(1) Case Management and Needs Identification;

(2) Transition to Housing Self-Sufficiency and Housing Self-Sufficiency Time Frame;

(3) Partner Commitments;
(4) Quality and Results Orientation.

f. Exhibit F. Verify that you have included information relating to the following:

(1) *Housing Choice Voucher Needs.* State the number of Housing Choice Vouchers that will be required for relocation if this HOPE VI application is approved, both in total and the number needed for FY 2005. Indicate the number of units and the bedroom breakout. As applicable, include a Housing Choice Voucher application to the application.

(2) *Relocation Plan.* For additional guidance on developing a relocation plan, refer to CPD Notice 04–02 (''Guidance on the Application of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, in HOPE VI Projects'').

g. Exhibit G. Verify that you have included information relating to the following:

(1) *Accessibility;*
(2) *Universal Design;*
(3) *Fair Housing; and*
(4) *Section 3.*

h. Exhibit H. Verify that you have included information relating to the following:

(1) Unit Mix and Need for Affordable Housing;
(2) *Off-Site Housing;* and
(3) *Homeownership Housing.*

i. Exhibit I. Verify that you have included information relating to the following:

(1) *Appropriateness of Proposal;*
(2) *Appropriateness and Feasibility of the Plan;*
(3) *Neighborhood Impact and Sustainability of the Plan;*
(4) *Design;*
(5) *Energy Star;* and
(6) *Evaluation.*

j. Attachments 1 through 7. (1) These attachments are required in all applications. See the instructions for filling out the HOPE VI Application Data Forms, Appendix 1, at the end of this NOFA.

k. Attachment 8 (1) This attachment is required in all applications. In addition to the instructions included in the HOPE VI Budget form, general guidance on *preparing* a HOPE VI budget can be found on the Grant Administration page of the HOPE VI web site, *http://www.hud.gov/offices/pih/programs/ph/hope6.*

l. Attachment 9.

(1) *Form HUD–52799, ''TDC/Grant Limitations Worksheet''.* This attachment is required in all applications. The Excel workbook will assist you in *determining your* TDC limits required in Section IV.B.5.j.

m. Attachment 10. (1) *Extraordinary Site Costs Certification.* This attachment is applicable only if you request funds to pay for extraordinary site costs, outside the TDC limits.

n. Attachment 11. (1) *Cost Certification.* This attachment is required in all applications.

o. Attachment 12. (1) *City Map.* This attachment is required in all applications. Provide a to-scale city map that clearly identifies the following in the context of existing city streets, the central business district, other key city sites, and census tracts:

(a) The existing development;
(b) Replacement neighborhoods, if available;
(c) Off-site properties to be acquired, if any;
(d) The location of the Federally-designated Empowerment Zone or Enterprise Community (if applicable); and
(e) Other useful information to place the project in the context of the city, county, or municipality and other revitalization activity underway or planned.

(2) If you request funds for more than one project or for scattered site housing, the map must clearly show that the application meets the NOFA's site and unit requirements. If you have received a waiver to the electronic submission requirement, this map may be submitted on 8½″ by 14″ paper.

p. Attachment 13. (1) This attachment is required in all applications. *The Developer Certification* may be in the form of a letter.

q. Attachment 14. (1) This attachment is required in all applications. *The Property Management Certification* may be in the form of a letter.

r. Attachment 15. (1) *Program Schedule.* This attachment is required in all applications. Your program schedule MUST contain all timeframe requirements listed in the NOFA. *Further,* the program schedule MUST indicate the date on which the development proposal for EACH phase of the revitalization plan will be submitted to HUD.

s. Attachment 16. (1) *Certification of Severe Physical Distress.* This attachment is required in all applications. In accordance with the NOFA, an engineer or architect must complete this certification. No backup documentation is required for this certification.

t. Attachment 17. (1) *Photographs of the Severely Distressed Housing.* This attachment is required in all applications. Submit photographs of the targeted severely distressed *public* housing that illustrate the extent of physical distress.

u. Attachment 18. (1) *Neighborhood Conditions.* This attachment is required in all applications. Documentation may include crime statistics, photographs or renderings, socio-economic data, trends in property values, evidence of property deterioration and abandonment, evidence of underutilization of surrounding properties, and other indications of neighborhood distress and/or disinvestment.

v. Attachments 19 through 22. (1) *These attachments are included in form HUD 52797, ''HOPE VI Revitalization Leverage Resources'' and are required in all applications.*

(2) *Physical Development Resources.* For each resource entered, you must submit backup documentation in Attachment 19.

(3) *CSS Resources.* For each *resource* entered, submit backup documentation in Attachment 20.

(4) *Anticipatory Resources.* For each resource entered, submit backup documentation in Attachment 21.

(5) *Collateral Resources.* For each resource entered, submit backup documentation in Attachment 22.

w. Attachment 23. (1) *Form HUD–52785, ''Resident Training and Public Meeting Certification.''* This attachment is required in all applications. *This form is available from Grants.gov.*

x. Attachment 24. (1) *Commitments with CSS Providers.* This attachment is required in all applications. Provide letters from CSS providers that have made commitments to participate in your CSS activities if you are awarded a HOPE VI Revitalization grant under the NOFA.

y. Attachment 25. (1) *HOPE VI Revitalization Relocation Plan Certification.* Submit a certification that you have completed a HOPE VI Relocation Plan in conformance with the URA. This certification may be in the form of a letter. Refer to CPD Notice 04–02 for additional guidance, including a template.

z. Attachment 26. (1) *Completed Relocation Certification. If you have completed your relocation on or before the application submission date, include this attachment.* This certification may be in the form of a letter.

aa. Attachment 27. (1) *Documentation of Site Control for Off-Site Public Housing.* This is applicable if your plan includes off-site housing or other development. Provide evidence of site control for off-site rental replacement *units* and acquired, or to be acquired, land.

bb. Attachment 28. (1) *Documentation of Environmental, and Site & Neighborhood Standards.* This is applicable if your plan includes off-site housing or other off-site development. Provide a certification that the site(s) acquired for off-site *public* housing meet environmental and site and neighborhood standards, as provided in the NOFA. This certification may be in the form of a letter.

cc. Attachment 29. (1) *Preliminary Market Assessment Letter.* This is applicable if you include market rate housing in your application.

dd. Attachment 30. (1) *Certification of Zoning Approval* or Documentation. This is applicable if your application includes off-site housing or other development. This attachment may be a certification or backup documentation.

ee. Attachment 31. (1) *Form HUD–52787,* ''HOPE VI Revitalization Project Readiness Certification''. This attachment is required in all applications. This form is available from grants.gov and allows you to certify to several thresholds.

ff. Attachment 32. (1) *Current Site Plan.* This attachment is required in all applications. The Site Plan shows the targeted public housing site's various buildings and identifies *which* buildings are to be rehabilitated, demolished, or disposed of. Demolished buildings should be shown and labeled as such.

gg. Attachment 33. (1) *Photographs of Architecture in the Surrounding Community.* This attachment is required in all applications. Provide photographs to demonstrate *that* your plan conforms to the Design requirements of the NOFA.

hh. Attachment 34. (1) *Conceptual Site Plan.* This attachment is required in all applications. *The Conceptual Site Plan* indicates where your plan's proposed construction and rehabilitation activities will take place and any planned acquisition of adjacent property and/or buildings.

ii. Attachment 35. (1) *Conceptual Building Elevations.* This attachment is required in all applications. Include building elevation drawings for the various types of your proposed housing.

jj. Attachment 36. (1) *Evaluation Commitment Letter(s).* This attachment is required in all applications. Provide the commitment letter(s) for your CSS program evaluation. The letter should contain enough information for HUD to compare the commitment to the evaluation described in Exhibit I.

kk. Attachment 37. (1) *Portions of the PHA or MTW Plan.* This attachment is required, and should be included in all applications. The portion of the PHA Plan that you include should support your narrative in Exhibit B and cover planned uses of Capital Fund Program funding and inclusion of the targeted project's revitalization.

ll. Attachment 38. (1) *Form HUD–96010, ''Logic Model.''* This attachment is required in all applications. *This form is available from Grants.gov. Fill in the planning information requested, Columns 1–5. Columns 6–9 will be filled out during and at the end of the grant term. (See Section VI.C.2. for post award reporting instructions.)*

mm. Attachment 39. (1) *Form HUD–27300, ''America's Affordable Communities Initiative.''* This attachment is required in all applications. *This form is available from Grants.gov.*

nn. Attachment 40. (1) *HOPE VI Revitalization Applicant Certification.* This attachment is required in all applications. *This form is available from Grants.gov.*

(2) Note that these certifications (4 page document) must be signed by the Chairman of the Board of the PHA, NOT the Executive Director.

oo. Attachment 41. (1) *Standard Forms and Certifications.* These documents include:

(a) Disclosure of Lobbying Activities (SF–LLL), as applicable

(b) Form HUD–2880, ''Applicant/Recipient Disclosure/Update Report.'' *This form is available from Grants.gov.*

(c) Form HUD–52515, ''Funding Application, Section 8 Tenant-Based Assistance, Rental Certificate Program, Rental Voucher Program.'' *This form is available from Grants.gov.* It is applicable only if you are requesting Housing Choice Vouchers that are related to your proposed plan.

C. Submission Dates and Times

1. Application Submission Timeframes

a. Application Submission Date. Revitalization grant applications are to be submitted to HUD on June 29, 2005 through Grants.gov or, in the case of applicants that have been granted a wavier to the electronic submission requirement, through the United States Postal Service (USPS) or an overnight mail service. *See* Sections IV.F. of this NOFA and the General Section for application, submission and timely receipt requirements.

2. Electronic Required Submission Date and Form of Acceptance

All applications must be received by Grants.gov by 11:59:59 p.m. Eastern time on June 29, 2005.

Proof of timely submission is automatically recorded by Grants.gov. An electronic time stamp is generated within the system when the application has been successfully received. The applicant will receive an acknowledgement of receipt and a tracking number from Grants.gov with the successful transmission of their application. Applicants should print this receipt and save it, along with facsimile receipts for information provided by facsimile, as proof of timely submission. When HUD successfully retrieves the application from Grants.gov, HUD will provide an electronic acknowledgment of receipt to the e-mail address provided on the SF–424. Proof of Timely submission shall be the date and time that Grants.gov receives your application submittal and the date HUD receives those portions of your application submitted by facsimile. All facsimile transmissions must be received by the application submission date and time.

Applications received by Grants.gov, after the established submission deadline for the program will be considered late and will not be considered for funding by HUD. Similarly, applications will be considered late if information submitted by facsimile as part of the application has not received by HUD by the established submission deadline. Please take into account the transmission time required for submitting your application via the Internet and the time required to electronically fax any related documents. HUD suggests that applicants submit their applications during the operating hours of the Grants.gov Support Desk, so that if there are questions concerning transmission, operators will be available to walk you through the process. Submitting your application during the Support Desk hours will also ensure that you have sufficient time for the application to complete its transmission prior to the application deadline.

Applicants using dial-up connections should be aware that transmission should take some time before Grants.gov receives it. Grants.gov will provide either an error or a successfully received transmission message. The Grants.gov Support desk reports that some applicants abort the transmission because they think that nothing is occurring during the transmission process. Please be patient and give the system time to process the application. Uploading and transmitting many files particularly electronic forms with associated XML schemas will take some time to be processed.

3. Submission Date, Address, Delivery Requirements and Acceptance for Applicants That Have Received Waivers That Allow Submission of a Paper Copy Application

The following applies *ONLY* if you are granted a waiver to the electronic application submission requirements.

a. Method of Delivery. Applicants granted a wavier to the electronic submission requirement must use the United States Postal Service (USPS) or overnight mail service (which provide written receipt of delivery date) to submit their applications to HUD. Hand-carried and courier delivered applications will not be accepted.

b. Submission Date and Time. Applications must be received by 4 pm on June 29, 2005. Applications will be considered late and ineligible to receive funding if not received on or before the application submission date and time, regardless of the postmark date.

c. Address for Submitting Applications. Send the original and one copy of your completed application to Mr. Milan Ozdinec, Deputy Assistant Secretary for Public Housing Investments, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20410–5000. Please make sure that you note the room number. The correct room number is very important in ensuring that your application is properly accepted and not misdirected.

d. Form of Acceptance. HUD will consider an application as being accepted when it is delivered to the Office of Public Housing Investments, Room 4130, HUD Headquarters, 451 Seventh Street, SW., Washington, DC 20410–5000. Upon delivery and acceptance, the Grant Administrator will manually add the application's PHA name, development name, time of receipt, and date of receipt to an application receipt log.

e. Wrong Address. Applications mailed to the wrong location or office designated for receipt of the application, which result in the designated office not receiving the application in accordance with the requirements for timely submission, will result in the application being considered late. Late applications will not receive funding consideration. HUD will not be responsible for directing packages to the appropriate office(s).

f. Field Office Copy. You must send one duplicate copy of your application to your HUD field office. The HUD field office copy of the application is due before 4 p.m. on the application submission date. If the HUD field office receives an application on time, but the application is not received on time at Headquarters, it will not be considered.

g. No Facsimiles or Videos. With the exception of third party documents submitted via electronic facsimile (*See* Section IV.F. of the General Section), HUD will not accept for review and evaluation, or fund, any applications sent by facsimile (fax). However, facsimile corrections to technical deficiencies will be accepted, as described in Section V.B.4. of the General Section. Also, videos submitted as part of an application will not be viewed.

h. Proof of timely submission. Proof of timely submission for all applications, regardless of whether they are delivered through USPS or overnight mail services shall be the date and time recorded by the Grant Administrator in the application receipt log. *See* Section IV.C.2. of this NOFA for information on the application receipt log.

i. Acknowledgement of Application Receipt. If you wish to receive acknowledgement of HUD's receipt of the application, the Acknowledgment of Application Receipt, form HUD–2993, should be included in the front of the application. After receipt, HUD will return the form to you.

D. Intergovernmental Review

Executive Order 12372 was issued to foster intergovernmental partnership and strengthen federalism by relying on state and local processes for the coordination and review of federal financial assistance and direct federal development. The order allows each state to designate an entity to perform a state review function. The official listing of state points of contact (SPOC) for this review process can be found at: *http://www.whitehouse.gov/omb/grants/spoc.html.* States that are not listed on the website have chosen not to participate in the intergovernmental review process, and therefore do not have a SPOC. If you are located within one of those states, you may send applications directly to HUD. If your state has a SPOC, you should contact it to see if it is interested in reviewing your application prior to submission to HUD. Please make sure that you allow ample time for this review process when developing and submitting your application.

E. Funding Restrictions

1. Statutory Time Limits

a. Required Obligation Date. Funds appropriated for the HOPE VI program for FY–2005 must be obligated on or before September 30, 2006. Any funds that are not obligated by that date will be recaptured by the Treasury, and thereafter will not be available for obligation for any purpose.

b. Required Expenditure Date. In accordance with 31 U.S.C. 1552, all FY–2005 HOPE VI funds must be expended by September 30, 2011. Any funds that are not expended by that date will be placed in an expired account, and will be available only for the purposes of liquidating obligations properly chargeable to that account prior to its expiration and of making legitimate obligation adjustments.

2. Funding for Applications to This NOFA Only

HUD will not use any funds from this NOFA to fund any non-selected HOPE VI related applications submitted in previous years. Only applications submitted under this FY–2005 NOFA will be considered for funding.

3. Grant Amount Limitations

a. Requested Amount. See Section II of this NOFA for details.

4. Ineligible Activities

a. You may not use HOPE VI Revitalization Grant funds to pay for any revitalization activities carried out on or before the date of the letter announcing the award of the HOPE VI Grant.

b. Market-Rate Units. HOPE VI funds may not be used to develop market-rate units or affordable housing units that do not qualify as public housing or homeownership replacement units.

c. Retail or Commercial Development. HOPE VI funds may not be used for hard construction costs related to, or for the purchase of equipment for, retail, commercial, or non-public housing office facilities.

5. Total Development Cost (TDC)

a. The ''TDC Limit'' (24 CFR 941.306, Notice PIH 2004–6 (HA), or extending Notice) refers to the maximum amount of HUD funding that HUD will approve for development of specific public housing units in a given location. The TDC limit applies only to the costs of development of public housing that are paid directly with HUD public housing funds, including HOPE VI funds; a PHA may exceed the TDC limit using non-public housing funds such as CDBG, HOME, low-income housing tax credit equity, etc.

b. The HUD TDC Cost Tables are issued for each calendar year for the building type and bedroom distribution for the public housing replacement units. Use the TDC limits in effect at the time this HOPE VI NOFA is published when making your TDC calculations.

TDC definitions and limits in the final rule are summarized as follows:

(1) The total cost of development, which includes relocation costs, is limited to the sum of:

(a) Up to 100 percent of HUD's published TDC limits for the costs of demolition and new construction, multiplied by the number of HOPE VI public housing replacement units; and

(b) Ninety percent of the TDC limits, multiplied by the number of public housing units after substantial rehabilitation and reconfiguration.

(2) The TDC limit for a project is made up of the following components:

(a) Housing Cost Cap (HCC): HUD's published limit on the use of public housing funds for the cost of constructing the public housing units, which includes unit hard costs, builder's overhead and profit, utilities from the street, finish landscaping, and a hard cost contingency. Estimates should take into consideration the Davis-Bacon wage rate and other requirements as described in ''Labor Standards'', Section III.C.4.h. of this NOFA.

(b) Community Renewal (CR): The balance of funds remaining within the project's TDC limit after the housing construction costs described in (a) above are subtracted from the TDC limit. This is the amount of public housing funds available to pay for PHA administration, planning, infrastructure and other site improvements, community and economic development facilities, acquisition, relocation, demolition, and remediation of units to be replaced on site, and all other development costs.

(3) CSS. You may request an amount not to exceed 15 percent of the total HOPE VI grant to pay the costs of CSS activities, as described in Section III.C.4.l. of this NOFA. These costs are in addition to, *i.e.*, excluded from, the TDC calculation above.

(4) Demolition and Site Remediation Costs of Unreplaced On-site Units. You may request an amount necessary for demolition and site remediation costs of units that will not be replaced on-site. This cost is in addition to (*i.e.*, excluded from) the TDC calculation above.

(5) Extraordinary Site Costs.

(a) You may request a reasonable amount to pay extraordinary site costs, which are construction costs related to unusual pre-existing site conditions that are incurred, or anticipated to be incurred. If such costs are significantly greater than those typically required for similar construction, are verified by an independent, certified engineer or architect (*See* Section IV.B. for documentation requirements.), and are approved by HUD, they may be excluded from the TDC calculation above. Extraordinary site costs may be incurred in the remediation and demolition of existing property, as well as in the development of new and rehabilitated units. Examples of such costs include, but are not limited to: Abatement of extraordinary environmental site hazards; removal or replacement of extensive underground utility systems; extensive rock and soil removal and replacement; removal of hazardous underground tanks; work to address unusual site conditions such as slopes, terraces, water catchments, lakes, etc.; and work to address flood plain and other environmental remediation issues. Costs to abate asbestos and lead-based paint from structures are normal demolition costs. Extraordinary measures to remove lead-based paint that has leached into the soil would constitute an extraordinary site cost.

(b) Extraordinary site costs must be justified and verified by a licensed engineer or architect who is not an employee of the housing authority or the city. The engineer or architect must provide his or her license number and state of registration. If this certification is not included in the application after the cure period described in Section IV.B.4. of the General Section, extraordinary site costs will not be allowed in the award amount. In this case, the amount of the extraordinary site costs included in the application will be subtracted from the grant amount.

6. Cost Control Standards

a. Your projected hard development costs must be realistic, developed through the use of technically competent methodologies, including cost estimating services, and comparable to industry standards for the kind of construction to be performed in the proposed geographic area.

b. Your cost estimates must represent an economically viable preliminary plan for designing, planning, and carrying out your proposed activities in accordance with local costs of labor, materials, and services.

c. Your projected soft costs must be reasonable and comparable to industry standards. Upon award, soft costs will be subject to HUD's ''Safe Harbor'' cost control standards. For rental units, these safe harbors provide specific limitations on such costs as developer's fees (between 9 and 12 percent), PHA administration/consultant cost (no more than 3 to 6 percent of the total project budget), contractor's fee (6 percent), overhead (2 percent), and general conditions (6 percent). HUD's Cost Control and Safe Harbor Standards can be found on HUD's HOPE VI Web site.

d. If you are eligible for funding, HUD will delete any unallowable items from your budget and may reduce your grant accordingly.

7. Withdrawal of Grant Amounts

In accordance with Section 24(i) of the 1937 Act, if a grantee does not proceed within a reasonable timeframe, as described in Section VI.B.2. of this NOFA, HUD shall withdraw any unobligated grant amounts. HUD shall redistribute any withdrawn amounts to one or more other applicants eligible for HOPE VI assistance or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the Revitalization plan of the original grantee.

F. Other Submission Requirements

This section provides the application submission and receipt instructions for HUD program applications. Please read the following instructions carefully and completely, as failure to comply with these procedures may disqualify your application.

1. *Electronic Delivery.* HUD requires applicants to submit their applications electronically through *http://www.grants.gov.* HUD will not accept or consider any applications that have been submitted through any other method, unless a waiver is granted.

2. *Electronic Signature.* Applications submitted through grants.gov constitute submission as electronically signed applications. The registration and e-authentication process establishes the Authorized Organization Representative. When you submit the application through Grants.gov, the name of your authorized organization representative on file will be inserted into the signature line of the application. Applicants must register the individual who is able to make legally binding commitments for the applicant organization as the Authorized Organization Representative.

3. *Instructions.* Instructions on how to submit an electronic application to HUD via Grants.gov:

a. Applying using Grants.gov. Grants.gov has a full set of instructions on how to apply for funds on its Web site at *http://www.grants.gov/CompleteApplication.* The following provides simple guidance on what you will find on the *http://www.grants.gov/Apply site.* Applicants are encouraged to read through the page entitled, ''Complete Application Package'' before getting started. Grants.gov allows applicants to download the application

package, instructions and forms that are incorporated in the instructions, and work off line. In addition to forms that are part of the application instructions, there will be a series of electronic forms that are provided utilizing a PureEdge reader. The PureEdge Reader is available free for download from the Grants.gov/Get Started site. The PureEdge Reader allows applicants to read the electronic files in a form format so that they will look like any other Standard or HUD form. The PureEdge forms have content sensitive help. To use this feature you will need to click on the icon at the top of the page that features an arrow with a question mark. This engages the content sensitive help for each field you will need to complete on the electronic form. The PureEdge forms can be downloaded and saved on your hard drive, network drive(s), or CDs. Because of the size of the application, HUD recommends downloading the application to your computer hard drive.

The instructions include this NOFA and any required forms that have not been converted into PureEdge forms. The instructions will also include a checklist to ensure that you are provided all the required information for submitting your application. Please review the checklist in the program section to ensure that your application contains all the required materials.

4. *Submission of Third Party Letters, Certifications or Narrative Statements.* In addition to forms, many of the NOFAs require the submission of other documentation such as third party letters, certifications, or program narrative statements. This section discusses how you should submit this additional information electronically as part of your application:

(1) *Narrative Statements to the Factors for Award.* If you are required to submit narrative statements, you should submit them as an electronic file in ASCII text format. Each response to a Factor for Award should be developed as a separate file labeled with the appropriate factor name, *e.g.* Factor 1 Capacity and submitted as part of your electronic application.

(2) *Third Party Letters, Certifications Requiring Signatures, and Other Documentation.* Applicants required to submit documentation from organizations providing matching or leveraging funds; documentation of 501(c)(3) status or incorporation papers; documents that support the need for the program or Memoranda of Understanding (MOUs) have the following two options:

(a) *Scanning Documents to Create Electronic Files.* Third party documentation can be scanned and saved as separate electronic files. Electronic files must be labeled so the reader will know what the file contains. Match or leveraging letters can be scanned into a single folder or the applicant can create a separate file for each scanned letter and label them accordingly. All scanned files should be placed together in a zipped folder and then attached to the application package submitted to grants.gov as part of the application submission; or

(b) *Electronic Facsimile Required Documentation.* Applicants that do not have scanning equipment available, may submit the required documentation to HUD via facsimile (fax). The electronic facsimile method may only be used to submit attachments that are part of your electronic application. HUD will not accept entire applications via fax. Applications submitted entirely via fax will be disqualified.

To submit documents using the electronic facsimile method, applicants must use form HUD–96011, Facsimile Transmittal, which is a cover page for the faxed materials. The form HUD–96011 is an electronic form and is part of the applicant's downloaded electronic application obtained from www.grants.gov. Applicants must fax their information to the following fax number: 800–HUD–1010. Each document must be faxed as a separate submission to avoid fax transmission problems. When faxing several documents, applicants must use the Form HUD–96011 as the cover for each document (*e.g.* Letter of Matching or Leveraging funds, Memorandum of Understanding, Certification of Consistency with the Consolidated Plan, etc.).

Your facsimile machine should provide you with a record of whether your transmission was received by HUD. If you get a negative response or a transmission error, you should resubmit the document until you confirm that HUD has received your transmission. HUD will not acknowledge that a facsimile was received successfully. HUD will electronically receive the facsimile, read it with an optical character reader and attach it to the application submitted via Grants.gov electronic facsimile transmissions may be sent at any time before the application submission date. HUD will store the information and attach it to the electronic application when HUD receives it from Grants.gov.

(c) *Submissions using other File Formats.* If you are required to submit files in formats such as CAD (Computer Aided Design) files of architectural drawings and blueprints, or pictures, you should attach these as electronic files as part of the zipped folder and submit them with your application transmission.

5. *Customer Support.* The grants.gov website provides customer support via (800) 518–GRANTS (this is a toll-free number) or through e-mail at *support@grants.gov.* The customer support center is open from 7 a.m. to 9 p.m. Eastern time, Monday through Friday, except federal holidays, to address grants.gov technology issues. For technical assistance to program related questions, contact the number listed in Section VII of this NOFA.

6. *Waiver of Electronic Submission Requirement.* HUD will only accept electronic applications submitted through *www.grants.gov* unless the applicant has received a waiver from the Department. HUD regulations at 24 CFR 5.110, permit waivers of regulatory requirements to be granted for cause. If you are unable to submit your application electronically, you may, in writing, request a waiver from this requirement. Your waiver request must state the basis for the request and explain why electronic submission is not possible. The basis for waivers for cause may include but are not limited to: (a) Lack of available internet access in the geographic location in which the applicant is located or, (b) the physical disability of the applicant prevents the applicant from accessing or responding to the electronic application.

The waiver request should also include an e-mail and/or name and mailing address where responses can be directed. Applicants must submit waiver requests to the Assistant Secretary for Public and Indian Housing, who is responsible for the program under which you are seeking funding. To ensure time for processing, the waiver request must be submitted to HUD in writing at least thirty days prior to the application submission date.

To avoid a delay in the process, waiver requests should be sent by United States Postal Service Express Mail. You, the applicant should retain a receipt for the mailing showing the date submitted to the Postal Service. HUD will acknowledge receipt of the waiver request by e-mail, if an e-mail address is provided, or by United States Postal Service Express Mail or other means available. HUD will not make determinations or respond to waiver requests via the telephone. Each waiver request will be reviewed and a determination made to the applicant, indicating whether or not the waiver has been granted. In the event a waiver is granted, the submission date for the mailed application delivery shall not be

later than the submission date for electronic applications. Applicants receiving a waiver will be expected to follow the submission instructions immediately below.

a. Submission Instructions for Applicants Receiving a Waiver to Electronic Submission. Applicants receiving a waiver of the electronic submission requirements must submit their complete applications in paper copy as follows:

(1) *Submission Using the United States Postal Service.* HUD *will no longer accept hand deliveries of applications.* Applicants who receive a waiver and are therefore allowed to submit paper applications must submit them via the United States Postal Service using Express Mail or an overnight mail service (which provides a written record of delivery date).

7. *Timely Receipt Requirements and Proof of Timely Submission.*

a. *Electronic Submission.* All applications must be received by *http://www.grants.gov* by 11:59:59 p.m. Eastern time on the established submission date for this NOFA.

Proof of timely submission is automatically recorded by Grants.gov. An electronic time stamp is generated within the system when the application is successfully received by Grants.gov. The applicant will receive an acknowledgement of receipt and a tracking number from grants.gov with the successful transmission of their application. Applicants should print this receipt and save it, along with facsimile receipts for information provided by facsimile, as proof of timely submission. When HUD successfully retrieves the application from Grants.gov, HUD will provide an electronic acknowledgment of receipt to the e-mail address provided on the SF 424. Proof of Timely submission shall be the date and time that grants.gov receives your application submittal and the date HUD receives those portions of your application submitted by facsimile. All facsimile transmissions must be received by the application submission date and time.

Applications received by Grants.gov, after the established submission date for the program will be considered late and will not be considered for funding by HUD. Similarly, applications will be considered late if information submitted by facsimile as part of the application is not received by HUD by the established submission date. Please take into account the transmission time required for submitting your application via the Internet and the time required to submit any related documents via electronic facsimile. HUD suggests that applicants submit their applications during the operating hours of the grants.gov Support Desk, so that if there are questions concerning transmission, operators will be available to walk you through the process. Submitting your application during the Support Desk hours will also ensure that you have sufficient time for the application to complete its transmission prior to the application deadline.

Applicants using dial-up connections should be aware that transmission should take some time before grants.gov receives it. Grants.gov will provide either an error or a successfully received transmission message. The grants.gov Support desk reports that some applicants abort the transmission because they think that nothing is occurring during the transmission process. Please be patient and give the system time to process the application. Uploading and transmitting many files, particularly electronic forms with associated XML schemas, will take some time to be processed.

b. Late applications. Late applications, whether received electronically or in hard copy will not receive funding consideration. HUD will not be responsible for directing or forwarding applications to the appropriate location. Applicants should pay close attention to these submission and timely receipt instructions as they can make a difference in whether HUD will accept your application for funding consideration.

c. No Facsimiles of Entire Application. HUD will not accept fax transmissions from applicants who receive a waiver to submit a paper copy application. Paper applications must be complete and submitted in their entirety, via the USPS Express Mail.

a. *5. General Section References.* The following sub-sections of Section IV. of the General Section are hereby incorporated by reference:

(1) Addresses to Request Application Package;

(2) Application Kits;

(3) Guidebook and Further Information; and

(5) Addresses.

V. Application Review Information

A. Criteria

1. Rating Factor: Capacity—27 Points Total

a. Your Team. The term ''your Team'' includes PHA staff who will be involved in HOPE VI grant administration, and any alternative management entity that will manage the revitalization process, be responsible for meeting construction time tables, and obligating amounts in a timely manner. This includes any developer partners, program managers, property managers, subcontractors, consultants, attorneys, financial consultants, and other entities or individuals identified and proposed to carry out program activities.

b. Development Team Capacity—6 points

(1) You will receive up to 6 points if your application demonstrates that:

(a) Your developer or other team members have extensive, recent (within the last five years), and successful experience in planning, implementing, and managing physical development, financing, leveraging, and partnership activities that are comparable in character, scale, and complexity to your proposed revitalization activities;

(b) Your developer or other team members have extensive, recent (within the last five years), and successful experience in planning, implementing, and managing Capital Fund program projects.

(c) You propose development using low-income tax credits, and you, your developer, or other team members have relevant tax credit experience; and

(d) If homeownership, rent-to-own, cooperative ownership, or other major development components are proposed, you, your developer, or other team members have relevant, successful experience in development, sales, or conversion activities.

(2) You will receive up to 4 points if your developer or other team members have some but not extensive experience in the factors described above.

(3) You will receive zero points if your developer or other team members do not have the experience described and the application does not demonstrate that it has the capacity to carry out your Revitalization plan. You will also receive 0 points if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

c. Development Capacity of Applicant—6 points.

(1) You will receive up to 6 points if your application demonstrates that:

(i) You have identified potential gaps in your current staffing in relation to development activities, and you have plans to fill such gaps, internally or externally, in a timely manner in order to implement successfully your Revitalization plan;

(ii) You have demonstrated that physical development activities will proceed as promptly as possible following grant award, and you will be able to begin significant construction within 18 months of the award of the grant.

(iii) Your program schedule indicates the date on which the development proposal, *i.e.*, whether mixed-finance development, homeownership development, etc., for each phase of the revitalization plan will be submitted to HUD. For application evaluation only, you should assume the award and post-award dates in Section IV.B.4.d. of this NOFA; and

(iv) Your management experience and previous experience with development activities, including the dollar amount and timeframe for completion of the project(s), is sufficient to show that you have experience in overseeing affordable housing development, whether it be in-house or implemented by a private entity.

(2) You will receive up to 4 points if your application demonstrates that you have had experience in managing affordable housing development in accordance with the factors above, but your experience has not been extensive, and your project(s) were completed within the timeframe originally established for the project.

(3) You will receive up to 1 point if your application demonstrates that you have had experience in managing affordable housing development in accordance with the factors above, but your experience has not been extensive, and your project(s) were not completed within the timeframe originally established for the project.

(4) You will receive 0 points if your application does not demonstrate any experience in managing development activities, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

d. Capacity of Existing HOPE VI Revitalization Grantees.

(1) This Section applies only to applicants that have received HOPE VI Revitalization grants for fiscal years 1993–2002. If an applicant has more than one HOPE VI Revitalization grant, each will be rated separately, not averaged, and the highest deduction will be made. Applicants with HOPE VI Revitalization grants only from FY2003 or FY2004, or no existing HOPE VI Revitalization grants are not subject to this section.

(2) As indicated in the following tables, up to 5 points will be deducted if a grantee has failed to achieve adequate progress in relation to cumulative public housing rental unit production. Production achievement numbers will be taken from the quarterly reporting system for the quarter most recently completed at the time the NOFA is published in the **Federal Register**.

Percent of public housing unit production completed	Points deducted
Grants Awarded in FY 1993–1998:	
Less than 100 Percent	5
Grants Awarded in FY 1999:	
90–100 Percent	0
80–89 Percent	1
75–79 Percent	2
70–74 Percent	3
65–69 Percent	4
Less than 65 Percent	5
Grants Awarded in FY 2000:	
80–100 Percent	0
70–79 Percent	1
60–69 Percent	2
50–59 Percent	3
40–49 Percent	4
Less than 40 Percent	5
Grants Awarded in FY 2001:	
60–100	0
50–59 Percent	1
40–49 Percent	2
30–39 Percent	3
20–29 Percent	4
Less than 20 Percent	5
Grants Awarded in FY 2002:	
25–100 Percent	0
20–24 Percent	1
15–19 Percent	2
10–14 Percent	3
5–9 Percent	4
Less than 5 Percent	5

e. CSS Program Capacity—3 points.

See Sections I.D.10., and III.C.4.l. and m., of this NOFA for detailed information on CSS activities.

(1) You will receive 2 points if your application demonstrates one of the following. If you fail to demonstrate one of the following, you will receive 0 points:

(a) If you propose to carry out your CSS plan in-house and you have recent, quantifiable, successful experience in planning, implementing, and managing the types of CSS activities proposed in your application, or

(b) If you propose that a member(s) of your team will carry out your CSS plan, that this procured team member(s) has the qualifications and demonstrated experience to plan, implement, manage, and coordinate the types of activities proposed, and that you have a plan for promptly hiring staff or procuring a team member to do so.

(2) You will receive 1 point if your application demonstrates that:

(a) You have an existing HOPE VI grant and your current CSS team will be adequate to implement a new program, including new or changing programs, without weakening your existing team.

(b) You do not have an existing HOPE VI Revitalization grant and you demonstrate how your proposed CSS team will be adequate to implement a new program, including new or changing services, without weakening your existing staffing structure.

f. Property Management Capacity—5 points.

(1) Property management activities may be the responsibility of the PHA or another member of the team, which may include a separate entity that you have procured or will procure to carry out property management activities. In your application you will describe the number of units and the condition of the units currently managed by you or your property manager, your annual budget for those activities, and any awards or recognition that you or your property manager have received.

(2) Past Property Management Experience—3 points.

(a) You will receive up to 3 points if your application demonstrates that you or your property manager currently have extensive knowledge and recent (within the last five years), successful experience in property management of the housing types included in your revitalization plan. This may include market-rate rental housing, public housing, and other affordable housing, including rental units developed with low-income housing tax credit assistance. If your Revitalization plan includes cooperatively-owned housing, rent-to-own units, or other types of managed housing, in order to receive the points for this factor, you must demonstrate recent, successful experience in the management of such housing by the relevant member(s) of your team.

(b) You will receive 1 point if your application demonstrates that you or your property manager has some but not extensive experience of the kind required for your Revitalization plan.

(c) You will receive 0 points if your application does not demonstrate that you or your property manager have the experience to manage your proposed plan, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

(3) Property Management Plan—2 points.

(a) You will receive up to 2 points if your application demonstrates that you or your property manager have the goals and plans necessary to administer the following elements of a property management plan:

(i) Property maintenance
(ii) Rent collection
(iii) PIC 50058 reporting
(iv) Site-based management experience
(v) Tenant grievances
(vi) Evictions
(vii) Occupancy rate
(viii) Unit turnaround
(ix) Preventive maintenance

(x) Work order completion
(xi) Project-based budgeting
(xii) Management of Homeownership and rent-to-own programs
(xiii) Energy Audits
(xiv) Utility/Energy Incentives
(b) You will receive 0 points if your application does not demonstrate that you or your property manager have the goals and plans necessary to administer the above elements of a property management plan.

g. PHA or MTW Plan—1 point.

(1) You will receive 1 point if your application demonstrates that you have incorporated the revitalization plan described in your application into your most recent PHA plan or MTW Annual plan (whether approved by HUD or pending approval). In order to qualify as ''incorporated'' under this factor, your PHA or MTW plan must indicate the intent to pursue a HOPE VI Revitalization grant and the public housing development for which it is targeted.

(2) You will receive 0 points if you have not incorporated the revitalization plan described in your application into your PHA or MTW plan, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

h. Public Housing Assessment System (PHAS)—2 points.

(1) If you have been rated as an Overall High Performer for your most recent PHAS review as of the application submission date, you will receive 2 points.

(2) If you have been rated as an Overall Standard Performer for your most recent PHAS review as of the application submission date, you will receive 1 point.

(3) If you have been rated as a Troubled Performer that is either Troubled in One Area or Overall Troubled as of the application submission date, you will receive 0 points.

(4) For this rating factor, MTW PHA applicants will be rated on their compliance with their MTW Agreements.

(a) If you are in compliance with your MTW Agreement, you will receive 2 points.

(b) If you are not in compliance with your MTW Agreement, you will receive zero points.

i. Regular Maintenance—2 points.

(1) Unless the targeted project is vacant, your normal practice should be to continue regular maintenance. HUD will measure your most recent PHAS physical inspection Prevalence Report scores for the maintenance defects that are included in the ''TOP 20'' and compare it to your previous Prevalence Report scores for the same maintenance defects.

(2) Vacant Targeted Project. You will receive 2 points if your application demonstrates that, on the application submission date, the targeted project was vacant.

(3) Occupied Targeted Project.

(a) You will receive 2 points if your Prevalence Report score for the above ''TOP 20'' maintenance defects has improved.

(b) You will receive 0 points if your Prevalence Report score for the above ''TOP 20'' maintenance defects has not improved.

(4) MTW PHA. For this rating factor, MTW PHA applicants will be rated on their compliance with their MTW Agreements.

(a) If you are in compliance with your MTW Agreement, you will receive 2 points.

(b) If you are not in compliance with your MTW Agreement, you will receive zero points.

j. Section 8 Management Assessment Program (SEMAP)—2 points.

(1) If you have been rated as a High Performer for your most recent SEMAP rating as of the application submission date, you will receive 2 points.

(2) If you have been rated as Standard for your most recent SEMAP rating as of the application submission date, you will receive 1 point.

(3) If you have been rated as Troubled for your most recent SEMAP rating as of the application submission date, you will receive zero points.

(4) For this rating factor, MTW PHA applicants will be rated on their compliance with their MTW Agreements.

(a) If you are in compliance with your MTW Agreement, you will receive 2 points.

(b) If you are not in compliance with your MTW Agreement, you will receive zero points.

2. Rating Factor: Need—24 Points Total

a. Severe Physical Distress of the Public Housing Development—10 Points

(1) HUD will evaluate the extent of the severe physical distress of the targeted public housing development. If the targeted units have already been demolished, HUD will evaluate your description of the extent of the severe physical distress of the site as of the day the demolition application was approved by HUD. You will receive points for the following separate subfactors, as indicated.

(a) You will receive up to 3 points if your application demonstrates that there are major deficiencies in the project's infrastructure, roofs, electrical, plumbing, heating and cooling, mechanical systems, settlement, and other deficiencies in Housing Quality Standards.

(b) You will receive up to 3 points if your application demonstrates that there are poor soil conditions, inadequate drainage, deteriorated laterals and sewers, and inappropriate topography.

(c) You will receive up to 4 points if your application demonstrates that the project has at least three of the following major design deficiencies, including:

(i) Inappropriately high population density, room, and unit size and configurations;
(ii) Isolation;
(iii) Indefensible space;
(iv) Significant utility expenses caused by energy conservation deficiencies that may be documented by an energy audit; and
(v) Inaccessibility for persons with disabilities with regard to individual units (less than 5 percent of the units are accessible), entranceways, and common areas.

b. Impact of the Severely Distressed Site on the Surrounding Neighborhood—3 Points

(1) HUD will evaluate the extent to which the severely distressed public housing project is a significant contributing factor to the physical decline of, and disinvestment by, public and private entities in the surrounding neighborhood. In making this determination, HUD will evaluate your narrative, crime statistics, photographs or renderings, socio-economic data, trends in property values, evidence of property deterioration and abandonment, evidence of underutilization of surrounding properties, and indications of neighborhood disinvestment.

(2) You will receive up to 3 Points if your application demonstrates that the project has a significant impact on the surrounding neighborhood, as documented by each item listed above.

(3) You will receive up to 2 Points if your application demonstrates that the project has a moderate impact on the neighborhood, and only some of the items listed above are adequately documented.

(4) You will receive 0 Points if your application does not demonstrate that the project has an impact on the surrounding neighborhood, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

c. Need for HOPE VI Funding—8 Points

(1) HUD will evaluate the extent to which you could undertake the

proposed revitalization activities without a HOPE VI grant. Large amounts of available Capital Funds indicate that the revitalization could be carried out without a HOPE VI grant. Available Capital Funds are defined as non-obligated funds that have not been earmarked for other purposes in your PHA Plan. To determine the amount of FY 2000–2005 Capital Fund Program (including CIAP and CGP) funds currently available that could be used to carry out the proposed revitalization activities, HUD will employ data from LOCCS available at the time of the grant application submission date and information from the portions of the PHA Plan that you have submitted as part of your application. Funds earmarked in the PHA Plan for uses other than the revitalization proposed in this application will not be considered available. *See* Section IV.B. of this NOFA for documentation requirements.

(2) You will receive 8 Points if your available Capital Funds balance is up to 20 percent of the amount of HOPE VI funds requested.

(3) You will receive 6 Points if your available balance is 21–45 percent of the amount of HOPE VI funds requested.

(4) You will receive 4 Points if your available balance is 46–70 percent of the amount of HOPE VI funds requested.

(5) You will receive 2 Points if your available balance is 71 to 90 percent of the amount of HOPE VI funds requested.

(6) You will receive zero Points if your available balance is more than 90 percent of the amount of HOPE VI funds requested.

d. Need for Affordable Accessible Housing in the Community—3 Points

(1) Your application must demonstrate the need for other housing available and affordable to families receiving tenant-based assistance under section 8 (HCV), as described below and must be the most recent information available at the time of the application deadline.

(2) For purposes of this factor, the need for affordable housing in the community will be measured by Housing Choice Voucher program utilization rates or public housing occupancy rates, whichever of the two reflects the most need. In figuring the Housing Choice Voucher utilization rate, determine and provide the percentage of HCV units out of the total number authorized or the percentage of HCV funds expended out of the total amount authorized, whichever percentage is higher. In figuring the public housing occupancy rate, provide the percentage of units occupied out of the total in your federal public housing inventory, excluding the targeted public housing site. You should base your calculation only on the federal public housing units you manage. You may not exclude units in your public housing inventory that are being reserved for relocation needs related to other HOPE VI Revitalization grant(s); or units in your public housing inventory that are being held vacant for uses related to a Section 504 voluntary compliance agreement. If you are a non-MTW site, you must use information consistent with the Section Eight Management Assessment Program (SEMAP) and/or the Public Housing Assessment System (PHAS) submissions. If you are an MTW site, and do not report into SEMAP and/or PHAS, you must demonstrate your utilization and/or occupancy rate using similar methods and information sources in order to earn points under this rating factor.

(3) You will receive 3 Points if your application demonstrates that the higher of:

(a) The utilization rate of your Housing Choice Voucher program is 97 percent or higher; or

(b) The occupancy rate of your public housing inventory is 97 percent or higher.

(c) HUD will use the higher of the two rates to determine your score.

(4) You will receive 2 Points if your application demonstrates that the higher of:

(a) The utilization rate of your Housing Choice Voucher program is between 95 and 96 percent; or,

(b) The occupancy rate of your public housing inventory is between 95 and 96 percent.

(c) HUD will use the higher of the two rates to determine your score.

(5) You will receive 1 Point if your application demonstrates that the higher of:

(a) The utilization rate of your Housing Choice Voucher program is between 93 and 94 percent; or

(b) The occupancy rate of your public housing inventory is between 93 and 94 percent.

(c) HUD will use the higher of the two rates to determine your score.

(6) You will receive 0 Points if both the utilization rate of your Housing Choice Voucher program and the occupancy rate of your public housing inventory are less than 93 percent.

3. Rating Factor: Leveraging—16 Points Total

a. Leverage. Although related to match, leverage is strictly a rating factor. Leverage consists of firm commitments of funds and other resources. HUD will rate your application based on the amount of funds and other resources that will be leveraged by the HOPE VI grant as a percentage of the amount of HOPE VI funds requested. There are four types of Leverage: Development and CSS, as described in ''Program Requirements,'' Section III.C.4.e. of this NOFA, and Anticipatory, and Collateral as described in this rating factor. Each resource may be used for only one leverage category. Any resource listed in more than one category will be disqualified from all categories. If leverage sources and amounts are not documented in accordance with Sections III.C.4. and IV.B.6.c. of this NOFA, they will not be counted toward your leverage amounts. In determining Leverage ratios, HUD will include as Leverage the match amounts that are required by Section III.B. of this NOFA.

b. Development Leveraging—7 Points

For each commitment document, HUD will evaluate the strength of commitment and add the amounts that are acceptably documented. HUD will then calculate the ratio of the amount of HUD funds requested to the amount of funds that HUD deems acceptably documented. HUD will round figures to two decimal points, using standard rounding rules. *See* Section IV.B.6. of this NOFA for documentation requirements.

(1) LIHTC. Only LIHTC commitments that have been secured as of the application submission date will be considered for the scoring under this section. LIHTC commitments that are not secured (*i.e.*, documentation in the application does not demonstrate they have been reserved by the state or local housing finance agency) will not be counted as leverage for scoring under this section. Only tax credits that have been reserved specifically for revitalization performed through this NOFA will be counted as development leverage.

(2) Private mortgage-secured loans and other debt.

(a) Where there is both a construction loan and a permanent take-out loan that will replace that construction loan, you must provide documentation of both, but only the value of the permanent loan will be counted as leverage.

(b) For privately financed homeownership construction loans, acceptable documentation of construction loans will be considered as leverage. Documentation of permanent financing is not required.

(c) If you have obtained a construction loan but not a permanent loan, the value of the acceptably documented construction loan will be counted as leverage.

(3) You will receive 7 Points if the ratio of the amount of HOPE VI funds

requested for physical development activities (not including CSS, administration or relocation) to the dollar value of documented, committed development resources from other sources is 1:3 or higher.

(4) You will receive 6 Points if the ratio is between 1:2.50 and 1:2.99

(5) You will receive 5 Points if the ratio is between 1:2.0 and 1:2.49.

(6) You will receive 4 Points if the ratio is between 1:1.50 and 1:1.99.

(7) You will receive 3 Points if the ratio is between 1:1.0 and 1:1.49.

(8) You will receive 2 Points if the ratio is between 1:0.50 and 1:0.99.

(9) You will receive one Point if the ratio is between 1:0.25 to 1:0.49.

(10) You will receive 0 Points if the ratio is less than 1:0.25, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

c. CSS Leveraging—5 Points

(1) Note that in order to count as leverage, CSS contributions must be newly generated. Existing and newly generated TANF cash benefits will not count as leverage. Newly generated non-cash services provided by TANF agencies will count as leverage.

(2) You will receive 5 Points if the ratio of the amount of HOPE VI funds requested for CSS activities to the dollar value of documented, committed CSS resources leveraged from other sources is 1:2 or higher. Note that wages projected to be paid to residents through jobs, or projected benefits (*e.g.*, health/insurance/retirement benefits) related to projected resources to be provided by CSS partners are not sources of leverage. If no HOPE VI funds are requested for CSS activities because all CSS funds will come from outside sources, all adequately-documented funds from such outside sources will be counted and you will receive 5 Points.

(3) You will receive 4 Points if the ratio is between 1:1.75 and 1:1.99.

(4) You will receive 3 Points if the ratio is between 1:1.5 and 1:1.749.

(5) You will receive 2 Points if the ratio is between 1:1.25 and 1:1.49.

(6) You will receive one Point if the ratio is between 1:1 and 1:1.249.

(7) You will receive 0 Points if the ratio is less than 1:1, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

d. Anticipatory Resources Leveraging—2 Points

Anticipatory Resources relate to activities that have taken place in the past and that were conducted in direct relation to a HOPE VI Revitalization grant. In many cases, PHAs, cities, or other entities may have carried out revitalization activities (including demolition) in previous years in anticipation of your receipt of a HOPE VI Revitalization grant. These expenditures, if documented, may be counted as leveraged anticipatory resources. They cannot duplicate any other type of resource and cannot be counted towards match. Public Housing funds other than HOPE VI Revitalization, *e.g.*, HOPE VI Demolition grant funds, HOPE VI Neighborhood Networks grant funds, Capital Fund Program, may be included, and will be counted, toward your Anticipatory Resources rating below. For Anticipatory Resources ratios, ''HOPE VI funds requested for physical development activities'' is defined as your total requested amount of funds minus your requested CSS, administration amounts, and relocation. HUD will presume that your combined CSS, administration and relocation amounts are the total of Budget Line Items 1408 (excluding non-CSS Management Improvements), 1410, and 1495 on the form HUD–52825–A, ''HOPE VI Budget'' that is included in your application.

(1) You will receive 2 Points if the ratio of the amount of HOPE VI funds requested for physical development activities to the amount of your documented anticipatory resources is 1:0.1 or higher.

(2) You will receive 0 Points if the ratio of the amount of HOPE VI funds requested for physical development activities, to the amount of your documented anticipatory resources is less than 1:0.1.

e. Collateral Investment Leveraging—2 Points

Collateral investment includes physical redevelopment activities that are currently underway, or that have yet to begin but are projected to be completed before October 1, 2010. In order for a leverage source to be counted as collateral investment, your application must demonstrate that the related activities will directly enhance the new HOPE VI community, but will occur whether or not a Revitalization grant is awarded to you and the public housing project is revitalized. This includes economic or other kinds of development activities that would have occurred with or without the anticipation of HOPE VI funds. These resources cannot duplicate any other type of resource and cannot be counted as match. Examples of collateral investments include local schools, libraries, subways, light rail stations, improved roads, day care facilities, and medical facilities.

(1) You will receive 2 Points if the ratio of the amount of HOPE VI funds requested for physical development activities (not including CSS or administration) to the amount of your documented collateral resources is 1:1.0 or higher.

(2) You will receive 0 Points if the ratio of the amount of HOPE VI funds requested for physical development activities (not including CSS or administration) to the amount of your documented collateral resources is less than 1:1.0.

4. Rating Factor: Resident and Community Involvement—3 Points Total

a. HUD will evaluate the nature, extent, and quality of the resident and community outreach and involvement you have achieved by the time your application is submitted, as well as your plans for continued and additional outreach and involvement beyond the minimum threshold requirements. *See* Section III.C. of this NOFA for Resident and Community Involvement requirements.

b. Resident and Community Involvement—3 Points

You will receive one Point for each of the following criteria met in your application, which are over and above the threshold requirements listed in Section III.C.4. of this NOFA.

(1) Your application demonstrates that you have communicated regularly and significantly with affected residents, state and local governments, private service providers, financing entities, developers, and other members of the surrounding community about the development of your Revitalization plan by giving residents and community members information about your actions regarding the Revitalization plan and providing a forum where residents and community members can contribute recommendations and opinions with regard to the development and implementation of the Revitalization plan.

(2) Your application demonstrates your efforts, past and proposed, to make appropriate HUD communications about HOPE VI available to affected residents and other interested parties, *e.g.*, a copy of the NOFA, computer access to the HUD Web site, etc.

(3) Your application demonstrates your plans to provide affected residents with reasonable training on the general principles of development, technical assistance, and capacity building so that they may participate meaningfully in the development and implementation process.

5. Rating Factor: Community and Supportive Services—13 Points Total

a. CSS Program Requirements. See Section III.C.4.l. and m. for CSS program requirements. In your application, you will describe your CSS plan, including any plans to implement a CSS Endowment Trust. Each of the following subfactors will be rated separately.

b. Case Management—2 points. You will receive 2 Points if your application demonstrates that you will be able to provide case management within 30 days from the date of grant award execution so that residents who will be relocated have time to participate and benefit from CSS activities before leaving the site.

c. Needs Identification—1 point. You will receive one Point if your CSS Program has been developed in response to a rigorous resident needs identification process and directly responds to the identified needs.

d. Transition to Housing Self-Sufficiency—5 points. You will receive up to 5 Points if you address the methods you will use to assist public housing residents in their efforts to transition to other affordable and market-rate housing, *i.e.*, to gain ''housing self-sufficiency.''

(1) You will receive up to 5 Points if your application demonstrates that your CSS Program includes and addresses all three of the below items. Your CSS Program:

(a) Provides measurable outcomes for this endeavor;

(b) Relates your other CSS and FSS activities and efforts to the transition of public housing residents to housing self-sufficiency; and

(c) Specifically addresses the grassroots, community-based and faith-based organizations, etc. that will join you in the endeavor.

(2) You will receive up to 2 Points if your CSS Program includes and addresses at least two of the above three items (a) through (c) above.

(3) You will receive 0 Points if your CSS Program includes and addresses less than two of the above items (a) through (c) above.

e. Housing Self-Sufficiency Time Frame—2 points. (1) You will receive 2 points if you demonstrate that you plan to move HOPE VI public housing families not headed by an elderly or disabled person to other public housing if they have not attained housing self-sufficiency, *i.e.*, do not have the ability to transition out of public housing, within five (5) years after the date that they occupied their units.

(2) You will receive 1 point if you demonstrate that you plan to move HOPE VI public housing families not headed by an elderly or disabled person to other public housing if they have not attained housing self-sufficiency, *i.e.*, do not have the ability to transition out of public housing, within ten (10) years after the date that they occupied their units.

(3) You will receive 0 points if you do not demonstrate that you plan to move HOPE VI public housing families not headed by an elderly or disabled person to other public housing if they have not attained housing self-sufficiency, *i.e.*, do not have the ability to transition out of public housing, within at least ten (10) years after they have occupied their units.

f. Partner Commitments—1 point. You will receive one Point if you provide letters from a variety of experienced organizations and service providers that represent strong relationships and commitments to participate in your CSS activities and accomplish your CSS goals of the program.

g. Quality and Results Orientation—2 points. You will receive 2 Points if you have proposed a high quality, results-oriented CSS program that is based on a comprehensive case management system and enables residents affected by the revitalization plan to access, at a minimum, basic elements of education, job training, and other services that will assist them in transforming their lives and becoming self-sufficient.

6. Rating Factor: Relocation—5 Points Total

See Sections III.C.4. of this NOFA for Relocation and Relocation Plan requirements. For all applicants, whether you have completed, or have yet to complete, relocation of all residents of the targeted project, your HOPE VI Relocation Plan must include the three goals set out in Section 24 of the 1937 Act, as described in Sections a.(1)(a), (b) and (c) below. a. You will receive up to 5 Points for this Factor if:

(1) Your Relocation plan:

(a) Includes a description of specific activities that have minimized, or will minimize, permanent displacement of residents of the units that will be rehabilitated or demolished in the targeted public housing site, provided that those residents wish to remain in or return to the revitalized community;

(b) Includes a description of specific activities that will give existing residents priority over other families for future occupancy of public housing units in completed HOPE VI Revitalization Development projects, or, for existing residents that can afford to live in non-public housing HOPE VI units, priority for future occupancy of those planned units; and

(c) contains a description of specific CSS activities that will be provided to residents prior to any relocation;

b. You will receive up to 4 Points for this Factor if: Your Relocation Plan complies with only two of the goals in (a) through (c) above.

c. You will receive up to 2 Points for this Factor if: Your Relocation Plan complies with only one of the requirements in (a) through (c) above.

d. You will receive 0 Points for this Factor if: (1) Your Relocation Plan does not comply with any of the requirements in (a) through (c) above; or (2) Your application does not address this factor to an extent that makes HUD's rating of this factor possible.

7. Rating Factor: Fair Housing and Equal Opportunity—5 Points Total

a. FHEO Disability Issues—3 Points Total. (1) Accessibility—2 Points.

(a) Over and above the accessibility requirements listed in Section III.C. of this NOFA, you will receive 2 Points if your application demonstrates that you have a *detailed* plan to:

(i) Provide accessibility in homeownership units (*e.g.*, setting a goal of constructing a percentage of the homeownership units as accessible units for persons with mobility impairments; promising to work with prospective disabled buyers on modifications to be carried out at a buyer's request; exploring design alternatives that result in townhouses that are accessible to persons with disabilities);

(ii) Provide accessible units for all eligible populations ranging from one-bedroom units for non-elderly single persons with disabilities through units in all bedroom sizes to be provided.;

(iii) Provide for accessibility modifications, where necessary, to Housing Choice Voucher-assisted units of residents who relocate from the targeted project to private or other public housing due to revitalization activities. The Department has determined that the costs of such modifications are eligible costs under the HOPE VI program;

(iv) Where playgrounds are planned, propose ways to make them accessible to children with disabilities, over and above statutory and regulatory requirements; and

(v) Where possible, design units with accessible front entrances.

(b) You will receive 1 Point if your application demonstrates that you have a detailed plan to implement from one to four of the accessibility priorities stated above, explaining why and how

you will implement the identified accessibility priorities.

(c) You will receive 0 Points if your application does not demonstrate that you have a detailed plan that meets the specifications above, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

(2) Universal Design—1 Point.

(a) You will receive 1 Point if your application demonstrates that you have a specific plan to meet:

(i) The adaptability standards adopted by HUD at 24 CFR 8.3 that apply to those units not otherwise covered by the accessibility requirements. Adaptability is the ability of certain elements of a dwelling unit, such as kitchen counters, sinks, and grab bars, to be added to, raised, lowered, or otherwise altered, to accommodate the needs of persons with or without disabilities, or to accommodate the needs of persons with different types or degrees of disability. For example, the wiring for visible emergency alarms may be installed so that a unit can be made ready for occupancy by a hearing-impaired person (For information on adaptability, see *http://www.hud.gov/offices/pih/programs/ph/hope6/pubs/glossary.pdf);* and

(ii) The visitability standards recommended by HUD that apply to units not otherwise covered by the accessibility requirements. Visitability standards allow a person with mobility impairments access into the home, but do not require that all features be made accessible. A visitable home also serves persons without disabilities, such as a mother pushing a stroller or a person delivering a large appliance. *See http://www.hud.gov/offices/pih/programs/ph/hope6/pubs/glossary.pdf* for information on visitability. The two standards of visitability are:

(A) At least one entrance at grade (no steps), approached by a sidewalk; and

(B) The entrance door and all interior passage doors are at least 2 feet 10 inches wide, allowing 32 inches of clear passage space.

(b) You will receive 0 Points if your application does not demonstrate that you have specific plans to implement both (i) and (ii) as specified above, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

b. Fair Housing and Affirmative Marketing—1 Point Total. (1) Fair Housing—1 Point.

(a) You will receive one Points if your application demonstrates that:

(i) You have made and will make specific efforts to attract families from all segments of the population on a non-discriminatory basis and with a broad spectrum of incomes to the revitalized site through intensive affirmative marketing efforts and how these efforts contribute to the deconcentration of low-income neighborhoods;

(ii) You have made and will make specific efforts to target your marketing and outreach activities to those persons and groups least likely to know about these housing opportunities, in order to promote housing choice and opportunity throughout your jurisdiction and contribute to the deconcentration of both minority and low-income neighborhoods. In your application, you must describe how your outreach and marketing efforts will reach out to persons of different races and ethnic groups, families with or without children, persons with disabilities and able-bodied persons, and the elderly; and

(iii) The specific steps you plan to take through your proposed activities to affirmatively further fair housing. These steps can include, but are not limited to:

(A) Addressing impediments to fair housing choice relating to your operations;

(B) Working with local jurisdictions to implement their initiatives to affirmatively further fair housing;

(C) Implementing, in accordance with Departmental guidance, relocation plans that result in increased housing choice and opportunity for residents affected by HOPE VI revitalization activities funded under this NOFA;

(D) Implementing admissions and occupancy policies that are nondiscriminatory and help reduce racial and national origin concentrations; and

(E) Initiating other steps to remedy discrimination in housing and promote fair housing rights and fair housing choice.

(b) You will receive 0 Points if you do not address all of the above issues, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

c. Economic Opportunities for Low- and Very Low-Income Persons (Section 3)—1 Point. (1) HOPE VI grantees must comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Economic Opportunities for Low- and Very Low-Income Persons in Connection with assisted Projects) and its implementing regulations at 24 CFR part 135. Information about Section 3 can be found at HUD's Section 3 Web site at *http://www.hud.gov/fhe/sec3over.html*.

(2) You will receive 1 Point if your application demonstrates that you have a feasible plan to implement Section 3 that not only meets the minimum requirements described in Section (1) above but also exceeds those requirements. Your plan must include your goals by age group, types of jobs, and other opportunities to be provided, and plans for tracking and evaluation. Section 3 firms must be in place quickly so that residents are trained in time to take advantage of employment opportunities such as jobs and other contractual opportunities in the pre-development, demolition, and construction phases of the revitalization. Your Section 3 plan must demonstrate that you will, to the greatest extent feasible, direct training, employment, and other economic opportunities to:

(a) Low- and very low-income persons, particularly those who are recipients of government assistance for housing, and

(b) Business concerns which provide economic opportunities to low- and very low-income persons.

(3) You will receive 0 Points if your plan to implement Section 3 does not meet the standards listed in Section (1) above, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

8. Rating Factor: Well-Functioning Communities—8 Points Total

a. Affordable Housing—Up to 3 Points

(1) Housing Definitions. For the purposes of this rating section, housing units are defined differently than in PIH housing programs, as follows:

(a) ''project-based affordable housing units'' are defined as on-site and off-site housing units where there are affordable-housing use restrictions on the unit, *e.g.*, public housing, project-based HCV (Section 8) units, LIHTC units, HOME units, affordable homeownership units, etc.

(b) ''public housing'' is defined as rental units that will be subject to the ACC.

(2) Unit Mix and Need for Affordable Housing.

(a) Your proposed unit mix should sustain or create more project-based affordable housing units that will be available to persons eligible for public housing in markets where the plan shows there is demand for the maintenance or creation of such units. While it is up to you to determine the unit mix that is appropriate for your site, it is essential that this unit mix include a sufficient amount of public housing rental units and other project-based affordable units. To the extent that the local market shows there is a

demand for it, applicants are encouraged to create additional project-based affordable housing units to be made available for persons eligible for public housing.

(b) For purposes of this factor, HUD will determine whether you need project-based affordable housing by using your Housing Choice Voucher program utilization rate or public housing occupancy rate, whichever of the two reflects the least need. In figuring the Housing Choice Voucher utilization rate, determine and provide the percentage of HCV units out of the total number authorized or the percentage of HCV funds expended out of the total amount authorized, whichever percentage is higher. In figuring the public housing occupancy rate, provide the percentage of units occupied out of the total in your federal public housing inventory, excluding the units in the targeted project. You should base your calculation only on the federal public housing units you manage. You may not exclude units in your public housing inventory that are being reserved for relocation needs related to other HOPE VI Revitalization grant(s); or units in your public housing inventory that are being held vacant for uses related to a Section 504 voluntary compliance agreement. If you are a non-MTW site, you must use information consistent with the Section Eight Management Assessment Program (SEMAP) and/or the Public Housing Assessment System (PHAS) submissions. If you are an MTW site, and do not report into SEMAP and/or PHAS, you must demonstrate your utilization and/or occupancy rate using similar methods and information sources in order to earn points under this rating factor.

(3) Scoring when there will be *No Need* for More Affordable Housing after the Targeted Project is Demolished—1 Point.

(a) You will receive 1 Point for this factor if your application demonstrates that either:

(i) The utilization rate of your Housing Choice Voucher program is less than 95 percent; or

(ii) The occupancy rate of your public housing inventory is less than 95 percent.

(iii) If either (a) or (b) above is less than 95 percent, the other percentage will be disregarded.

(4) Scoring when there *will be Need* for More Affordable Housing after the Targeted Project is Demolished—up to 3 Points.

(a) For this factor, HUD considers you in need of project-based affordable housing if both:

(i) The utilization rate of your Housing Choice Voucher program is 95 percent or more; and

(ii) The occupancy rate of your public housing inventory is 95 percent or more.

(iii) If either (i) or (ii) above are less than 95 percent, you do not need affordable housing. You qualify for (3) above, not this section (4).

(b) The percentages below are defined as the number of planned project-based affordable units divided by the number of public housing units that the targeted project contained on the application submission date;

(c) You will receive 3 Points if your application demonstrates that the number of project-based affordable units in your plan is 125 percent or more of the number of public housing units that the targeted project contained on the application submission date;

(iv) You will receive 2 Points if your application demonstrates that the number of project-based affordable units in your plan is 110 to 124 percent of the number of public housing units that the targeted project contained on the application submission date

(v) You will receive 1 Point if your application demonstrates that the number of project-based affordable units in your plan is 100 to 109 percent of the number of public housing units that the targeted project contained on the application submission date.

(vi) You will receive 0 Points if your application demonstrates that the number of project-based affordable units in your plan is less than the number of public housing units that the targeted project contained on the application submission date or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

b. Off-Site Housing—1 Point

(1) Factor Background

(a) Although not required, you are encouraged to consider development of replacement housing in locations other than the original severely distressed site (*i.e.*, off-site housing). Locating off-site housing in neighborhoods with low levels of poverty and low concentrations of minorities will provide maximized housing alternatives for low-income residents who are currently on-site and assist the goal of creating desegregated, mixed-income communities. The effect on-site will be to assist in the deconcentration of low-income residents and increase the number of replacement units.

(b) Although it is acknowledged that off-site housing is not appropriate in some communities, if you do not propose to include off-site housing in your Revitalization plan, you are not eligible to receive this point.

(c) If you propose an off-site housing component in your application, you must be sure to include that component when you discuss other components (*e.g.* on-site housing, homeownership housing, etc.). Throughout your application, your unit counts and other numerical data must take into account the off-site component.

(2) Scoring.

You will receive 1 Point if you propose to develop an off-site housing component(s) and document that: you have site control of the property(ies), that the site(s) meets all environmental review requirements, and that the site(s) meets site and neighborhood standards, in accordance with Section III.C.4.n.(1) of this NOFA.

c. Homeownership Housing—4 Points

The Department has placed the highest priority on increasing homeownership opportunities for low- and moderate-income persons, persons with disabilities, the elderly, minorities, and families where English may be a second language. Too often these individuals and families are shut out of the housing market through no fault of their own. HUD encourages applicants to work aggressively to open up the realm of homeownership.

(1) Your application will receive 4 Points if your application demonstrates that your Revitalization plan includes homeownership and that you have a feasible, well-defined plan for homeownership. In order to demonstrate this, your application should include descriptions of the following:

(a) The purpose of your homeownership program;

(b) The number of units planned and their location(s);

(c) A description and justification of the families that will be targeted for the program;

(d) The proposed source of your construction and permanent financing of the units; and

(e) A description of the homeownership counseling you or a HUD-approved housing counseling agency will provide to prospective families, including such subjects as the homeownership process, housing in non-impacted areas, credit repair, budgeting, and home maintenance.

(2) You will receive 2 Points for this factor if you address in your description from one to four of the items listed under (1).

(3) You will receive 0 Points for this factor if you do not propose to include homeownership units in your Revitalization plan, your proposed

program is not feasible and well defined, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

9. Rating Factor: Soundness of Approach—26 Points Total

a. Quality and Consistency of the Application—2 Points

(1) The information and strategies described in your application must be well organized, coherent, and internally consistent. Numbers and statistics in your narratives must be consistent with the information provided in the attachments. Also, the physical and CSS aspects of the application must be compatible and coordinated with each other. Pay particular attention to the data provided for:

(a) Types and numbers of units;

(b) Budgets;

(c) Other financial estimates, including sources and uses; and

(d) Numbers of residents affected.

(2) You will receive 2 points if your application demonstrates a high level of quality and consistency;

(3) You will receive 1 point if your application has a high level of quality, but contains minor internal discrepancies;

(4) You will receive 0 points if your application fails to demonstrate an acceptable level of quality and consistency;

b. Appropriateness and Feasibility of the Plan—5 Points

(1) You will receive 5 points if your application demonstrates that your Revitalization plan:

(a) Is appropriate and suitable, in the context of the community and other revitalization options, in accordance with the Appropriateness of Proposal threshold in Section III.C. of this NOFA;

(b) Is marketable, in the context of local conditions;

(c) Is financially feasible, as demonstrated in the financial structure(s) proposed in the application; and

(d) Fulfills the needs that your application demonstrated for Rating Factor 2.

(2) You will receive 3 points if your application only moderately demonstrates the criteria of (1)(a)-(d) above.

(3) You will receive zero Points if your application does not demonstrate the criteria of (1)(a)-(d) above.

c. *Neighborhood Impact and Sustainability of the Plan*—5 Points

(1) You will receive up to 5 Points if your application demonstrates your Revitalization plan, including plans for retail, office, other economic development activities, as appropriate, will:

(a) Result in a revitalized site that will enhance the neighborhood in which the project is located;

(b) Spur outside investment into the surrounding community;

(c) Enhance economic opportunities for residents; and

(d) Remove an impediment to continued redevelopment or start a community-wide revitalization process.

(2) You will receive up to 3 Points if your application demonstrates that your Revitalization plan will have only a moderate effect on activities in the surrounding community, as described in (a) through (d) above.

(3) You will receive 0 Points if your application does not demonstrate that your Revitalization plan will have an effect on the surrounding community, as described in (a) through (d) above, or if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

d. Project Readiness—7 Points

HUD places top priority on projects that will be able to commence immediately after grant award. You will receive the following points for each applicable subfactor certified in your application.

(1) You will receive 2 Points if the targeted severely distressed public housing site is completely vacant, *i.e.*, all residents have been relocated.

(2) You will receive 2 Points if the targeted severely distressed public housing site is cleared, *i.e.*, all buildings are demolished, or your Revitalization plan only includes rehabilitation and no demolition of public housing units..

(3) You will receive 1 Point if a Master Development Agreement (MDA) has been developed and is ready to submit to HUD. However, in cases where the PHA (not an affiliate/subsidiary/instrumentality) will act as its own developer for all components of the Revitalization plan, then an MDA is not needed and the one point will be awarded automatically.

(4) You will receive 1 Point if your preliminary site design is complete.

(5) You will receive 1 Point if you have held five (5) or more public planning sessions leading to resident acceptance of the plan.

e. Design—3 Points

(1) You will receive up to 3 Points if your proposed site plan, new dwelling units, and buildings demonstrate that:

(a) You have proposed a site plan that is compact, pedestrian-friendly, with an interconnected network of streets and public open space;

(b) Your proposed housing, community facilities, and economic development facilities are thoroughly integrated into the community through the use of local architectural tradition, building scale, grouping of buildings, and design elements; and

(c) Your plan proposes appropriate enhancements of the natural environment.

(2) You will receive one Point if your proposed site plan, new dwelling units, and buildings demonstrate design that adequately addresses one or two, but not all three of the elements in (1) above.

(3) You will receive 0 Points if your proposed design is perfunctory or otherwise does not address the elements in (1) above. You will also receive 0 Points if your application does not address this factor to an extent that makes HUD's rating of this factor possible.

f. Energy Star—1 Point

(1) Promotion of Energy Star compliance is a HOPE VI Revitalization program requirement. *See* Section III.C.4.g. of this NOFA.

(2) You will receive 1 Point if your application demonstrates that you will:

(a) Use Energy Star labeled products;

(b) Promote Energy Star design of replacement units; and

(c) Include Energy Star in homeownership counseling.

(2) You will receive 0 Points if your application does not demonstrate that you will perform (a) through (c) above.

g. Evaluation—3 Points

You are encouraged to work with your local university(ies), other institutions of learning, foundations, or others to evaluate the performance and impact of their HOPE VI Revitalization plan over the life of the grant. The proposed methodology must measure success against goals you set at the outset of your revitalization activities. Evaluators must establish baselines and provide ongoing interim reports that will allow you to make changes as necessary as your project proceeds. Where possible, you are encouraged to form partnerships with Historically Black Colleges and Universities (HBCUs); Hispanic-Serving Institutions (HSIs); Community Outreach Partnership Centers (COPCs); the Alaskan Native/Native Hawaiian Institution Assisting Communities Program (as appropriate); and others in HUD's University Partnerships Program.

(1) You will receive 3 Points if your application includes a letter(s) from an institution(s) of higher learning, foundations, or other organization that specializes in research and evaluation that provides a commitment to work with you to evaluate your program and describes its proposed approach to carry out the evaluation if your application is

selected for funding. The letter must provide the extent of the commitment and involvement, the extent to which you and the local institution of higher learning will cooperate, and the proposed approach. The commitment letter must address all of the following areas for evaluation:

(a) The impact of your HOPE VI effort on the lives of the residents;

(b) The nature and extent of economic development generated in the community;

(c) The effect of the revitalization effort on the surrounding community, including spillover revitalization activities, property values, etc.; and

(d) Your success at integrating the physical and CSS aspects of your strategy.

(2) You will receive zero Points if your application does not include a commitment letter that conforms to the specifications in paragraph (b) above.

10. Rating Factor: Incentive Criteria on Regulatory Barrier Removal—2 Points Total

a. Description

(1) HUD's Notice, *America's Affordable Communities Initiative, HUD's Initiative on Removal of Regulatory Barriers: Announcement of Incentive Criteria on Barrier Removal in HUD's FY 2004 Competitive Funding Allocations*, **Federal Register** Docket Number FR–4882–N–03, published on March 22, 2004, provides that most HUD competitive NOFAs will include an incentive for local and state governments to decrease their regulatory barriers to the development of affordable housing.

(2) Form HUD–27300 contains questions that describe your local and state governments' efforts to decrease regulatory barriers.

b. Scoring

(1) If you are considered a local unit of government with land use and building regulatory authority, an agency or department of a local unit of government, a nonprofit organization, or other qualified applicant applying for funding for a project located in the local unit of government's jurisdiction, you are invited to answer the 20 questions in PART A of form HUD–27300. For those applications in which regulatory authority is split between jurisdictions (*e.g.*, county/parish and town) the applicant should answer the question for that jurisdiction that has regulatory authority over the issue at question.

(a) If you check Column 2 for five to ten questions from PART A, you will receive 1 point in the NOFA evaluation.

(b) If you check Column 2 for eleven or more questions from PART A, you will receive 2 points in the NOFA evaluation.

(2) If you are considered a state government, or an agency or department of a state government, applying for funding for a project located in the state government's jurisdiction, or areas otherwise not covered in Part A, you are invited to answer the 15 questions in PART B.

(a) If you check Column 2 for four to seven questions from PART B, you will receive one point in the NOFA evaluation.

(b) If you check Column 2 for eight or more questions from PART B, you will receive two points in the NOFA evaluation.

(3) Applicants that will be providing services in multiple jurisdictions may choose to address the questions in either PART A or PART B for that jurisdiction in which the preponderance of services will be performed if an award is made.

(4) In no case will an applicant receive for this policy priority greater than two points for barrier removal activities.

(5) Applicants must submit the required information to receive points for this policy priority.

B. Reviews and Selection Process

HUD's selection process is designed to ensure that grants are awarded to eligible PHAs with the most meritorious applications. HUD will consider the information you submit by the application submission date. After the application submission date, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information that you or any third party may want to provide.

1. Application Screening

a. HUD will screen each application to determine if:

(1) it meets the threshold criteria listed in Section III.C. of this NOFA; and

(2) it is deficient, *i.e.*, contains any Technical Deficiencies.

b. *See* Section III.C. of this NOFA for case-by-case information regarding thresholds and technical deficiencies. *See* Section IV.B. of this NOFA for documentation requirements that will support threshold compliance and will avoid technical deficiencies.

c. Corrections to Deficient Applications—Cure Period. The subsection entitled, ''Corrections to Deficient Applications,'' in Section V.B.4. of the General Section is incorporated by reference and applies to this NOFA. This sub-section describes the Technical Deficiencies cure period.

d. Applications that will not be rated or ranked. HUD will not rate or rank applications that are deficient at the end of the cure period stated in Section V.B. of the General Section or have not met the thresholds described in Section III.C. of this NOFA. Such applications will not be eligible for funding.

2. Preliminary Rating and Ranking

a. Rating

(1) HUD staff will preliminarily rate each eligible application, SOLELY on the basis of the rating factors described in Section V.A of this NOFA.

(2) When rating applications, HUD reviewers will not use any information included in any HOPE VI application submitted in a prior year.

(3) HUD will assign a preliminary score for each rating factor and a preliminary total score for each eligible application.

(4) The maximum number of points for each application is 129.

b. Ranking

(1) After preliminary review, applications will be ranked in score order.

3. Final Panel Review

a. A Final Review Panel made up of HUD staff will:

(1) Review the Preliminary Rating and Ranking documentation to:

(a) Ensure that any inconsistencies between preliminary reviewers have been identified and rectified; and

(b) Ensure that the Preliminary Rating and Ranking documentation accurately reflects the contents of the application.

(2) Assign a final score to each application; and

(3) Recommend for selection the most highly rated applications, subject to the amount of available funding, in accordance with the allocation of funds described in Section II of this NOFA.

4. HUD reserves the right to make reductions in funding for any ineligible items included in an applicant's proposed budget.

5. In accordance with the FY2005 HOPE VI appropriation, HUD may not use HOPE VI funds to grant competitive advantage in awards to settle litigation or pay judgments.

6. Tie Scores

If two or more applications have the same score and there are insufficient funds to select all of them, HUD will select for funding the application(s) with the highest score for the Soundness of Approach Rating Factor. If a tie remains, HUD will select for funding the application(s) with the highest score for the Capacity Rating Factor. HUD will select further tied applications with the highest score for the Need Rating Factor.

7. Remaining Funds

a. HUD reserves the right to reallocate remaining funds from this NOFA to other eligible activities under Section 24 of the 1937 Act.

(1) If the total amount of funds requested by all applications found eligible for funding under Section V.B. of this NOFA is less than the amount of funds available from this NOFA, all eligible applications will be funded and those funds in excess of the total requested amount will be considered remaining funds.

(2) If the total amount of funds requested by all applications found eligible for funding under Section V.B. of this NOFA is greater than the amount of funds available from this NOFA, eligible applications will be funded until the amount of non-awarded funds is less than the amount required to feasibly fund the next eligible application. In this case, the funds that have not been awarded will be considered remaining funds.

8. The following sub-sections of Section V. of the General Section are hereby incorporated by reference:

a. HUD's Strategic Goals;
b. Policy Priorities;
c. Threshold Compliance;
d. Corrections to Deficient Applications;
e. Rating; and
f. Ranking.

VI. Award Administration Information

A. Award Notices

1. Initial Announcement. The HUD Reform Act prohibits HUD from notifying you as to whether or not you have been selected to receive a grant until it has announced all grant recipients. If your application has been found to be ineligible or if it did not receive enough Points to be funded, you will not be notified until the successful applicants have been notified. HUD will provide written notification to all applicants, whether or not they have been selected for funding.

2. Award Letter. The notice of award letter is signed by the Assistant Secretary for Public and Indian Housing (grants officer) and will be delivered by fax and the U.S. Postal Service.

3. Revitalization Grant Agreement. When you are selected to receive a Revitalization grant, HUD will send you a HOPE VI Revitalization Grant Agreement, which constitutes the contract between you and HUD to carry out and fund public housing revitalization activities. Both you and HUD will sign the cover sheet of the grant agreement, form HUD–1044. It is effective on the date of HUD's signature, which is the second signature. The grant agreement differs from year to year. Past Revitalization Grant Agreements can be found on the HOPE VI Web site at *http://www.hud.gov/hopevi.*

4. Applicant Debriefing. Upon request, HUD will provide an applicant a copy of the total score received by their application and the score received for each rating factor.

5. General Section References. The following sub-section of Section VI.A. of the General Section is hereby incorporated by reference: a. Adjustments to Funding.

B. Administrative and National Policy Requirements

1. Timeliness of Development Activity. Grantees must proceed within a reasonable timeframe, as indicated below. In determining reasonableness of such timeframe, HUD will take into consideration those delays caused by factors beyond your control. These timeframes must be reflected in the form of a program schedule, in accordance with the threshold requirement at Section III.C.1.i. of this NOFA and the Rating Factor requirement at Section V.A.1.c. of this NOFA.

a. Grantees must submit Supplemental Submissions within 90 days from the date of HUD's written request.

b. Grantees must submit CSS work plans within 90 days from the execution of the grant agreement.

c. All other required components of the Revitalization plan and any other submissions not mentioned above must be submitted in accordance with the Quarterly Report Administrative and Compliance Checkpoints Report, as approved by HUD.

d. Grantees must start construction within 12 months from the date of HUD's approval of the Supplemental Submissions as requested by HUD after grant award. This time period may not exceed 18 months from the date the grant agreement is executed.

e. Grantees must submit the development proposal (*i.e.,* whether mixed-finance development, homeownership development, etc.) for the first phase of construction within 12 months of grant award. The program schedule must indicate the date on which the development proposal for each phase of the revitalization plan will be submitted to HUD.

f. The closing of the first phase must take place within 15 months of grant award. For this purpose, ''closing'' means all financial and legal arrangements have been executed and actual activities (construction, etc.) are ready to commence.

g. Grantees must complete construction within 48 months from the date of HUD's approval of your Supplemental Submissions. This time period for completion may not exceed 54 months from the date the grant agreement is executed.

2. HOPE VI Endowment Trust Addendum to the Grant Agreement. This document must be executed between the grantee and HUD in order for the grantee to use CSS funds in accordance with Section III.C.4.l. of this NOFA.

3. Revitalization Plan. After HUD conducts a post-award review of your application and makes a visit to the site, you will be required to submit components of your Revitalization plan to HUD, as provided in the HOPE VI Revitalization Grant Agreement. These components include, but are not limited to:

a. Supplemental Submissions, including a HOPE VI Program Budget;
b. A Community and Supportive Services work plan, in accordance with guidance provided by HUD;
c. A standard or mixed-finance development proposal, as applicable;
d. A demolition and disposition application, as applicable; and
e. A homeownership proposal, as applicable.

4. Management Agreement

HOPE VI Revitalization grantees will be required to develop Management Agreements that describe their operation and management principles and policies for their public housing units.

5. Match

a. Irrevocably Committed Match Donations and Leverage Resources. After award, during review of grantee mixed-finance, development or homeownership proposals, HUD will evaluate the irrevocable nature of Match and Leverage resources. During its evaluation, HUD will assess the conditions precedent to the availability of the funds to the grantee. HUD will assess the availability of the participating party(ies)'s financing, the amount and source of financing committed to the proposal by the participating party(ies), and the irrevocability of those funds. HUD may require an opinion of the PHA's and the owner entity's counsel (or other party designated by HUD) attesting that counsel has examined the availability of the participating party(ies)'s financing, and the amount and source of financing committed to the proposal by the participating party(ies), and has determined that such financing has been

irrevocably committed by the participating party(ies) for use in carrying out the proposal, and that such commitment is in the amount required under the terms of the proposal.

b. Evidence of Use. Grantees will be required to show evidence that matching resources were actually received and used for their intended purposes through quarterly reports as the project proceeds. Sources of matching funds may be substituted after grant award, as long as the dollar requirement is met.

c. Grantee Enforcement. Grantees must pursue and enforce any commitment (including commitments for services) obtained from any public or private entity for any contribution or commitment to the project or surrounding area that was part of the match amount.

6. LOCCS Requirements

The grantee must record all obligations and expenditures in LOCCS.

7. Conflict of Interest in Grant Activities

a. *Prohibition.* In addition to the conflict of interest requirements in 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of a grantee and who exercises or has exercised any functions or responsibilities with respect to activities assisted under a HOPE VI grant, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

b. *HUD-Approved Exception.* (1) Standard. HUD may grant an exception to the prohibition in Section (1) above on a case-by-case basis when it determines that such an exception will serve to further the purposes of HOPE VI and its effective and efficient administration.

(2) Procedure. HUD will consider granting an exception only after the grantee has provided a disclosure of the nature of the conflict, accompanied by:

(a) An assurance that there has been public disclosure of the conflict;

(b) A description of how the public disclosure was made; and

(c) An opinion of the grantee's attorney that the interest for which the exception is sought does not violate state or local laws.

(d) Consideration of Relevant Factors. In determining whether to grant a requested exception under Section (b) above, HUD will consider the cumulative effect of the following factors, where applicable:

(A) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the Revitalization plan and demolition activities that would otherwise not be available;

(B) Whether an opportunity was provided for open competitive bidding or negotiation;

(C) Whether the person affected is a member of a group or class intended to be the beneficiaries of the Revitalization plan and Demolition plan and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(D) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process, with respect to the specific activity in question;

(E) Whether the interest or benefit was present before the affected person was in a position as described in Section (C) above;

(F) Whether undue hardship will result either to the grantee or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(G) Any other relevant considerations.

8. Flood Insurance

In accordance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), your application may not propose to provide financial assistance for acquisition or construction (including rehabilitation) of properties located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

a. The community in which the area is situated is participating in the National Flood Insurance program (*see* 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and

b. Where the community is participating in the National Flood Insurance Program, flood insurance is obtained as a condition of execution of a grant agreement.

9. Coastal Barrier Resources Act

In accordance with the Coastal Barrier Resources Act (16 U.S.C. 3501), your application may not target properties in the Coastal Barrier Resources System.

10. Final Audit

Grantees are required to obtain a complete final closeout audit of the grant's financial statements by a certified public accountant (CPA), in accordance with generally accepted government audit standards. A written report of the audit must be forwarded to HUD within 60 days of issuance. Grant recipients must comply with the requirements of 24 CFR part 84 or 24 CFR part 85 as stated in OMB Circulars A–110, A–87, and A–122, as applicable.

11. Policy Requirements

a. *OMB Circulars and Administrative Requirements.* You must comply with the following administrative requirements related to the expenditure of federal funds. OMB circulars can be found at *http://www.whitehouse.gov/omb/circulars/index.html.* Copies of the OMB circulars may be obtained from EOP Publications, Room 2200, New Executive Office Building, Washington, DC 20503; telephone (202) 395–7332 (this is not a toll-free number). The Code of Federal Regulations can be found at *http://www.access.gpo.gov/nara/cfr/index.html.*

(1) Administrative requirements applicable to PHAs are:

(a) 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments), as modified by 24 CFR 941 or successor part, subpart F, relating to the procurement of partners in mixed finance developments.

(b) OMB Circular A–87 (Cost Principles for State, Local, and Indian Tribal Governments);

(c) 24 CFR 85.26 (audit requirements).

(2) Administrative requirements applicable to nonprofit organizations are:

(a) 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations);

(b) OMB Circular A–122 (Cost Principles for Nonprofit Organizations);

(c) 24 CFR 84.26 (audit requirements).

(3) Administrative requirements applicable to for profit organizations are:

(a) 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations);

(b) 48 CFR part 31 (contract cost principles and procedures);

(c) 24 CFR 84.26 (audit requirements).

C. Reporting

1. Quarterly Report

a. If you are selected for funding, you must submit a quarterly report to HUD.

(1) HUD will provide training and technical assistance on the filing and submitting of quarterly reports.

(2) Filing of quarterly reports is mandatory for all grantees, and failure to do so within the required timeframe will result in suspension of grant funds until the report is filed and approved by HUD.

(3) Grantees will be held to the milestones that are reported on the Quarterly Report Administrative and Compliance Checkpoints Report, as approved by HUD.

(4) Grantees must also report obligations and expenditures in LOCCS, or its successor system, on a quarterly basis.

2. Logic Model Reporting

a. The reporting shall include submission of a completed Logic Model indicating results achieved against the proposed output goal(s) and proposed outcome(s) which you stated in your approved application and agreed upon with HUD. The submission of the Logic Model and required information should be in accord with the reporting timeframes as identified in your grant agreement.

b. The goals and outcomes that you include in the Logic Model should reflect your major activities and accomplishments under the grant. For example, you would include unit construction, demolition, etc. from the ''bricks-and-mortar'' portion of the grant. As another example, for the CSS portion of the grant, you may include the number of jobs created or the number of families that have reached self-sufficiency, but you would not include information on specific job training and self-sufficiency courses.

c. As a condition of the receipt of financial assistance under a HUD Program NOFA, all successful applicants will be required to cooperate with all HUD staff or contractors performing HUD-funded research and evaluation studies.

3. Final Report

a. The grantees shall submit a final report, which will include a financial report and a narrative evaluating overall performance against its HOPE VI Revitalization plan. Grantees shall use quantifiable data to measure performance against goals and objectives outlined in its application. The financial report shall contain a summary of all expenditures made from the beginning of the grant agreement to the end of the grant agreement and shall include any unexpended balances.

b. Racial and Ethnic Data. HUD requires that funded recipients collect racial and ethnic beneficiary data. It has adopted the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data. In view of these requirements, you should use form HUD–27061, Racial and Ethnic Data Reporting Form (instructions for its use), found on *www.HUDClips.org,* a comparable program form, or a comparable electronic data system for this purpose.

c. The final narrative and financial report shall be due to HUD 90 days after either the full expenditure of funds, or when the grant term expires, whichever comes first.

VII. Agency Contacts

A. Technical Assistance

1. Before the application submission date, HUD staff will be available to provide you with general guidance and technical assistance. However, HUD staff is not permitted to assist in preparing your application. If you have a question or need a clarification, you may call or send an email message the Office of Public Housing Investments, attention: Lawrence Gnessin, at 202–401–8812, extension 2676, <*lawrence_gnessin@hud.gov*> or attention: Leigh van Rij, at 202–401–8812, extension 5788, <*leigh_e._van_rij@hud.gov*> (these are not toll-free numbers). You may also call, fax, or write Mr. Milan Ozdinec, Deputy Assistant Secretary for Public Housing Investments, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20410–5000; telephone (202) 401–8812; fax (202) 401–2370 (these are not toll-free numbers). Persons with hearing or speech challenges may access these telephone numbers through a text telephone (TTY) by calling the toll-free Federal Information Relay Service at (800) 877–8339.

2. *Frequently Asked Questions and General HOPE VI Information.* Before the application submission date, frequently asked questions (FAQ) on the NOFA will be posted to HUD's grants Web site at *http://www.hud.gov/offices/adm/grants/otherhud.cfm.*

3. You may obtain general information about HUD's HOPE VI programs from HUD's HOPE VI website: *http://www.hud.gov/offices/pih/programs/ph/hope6/.*

B. Technical Corrections to the NOFA

1. Technical corrections to this NOFA will be posted to the Grants.gov website.

2. Any technical corrections will also be published in the **Federal Register**.

3. You are responsible for monitoring these sites during the application preparation period.

VIII. Other Information

A. Waivers. Any HOPE VI-funded activities at public housing projects are subject to statutory requirements applicable to public housing projects under the 1937 Act, other statutes, and the annual contributions contract (ACC). Within such restrictions, HUD seeks innovative solutions to the long-standing problems of severely distressed public housing projects. You may request, for the revitalized project, a waiver of HUD regulations, subject to statutory limitations and a finding of good cause under 24 CFR 5.110 if the waiver will permit you to undertake measures that enhance the long-term viability of a project revitalized under this program. HUD will assess each request to determine whether good cause is established to grant the waiver.

B. Environmental Impact. A Finding of No Significant Impact with respect to the environment has been made for this notice in accordance with HUD regulations at 24 CFR part 50 that implement Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 8 a.m. and 5 p.m. in the Office of the General Counsel, Regulations Division, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

C. General Section References. The following sub-sections of Section VIII. of the General Section are hereby incorporated by reference:

1. Executive Order 13132, Federalism;
2. Public Access, Documentation and Disclosure;
4. Section 103 of the HUD Reform Act;
5. The FY 2004 HUD NOFA Process and Future HUD Funding Processes; and
6. Sense of Congress.

D. Paperwork Reduction Act Statement. The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB), under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2577–0208. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and an person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. Public reporting burden for the collection of information is estimated to

average 68 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, quarterly reports and final report. The information will be used for grantee selection and monitoring the administration of funds. Response to this request for information is required in order to receive the benefits to be derived.

Dated: March 24, 2005.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–P

Appendix 1

Instructions
for HOPE VI Application Data Forms

Attachment 1: Cover Sheet & Data Summary Box Instructions

Begin by completing the "Applicant Information" section.

The Data Summary box, at the bottom of Attachment 1, is a summary of the information provided throughout the application.

THE DATA SUMMARY BOX SHOULD BE COMPLETED LAST.

These attachments will be available on the Internet, in Microsoft Excel. The website address is:

www.hud.gov/hopevi

If you choose to download the Microsoft Excel worksheets, your computer will complete the information required in the Data Summary box for you. You will not need to calculate this information.

Downloading the Microsoft Excel file will save you time!

However, if you are unable to complete these worksheets in Microsoft Excel, Figure 1 illustrates where the correct equations are in the instructions.

Figure 1: Data Summary Box

Data Summary

	Existing	*Post-Revitalization*
Number of replacement public housing units (on/off-site, including Affordable Lease/Purchase, Affordable Fee Simple Homeownership, and Second Mortgage Only – excluding rehabilitated units)		**See #1**
Number of non-public housing, subsidized units (on/off-site, including homeownership)		**See #2**
Number of market-rate units (no income restrictions)		**See #3**
Number of other units		**See #4**
TOTAL NUMBER OF POST-DEVELOPMENT UNITS		**See #5**
Number of units to be rehabilitated (excluding acquisition with rehab)		**See #6**
Number of newly constructed on-site units (including acquisition with rehab)		**See #7**
Number of newly constructed off-site units (including acquisition with rehab)		**See #8**
Number of occupied units (at time of application)	**See #9**	
Number of vacant units (at time of application)	**See #10**	

Data Summary Box Instructions

Data Summary #1

	Existing	*Post-Development*
Number of replacement public housing units (on/off-site, including Affordable Lease/Purchase, Affordable Fee Simple Homeownership and Second Mortgage Only – excluding rehabilitated units)		**#1**

To calculate this number, do the following:

1. **From Attachment 5 SUM:**

[Total ACC On-site] + [Total ACC Off-site] + [Affordable Lease/Purchase On-site] + [Affordable Lease/Purchase Off-site] + [Affordable Fee Simple On-site] + [Affordable Fee Simple Off-site] + [Second Mortgage Only On-site] + [Second Mortgage Only Off-site]

2. **Then from Attachment 4 SUBTRACT:**

[Grand Total Rehabilitated ACC Units] + [Grand Total Rehabilitated HOPE VI or PH funded Homeownership]

3. **This EQUALS**

Number of replacement public housing units (on/off-site, including Affordable Lease/Purchase, Affordable Fee Simple Homeownership and Second Mortgage--excluding rehabilitated units)

The white boxes in Figure 1 and Figure 2 (below) correspond to this equation.

Figure 1: Excerpt from Attachment 5: Units, Accessibility, and Concentration

Planned Units

Rental Units: ACC							
PH Only		*PH/LIHTC*		*PH/Other*		*Total ACC*	
On-site	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Rental Units: Non-ACC							
LIHTC		*CDBG, HOME, or other subsidy*		*No Income Restrictions*		*Total Non-ACC*	
On-site	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Homeownership Units											
Affordable Lease/Purchase with H6/PH funds		*Affordable Fee Simple Homeownership with H6/PH funds*		*Second Mortgage Only with H6/PH funds*		*HO with other subsidies (No H6/PH funds)*		*Market Rate (No subsidies)*		*Total Homeownership*	
On-site	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Figure 2: Excerpt from Attachment 4: Proposed Unit Mix Post-Revitalization

Building Type: New Construction						***Building Type: Rehabilitation***					
Size	***Sq. Ft.***	***ACC Units****	***Non-ACC Units*****	***H6 or PH funded HO***	***Other HO***	***Size***	***Sq. Ft.***	***ACC Units****	***Non-ACC Units*****	***H6 or PH funded HO***	***Other HO***
0 BR						**0 BR**					
1 BR						**1 BR**					
2 BR						**2 BR**					
3 BR						**3 BR**					
4 BR						**4 BR**					
5 BR						**5 BR**					
6 BR						**6 BR**					
Total						***Total***					
Grand Total											

Data Summary #2

	Existing	*Post-Development*
Number of non-public housing, subsidized units (On/off-site, including homeownership)		**#2**

To calculate this number, do the following:

1. From Attachment 5, ADD:

[Non-ACC LIHTC On-site] + [Non-ACC LIHTC Off-site] + [Non-ACC CDBG, HOME On-site] + [Non-ACC CDBG, HOME Off-site] + [Homeownership with other subsidies (No HOPE VI or PH funds) On-site] + [Homeownership with other subsidies (No HOPE VI or PH funds) Off-site]

The white boxes in Figure 3 correspond to this equation.

Figure 3: Excerpt from Attachment 5: Units, Accessibility, and Concentration

Planned Units

Rental Units: ACC							
PH Only		*PH/LIHTC*		*PH/Other*		*Total ACC*	
On-site	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Rental Units: Non-ACC							
LIHTC		*CDBG, HOME, or other subsidy*		*No Income Restrictions*		*Total Non-ACC*	
On-site	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Homeownership Units											
Affordable Lease/Purchase with H6/PH funds		*Affordable Fee Simple Homeownership with H6/PH funds*		*Second Mortgage Only with H6/PH funds*		*HO with other subsidies (No H6/PH funds)*		*Market Rate (No subsidies)*		*Total Homeownership*	
On-site	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Data Summary #3

	Existing	*Post-Development*
Number of market-rate units (no income restrictions)		**#3**

In order to calculate this, do the following:

1. From Attachment 5, ADD:

[Non-ACC No Income Restrictions On-site] + [Non-ACC No Income Restrictions Off-site] + [Market Rate On-site] + [Market Rate Off-site]

The white boxes in Figure 4 correspond to this equation.

Figure 4: Excerpt from Attachment 5: Units, Accessibility, and Concentration

Planned Units

Rental Units: ACC							
PH Only		*PH/LIHTC*		*PH/Other*		*Total ACC*	
On-site	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Rental Units: Non-ACC							
LIHTC		*HOME*		*No Income Restrictions*		*Total Non-ACC*	
On-site	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Homeownership Units											
Affordable Lease/Purchase with H6/PH funds		*Affordable Fee Simple Homeownership with H6/PH funds*		*Second Mortgage Only with H6/PH funds*		*HO with other subsidies (No H6/PH funds)*		*Market Rate (No subsidies)*		*Total Homeownership*	
On-site	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Data Summary #4

	Existing	*Post-Development*
Number of other units		**#4**

In order to calculate this, do the following:

1. From Attachment 5, ADD:

[Total Other Units On-site] + [Total Other Units Off-site]

The white boxes in Figure 5 correspond to this equation.

Figure 5: Excerpt from Attachment 5: Units, Accessibility, and Concentration

Planned Units

Rental Units: ACC							
PH Only		*PH/LIHTC*		*PH/Other*		*Total ACC*	
On-site	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Rental Units: Non-ACC							
LIHTC		*CDBG, HOME, or other subsidy*		*No Income Restrictions*		*Total Non-ACC*	
On-site	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Homeownership Units											
Affordable Lease/Purchase with H6/PH funds		*Affordable Fee Simple Homeownership with H6/PH funds*		*Second Mortgage Only with H6/PH funds*		*HO with other subsidies (No H6/PH funds)*		*Market Rate (No Subsidies)*		*Total Homeownership*	
On-site	*Off-site*	*On-site*	*Off-site*	*On -site*	*Off-site*	*On-site*	*Off -site*	*On-site*	*Off-site*	*On-site*	*Off-site*

Data Summary #5

	Existing	*Post-Development*
TOTAL NUMBER OF POST-DEVELOPMENT UNITS		#5

To calculate this number, add the numbers from the first four rows in the Data Summary box.

The white boxes in Figure 6 indicate this.

Figure 6: Excerpt from Data Summary box

	Existing	*Post-Development*
Number of replacement public housing units (on/off-site, including Affordable Lease/Purchase, Affordable Fee Simple Homeownership and Second Mortgage – excluding rehabilitated units)		
Number of non-public housing, subsidized units (on/off site, including homeownership)		
Number of market-rate units (no income restrictions)		
Number of other units		
TOTAL NUMBER OF POST-DEVELOPMENT UNITS		

Data Summary #6

	Existing	*Post-Development*
Number of units to be rehabilitated (excluding acquisition with rehab)		**#6**

In order to calculate this, do the following:

1. **From Attachment 4, ADD:**

[Grand Total of Rehabilitated ACC Units] + [Grand Total of Rehabilitated Non-ACC Units] + [Grand Total of Rehabilitated HOPE VI/PH funded Homeownership] + [Grand Total of Rehabilitated Other Homeownership]

The white boxes in Figure 7 correspond to this equation.

Figure 7: Excerpt from Attachment 4: Proposed Unit Mix Post-Revitalization

Building Type: New Construction						*Building Type: Rehabilitation*					
Size	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*H6/ PH funded HO*	*Other Homeownership*	*Size*	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*H6/PH funded HO*	*Other Homeownership*
0 BR						**0 BR**					
1 BR						**1 BR**					
2 BR						**2 BR**					
3 BR						**3 BR**					
4 BR						**4 BR**					
5 BR						**5 BR**					
6 BR						**6 BR**					
Total						*Total*					

Grand Total					

Data Summary #7

	Existing	*Post-Development*
Number of newly constructed on-site units (including acquisition with rehab)		#7

In order to calculate this, do the following:

1. From Attachment 5, ADD:

[Total ACC On-site] + [Total Non-ACC On-site] + [Total Homeownership On-site] + [Total Other Units On-site]

This is your total On-site number.
The white boxes in Figure 8 indicate this.

2. From Attachment 4, ADD:

[Grand Total New ACC Units] + [Grand Total New Non-ACC Units] + [Grand Total HOPE VI or PH funded Homeownership] + [Grand Total New Other Homeownership Units]

This is your total New Construction number.
The white boxes in Figure 9 indicate this.

NOTE: Any units from the Affordable Lease/Purchase Homeownership program funded with HOPE VI or public housing funds should be included in one of the ACC columns, either New Construction or Rehabilitation.

Compare the total On-Site number to the total New Construction number and enter the LESSER value in the Data Summary box.

Data Summary #7 continued

Figure 8: Excerpt from Attachment 5: Units, Accessibility, and Concentration

Planned Units

Rental Units: ACC							
PH Only		PH/LIHTC		PH/Other		Total ACC	
On-site	Off -site	On-site	Off-site	On-site	Off-site	On-site	Off-site

Rental Units: Non-ACC							
LIHTC		CDBG, HOME, or other subsidy		No Income Restrictions		Total Non-ACC	
On-site	Off-site	On-site	Off-site	On-site	Off-site	On-site	Off-site

Homeownership Units											
Affordable Lease/Purchase with H6/PH funds		Affordable Fee Simple Homeownership with H6/PH funds		Second Mortgage Only with H6/PH funds		HO with other subsidies (No H6/PH funds)		Market Rate (No subsidies)		Total Homeownership	
On-site	Off-site	On-site	Off-site	On-site	Off-site	On-site	Off -site	On-site	Off-site	On-site	Off-site

Other Units (operating subsidy only, etc.)							
Type:		Type:		Type:		Type:	
On-site	Off-site	On-site	Off-site	On-site	Off-site	On-site	Off-site

Figure 9: Excerpt from Attachment 4: Proposed Unit Mix Post-Revitalization

Building Type: New Construction						Building Type: Rehabilitation					
Size	Sq. Ft.	ACC Units*	Non-ACC Units**	H6/ PH funded HO	Other Homeownership	Size	Sq. Ft.	ACC Units*	Non-ACC Units**	H6/PH funded HO	Other Homeownership
0 BR						0 BR					
1 BR						1 BR					
2 BR						2 BR					
3 BR						3 BR					
4 BR						4 BR					
5 BR						5 BR					
6 BR						6 BR					
Total						Total					
Grand Total											

Data Summary #8

	Existing	*Post-Development*
Number of newly constructed off-site units (including acquisition with rehab)		**#8**

In order to calculate this, do the following:

1. From Attachment 5, ADD:

[Total ACC Off-site] + [Total Non-ACC Off-site] + [Total Homeownership Off-site] + [Total Other Units Off-site]

This is your total Off-Site number.
The white boxes in Figure 10 indicate this.

2. From Attachment 4, ADD:

[Grand Total New ACC Units] + [Grand Total New Non-ACC Units] + [Grand Total New HOPE VI/PH funded Homeownership] + [Grand Total New Other Homeownership Units]

This is your total New Construction number.
The white boxes in Figure 11 indicate this.

NOTE: Any units from the Affordable Lease/Purchase Homeownership program funded with HOPE VI or public housing funds should be included in one of the ACC columns, either New Construction or Rehabilitation.

Compare the total Off-Site number to the total New Construction number and enter the LESSER value in the Data Summary box.

Data Summary #8 continued

Figure 10: Excerpt from Attachment 5: Units, Accessibility, and Concentration

Planned Units

Rental Units: ACC							
PH Only		PH/LIHTC		PH/Other		Total ACC	
On-site	Off-site	On-site	Off-site	On-site	Off-site	On-site	Off-site

Rental Units: Non-ACC							
LIHTC		CDGB, HOME, or other subsidy		No Income Restrictions		Total Non-ACC	
On-site	Off-site	On-site	Off-site	On-site	Off-site	On-site	Off-site

Homeownership Units											
Affordable Lease/Purchase with H6/PH funds		Affordable Fee Simple Homeownership with H6/PH funds		Second Mortgage Only with H6/PH funds		HO with other subsidies (No H6/PH funds)		Market Rate (No subsidies)		Total Homeownership	
On-site	Off-site	On-site	Off-site	On-site	Off-site	On-site	Off-site	On-site	Off-site	On-site	Off-site

Other Units (operating subsidy only, etc.)							
Type:		Type:		Type:		Type:	
On -site	Off-site	On-site	Off-site	On-site	Off-site	On-site	Off-site

Figure 11: Excerpt from Attachment 4: Proposed Unit Mix Post-Revitalization

Building Type: New Construction						Building Type: Rehabilitation					
Size	Sq. Ft.	ACC Units*	Non-ACC Units**	H6/ PH funded HO	Other Homeownership	Size	Sq. Ft.	ACC Units*	Non-ACC Units**	H6/PH funded HO	Other Homeownership
0 BR						0 BR					
1 BR						1 BR					
2 BR						2 BR					
3 BR						3 BR					
4 BR						4 BR					
5 BR						5 BR					
6 BR						6 BR					
Total						Total					
Grand Total											

Data Summary **#9**

	Existing	*Post-Development*
Number of occupied units (at time of application)	**#9**	

From Attachment 2:

The Grand Total box for the "Number Occupied" column.

The white box in Figure 12 indicates this.

Figure 12: Excerpt from Attachment 2: Existing Units, Occupancy, and Vacancy

Existing Units at Time of Grant Application

Building Type	*Size*	*Number Occupied*	*Number Vacant*	*Total Units*	*Converted To Non-Dwelling*	*Demo Planned*
Row	**0 BR**					
	1 BR					
	2 BR					
	3 BR					
Grand Total						

Data Summary **#10**

	Existing	*Post-Development*
Number of vacant units (at time of application)	**#10**	

From Attachment 2:

The Grand Total box for the "Number Vacant" column.

The white box in Figure 13 indicates this.

Figure 13: Excerpt from Attachment 2: Existing Units, Occupancy, and Vacancy

Existing Units at Time of Grant Application

Building Type	*Size*	*Number Occupied*	*Number Vacant*	*Total Units*	*Converted to Non-Dwelling*	*Demo Planned*
Row	**0 BR**					
	1 BR					
	2 BR					
	3 BR					
Grand Total						

A) Attachment 2: Existing Units, Occupancy, and Vacancy Instructions

1. Complete this page by first filling in the number of occupied and vacant units according to building and bedroom types.

Figure 14: Excerpt from Attachment 2: Existing Units, Occupancy, and Vacancy

Existing Units at Time of Grant Application

Building Type	*Size*	*Number Occupied*	*Number Vacant*	*Total Units*
Row	**0 BR**			

2. Next, reading across the rows, add the Number Occupied + Number Vacant for the Total Units. Do this for all building and bedroom types.

Figure 15: Excerpt from Attachment 2: Existing Units, Occupancy, and Vacancy

Existing Units at Time of Grant Application

Building Type	*Size*	*Number Occupied*	*Number Vacant*	*Total Units*	*Converted to Non-Dwelling*	*Demo Planned*
Row	**0 BR**					

3. Of the Total Units, provide the number that will be converted to non-dwelling units and the number that will be demolished (per building and bedroom type). This will not necessarily equal your Total Units.

Figure 16: Excerpt from Attachment 2: Existing Units, Occupancy, and Vacancy

Existing Units at Time of Grant Application

Building Type	*Size*	*Number Occupied*	*Number Vacant*	*Total Units*	*Converted to Non-Dwelling*	*Demo Planned*
Row	**0 BR**					
Grand Total						

4. Finally, sum all the columns for the Grand Total row.

Attachment 3: Relocation, Income, and Non-Dwelling Structures Instructions

The information provided in the "Relocation/Occupancy" section should account for all occupied units reported in Attachment 2: Existing Units, Occupancy, and Vacancy. If a family is moved within the development, this should be recorded as a "move within public housing (on- and off-site)."

The section "returning households" refers only to those families that were on-site prior to revitalization and that will be moved back to the development after revitalization.

If resident households are separated at the time of relocation and the PHA provides relocation assistance to each of the resulting households individually, each is counted as a separate relocation.

If a household is moved more than once during the course of the HOPE VI project, it is counted as <u>one</u> relocation. Report <u>only</u> the number of households that are relocated, not the number of relocations that take place during the duration of the HOPE VI project.

In the "Household Income" section, report a percentage (%) and not a dollar amount. Provide only one percentage, not a range (e.g., <u>do not</u> report 30-45%).

Finally, complete the "Resident Profile" and "Non-Dwelling Structure Summary."

Attachment 4: Proposed Unit Mix Post-Revitalization Instructions

Complete this form by providing all of the requested information concerning new construction and rehabilitation, according to building type and bedroom number.

Any ACC unit being developed under the Affordable Lease/Purchase program funded with HOPE VI or public housing funds should be recorded on this attachment as ACC in either the New Construction or Rehabilitation column.

The numbers you provide for new construction should include the following:

- **New units which are to be built;**
- **Existing units that are purchased with the intention of being dwelling units; and**
- **Existing units that are purchased with the intention of being rehabilitated.**

Only those units that are already owned or controlled by your PHA and are being rehabilitated should be included in the "Rehabilitation" columns.

The information on Attachment 4 must equal the following information on Attachment 5.

Please ensure that the following are true:

[Attachment 4, New Construction ACC] + [Attachment 4, Rehabilitation ACC] = [Attachment 5, Total ACC On-site] + [Attachment 5, Total ACC Off-site] + [Affordable Lease/Purchase Homeownership On-site] + [Affordable Lease/Purchase Homeownership Off-site]

[Attachment 4, New Construction Non-ACC] + [Attachment 4, Rehabilitation Non-ACC] = [Attachment 5, Total Non-ACC On-site] + [Attachment 5, Total Non-ACC Off-site]

[Attachment 4, Grand Total New Construction HOPE VI or PH funded Homeownership] + [Attachment 4, Grand Total Rehabilitation HOPE VI or PH funded Homeownership] = [Attachment 5, Affordable Fee Simple Homeownership with HOPE VI or PH funds On-site] + [Attachment 5, Affordable Fee Simple Homeownership with HOPE VI or PH funds Off-site] + [Attachment 5, Second Mortgage Only with HOPE VI or PH funds On-site] + [Attachment 5, Second Mortgage Only with HOPE VI or PH funds Off-site]

B) Attachment 5: Units, Accessibility, and Concentration Instructions

Complete this attachment by first filling in the planned number of ACC rental units, Non-ACC rental units, and Homeownership units by way of the categories provided.

If an ACC unit is to be developed under the Affordable Lease/Purchase program using HOPE VI or public housing funds, it should be accounted for within Homeownership in the Affordable Lease/Purchase box.

Record the number of newly constructed and rehabilitated rental, homeownership, and lease/purchase units available to each special needs category. This should include both ACC and Non-ACC units. If you have units that do not fit into any of the categories, record them in the other units box (include a description in the *Type* field).

For Accessibility, put in the percentage that each construction category is of the total unit type in the development.

Finally, record the appropriate information concerning concentration of density and very low-income families – both pre- and post-development.

When reporting a percentage, do not report a range (e.g., do not report 35-45%). Report a single percentage.

Attachment 6: Self-Sufficiency Instructions

Complete items A through J by filling in all boxes that are associated with each statement. Do not fill in any shaded boxes.

Complete item K by filling in the projected spending for each applicable category from each funding source. HOPE VI Funds should include only HOPE VI Revitalization Grant dollars. HOPE VI Demolition Grants should be included in "Other Funds."

Complete item L by describing your Self-Sufficiency programs and by listing partners associated with this component of the HOPE VI project.

Attachment 7: Sources and Uses Instructions

THE TOTAL HOPE VI USES MUST EXACTLY EQUAL THE HOPE VI IMPLEMENTATION GRANT
(The first line under Sources)

THE TOTAL USES MUST EXACTLY EQUAL THE TOTAL SOURCES
FAILURE TO DO SO WILL LOWER YOUR SCORE

MATH WILL BE CHECKED

The column labeled "HOPE VI Uses ($)" should equal your proposed HOPE VI budget.

The column labeled "Non-HOPE VI Uses" should equal your proposed budget for all other funds for the HOPE VI project (e.g., all leveraged funds). For the purposes of this program, the HOPE VI Demolition grants are considered leveraged funds and are, therefore, Non-HOPE VI funds and should be accounted for in the Non-HOPE VI Uses column.

The "Total" column is the sum of the HOPE VI Uses and Non-HOPE VI Uses columns. Sum across rows, line item by line item, as well as down columns for the totals.

You must budget a single dollar amount for each budget line item. Do not show a range of dollars (e.g., $500,000-$750,000). Also, it is insufficient to include statements such as "included in above amount" in lieu of a dollar figure. If an amount is included in another amount, break it out and budget it exactly.

The Sources column is concerned with all sources of funding received by the PHA for the HOPE VI project. The first line, HOPE VI, refers to the HOPE VI Revitalization Grant, which is different from the HOPE VI Demolition Grants. The first line of the "Sources" column must equal your HOPE VI Revitalization Grant. The HOPE VI Demolition Grants are accounted for as a separate line item in the Sources column.

Acknowledgment of Application Receipt

U.S. Department of Housing and Urban Development

Type or clearly print the Applicant's name and full address in the space below.

(fold line)

Type or clearly print the following information:

Name of the Federal Program to which the applicant is applying: _____

To Be Completed by HUD

☐ HUD received your application by the deadline and will consider it for funding. In accordance with Section 103 of the Department of Housing and Urban Development Reform Act of 1989, no information will be released by HUD regarding the relative standing of any applicant until funding announcements are made. However, you may be contacted by HUD after initial screening to permit you to correct certain application deficiencies.

☐ HUD did not receive your application by the deadline; therefore, your application will not receive further consideration. Your application is:

- ☐ Enclosed
- ☐ Being sent under separate cover

Processor's Name _____

Date of Receipt _____

form HUD-2993 (2/99)

APPLICATION FOR FEDERAL ASSISTANCE

Version 7/03

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction	Pre-application ☐ Construction ☐ Non-Construction	**2. DATE SUBMITTED**	Applicant Identifier
		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	**Organizational Unit:** Department:
Organizational DUNS:	Division:
Address: Street:	**Name and telephone number of person to be contacted on matters involving this application (give area code)** Prefix: First Name:
City:	Middle Name
County:	Last Name
State: Zip Code	Suffix:
Country:	Email:
6. EMPLOYER IDENTIFICATION NUMBER *(EIN):* ☐☐-☐☐☐☐☐☐☐	Phone Number (give area code) Fax Number (give area code)
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) ☐ ☐ Other (specify)	**7. TYPE OF APPLICANT:** (See back of form for Application Types) Other (specify)
	9. NAME OF FEDERAL AGENCY:
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐-☐☐☐ TITLE (Name of Program):	**11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:**
12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*	
13. PROPOSED PROJECT Start Date: Ending Date:	**14. CONGRESSIONAL DISTRICTS OF:** a. Applicant b. Project

15. ESTIMATED FUNDING:		**16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?**
a. Federal	$ .00	a. Yes. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE:
b. Applicant	$ .00	
c. State	$ .00	
d. Local	$ .00	b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
e. Other	$ .00	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
f. Program Income	$ .00	**17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?**
g. TOTAL	$ .00	☐ Yes If "Yes" attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Authorized Representative		
Prefix	First Name	Middle Name
Last Name		Suffix
b. Title		c. Telephone Number (give area code)
d. Signature of Authorized Representative		e. Date Signed

Previous Edition Usable
Authorized for Local Reproduction

Standard Form 424 (Rev.9-2003)
Prescribed by OMB Circular A-102

FY 2005 HOPE VI REVITALIZATION APPLICATION
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A.4	Demolition	_____
A.5	Disposition	_____
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A.9	Proximity	_____
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B.2	Development Capacity of Developer	_____
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B.5	CSS Program Capacity	_____
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C.2	Impact of the Severely Distressed Site on the Surrounding Neighborhood	_____
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Exhibit I: SOUNDNESS OF APPROACH

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I.2 Appropriateness and Feasibility of the Plan _____

I.3 Neighborhood Impact and Sustainability of the Plan _____

I.4 Design _____

I.5 Energy Star _____

I.5 Evaluation _____

ATTACHMENTS	Application Page Number
1: Application Data Form: Cover Sheet	_____
2: Application Data Form: Existing Units, Occupancy, Vacancy	_____
3: Application Data Form: Relocation, Income, & Non-Dwelling Structures	_____
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5: Application Data Form: Units, Accessibility, Concentration	_____
6: Application Data Form: Self-Sufficiency	_____
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9: TDC/Grant Limitations Worksheet	_____
10: Extraordinary Site Costs Certification	_____
11: Cost Certification	_____
12: City Map	_____
13: Developer Certification	_____
14: Property Management Certification	_____
15: Program Schedule	_____
16: Certification of Severe Physical Distress	_____
17: Photographs of the Severely Distressed Housing	_____
18: Neighborhood Conditions	_____
19: Physical Development Resources	_____
20: CSS Resources	_____
21: Anticipatory Resources	_____
22: Collateral Resources	_____
23: Resident Training and Public Meeting Certification	_____
24: Commitments with CSS Providers	_____
25: Certification of Relocation Plan/Relocation Plan	_____
26: Certification of Completed Relocation	_____
27: Documentation of Site Control for Off-Site Public Housing	_____

28: Documentation of Off-Site Environmental, & Neighborhood Standards _____

29: Preliminary Market Assessment Letter _____

30: Certification of Zoning Approval or Documentation _____

31: Project Readiness Certification _____

32: Current Site Plan _____

33: Photographs of Architecture in the Surrounding Community _____

34: Conceptual Site Plan _____

35: Conceptual Building Elevations _____

36: Evaluation Commitment Letter(s) _____

37: Portions of the PHA Plan _____

38. Logic Model, form HUD-96010 _____

39. America's Affordable Communities Initiative, form HUD-27300 _____

40: HOPE VI Revitalization Application Certifications (4pg. Form) _____

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- Standard Form LLL, as applicable, "Disclosure of Lobbying Activities" _____
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HOPE VI Revitalization
Application Data Form

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0208
(exp. 3/31/2007)

Public Reporting Burden for this collection of information is estimated to average 80 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this collection of information is mandatory to obtain a benefit. The information requested does not lend itself to confidentiality. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Attachment 1: *Application Data Form: Cover Sheet*

Existing Development Name(s): _____

Applicant Information *PHA Number:* _____

PHA Name: _____

PHA Mailing Address: _____

City, State, Zip: _____ *Main Telephone:* _____

PHA Executive Director: _____ *Telephone:* _____ *Fax:* _____

Email Address: _____

HOPE VI Coordinator: _____ *Telephone:* _____ *Fax:* _____

Email Address: _____

HOPE VI Developer (if any): _____ *Telephone:* _____ *Fax:* _____

HOPE VI Developer Contact: _____ *Email Address:* _____

Program Manager (if any): _____ *Telephone:* _____ *Fax:* _____

Email Address: _____

Additional Partner: _____ *Functional Title:* _____

Additional Partner: _____ *Functional Title:* _____

Street Address, City, State, Zip: _____

Existing Project Number(s): _____ *Neighborhood/ Area of town:* _____

New Development Name (if any): _____

Mixed Income Proposed? *Yes/No* *Mixed Finance Proposed?* *Yes/No*

Data Summary

	Existing	*Post-Revitalization*
Number of replacement public housing units (on/off-site, including Affordable Lease/Purchase, Affordable Fee Simple Homeownership and Second Mortgage Only--excluding rehabilitated units)		
Number of non-public housing, subsidized units (on/off-site, including homeownership)		
Number of market-rate units (no income restrictions)		
Number of other units		
TOTAL NUMBER OF POST-DEVELOPMENT UNITS		
Number of units to be rehabilitated (excluding acquisition with rehab)		
Number of newly constructed on-site units (including acquisition with rehab)		
Number of newly constructed off-site units (including acquisition with rehab)		
Number of occupied units (at time of application)		
Number of vacant units (at time of application)		

form **HUD-52860-A** (08/2002)

Attachment 2: *Application Data Form: Existing Units, Occupancy, and Vacancy*

Existing Housing Units at Time of Grant Application

Building Type	*Size*	*Number Occupied*	*Number Vacant*	*Total Units*	*Converted to Non-Dwelling*	*Demo Planned*
Row	0 BR					
	1 BR					
	2 BR					
	3 BR					
	4 BR					
	5 BR					
	6 BR					
	Total					
Detached/ Semi-Detached	0 BR					
	1 BR					
	2 BR					
	3 BR					
	4 BR					
	5 BR					
	6 BR					
	Total					
Walkup	0 BR					
	1 BR					
	2 BR					
	3 BR					
	4 BR					
	5 BR					
	6 BR					
	Total					
Elevator	0 BR					
	1 BR					
	2 BR					
	3 BR					
	4 BR					
	5 BR					
	6 BR					
	Total					
Grand Total						

form **HUD-52860-A** (08/2002)

Attachment 3: *Application Data Form: Relocation, Income, and Non-Dwelling Structures*

Relocation/Occupancy

Relocation Strategy	Planned
Original households to be provided Section 8 certificates/vouchers	
Original households to be moved within public housing (on and off-site)	
Original households to move to non-assisted housing/unknown	
Total	

Number of Section 8 certificates/vouchers requested/received from HUD for this project:	Requested	Received

Number of occupied units at time of grant application: _____

Projected number of occupied units at time of demolition application approval: _____

Returning Households	Planned
Number of original households estimated to return to revitalized HOPE VI units (both on-site and off-site):	
Number of these households to be housed in new construction	

Household Income	Existing	Post Development
Average income (as percentage of Median) of public housing residents in development		
Average income (as percentage of Median) of otherwise subsidized residents in neighborhood		
Average income (as percentage of Median) of market-rate residents in the neighborhood		
Resident Profile (not mutually exclusive)		
Total number of residents		
Number of children 6-18 years of age		
Number of senior citizens		
Number of individuals with disabilities		

Non-Dwelling Structure Summary				
Proposed non-dwelling structures (please describe, including type of facility and whether proposing new construction or rehabilitation)	*New or Rehab*	*Square Footage*	*Total Cost*	*Cost per Sq. Ft.*

form **HUD-52860-A** (08/2002)

Attachment 4: *Application Data Form: Proposed Unit Mix Post-Revitalization*

New Construction (include any acquisition w/rehab) — *Rehabilitation*

Row: New						*Row: Rehabilitation*					
Size	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*	*Size*	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*
0 BR						0 BR					
1 BR						1 BR					
2 BR						2 BR					
3 BR						3 BR					
4 BR						4 BR					
5 BR						5 BR					
6 BR						6 BR					
Total						*Total*					

Detached/Semi-detached: New						*Detached/Semi-detached: Rehabilitation*					
Size	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*	*Size*	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*
0 BR						0 BR					
1 BR						1 BR					
2 BR						2 BR					
3 BR						3 BR					
4 BR						4 BR					
5 BR						5 BR					
6 BR						6 BR					
Total						*Total*					

Walkups: New						*Walkups: Rehabilitation*					
Size	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*	*Size*	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*
0 BR						0 BR					
1 BR						1 BR					
2 BR						2 BR					
3 BR						3 BR					
4 BR						4 BR					
5 BR						5 BR					
6 BR						6 BR					
Total						*Total*					

Elevator: New						*Elevator: Rehabilitation*					
Size	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*	*Size*	*Sq. Ft.*	*ACC Units**	*Non-ACC Units***	*HOPE VI and/or PH funded HO*	*Other Home-Ownership*
0 BR						0 BR					
1 BR						1 BR					
2 BR						2 BR					
3 BR						3 BR					
4 BR						4 BR					
5 BR						5 BR					
6 BR						6 BR					
Total						*Total*					

Grand Total						Grand Total					

*** ACC units include PH rental, PH/LIHTC, and Affordable Lease/Purchase with HOPE VI and/or PH funds.**

**** Non-ACC units have no PH or HOPE VI funds and will not be under ACC.**

form **HUD-52860-A** (08/2002)

Attachment 5: *Application Data Form: Units, Accessibility, and Concentration*

Planned Units

Rental Units: ACC							
PH Only		PH/LIHTC		PH/Other		Total ACC	
On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site

Rental Units: Non-ACC							
LIHTC		CDBG, HOME, or other subsidy		No Income Restrictions		Total Non-ACC	
On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site

Homeownership Units											
Affordable Lease/Purchase with HOPE VI and/or PH funds		Affordable Fee Simple Homeownership with HOPE VI and/or PH funds		Second Mortgage Only with HOPE VI and/or PH funds		Homeownership with other subsidies (No HOPE VI or PH funds)		Market Rate Homeownership (No subsidies)		Total Homeownership	
On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site

Other Units (operating subsidy only, etc)							
Type:		Type:		Type:		Total Other Units	
On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site	On-Site	Off-Site

Grand Total	
On-Site	Off-Site
Grand Total - All Units	

Accessibility

New Construction	Rental Units (including Lease/Purchase) % of Category	Homeownership Units % of Category	Total % of Category
Mobility-Impaired (wheelchair)			
Hearing-Impaired			
Sight-Impaired			
Visitability			

Rehabilitation	Rental Units (including Lease/Purchase) % of Category	Homeownership Units % of Category	Total % of Category
Mobility-Impaired (wheelchair)			
Hearing-Impaired			
Sight-Impaired			
Visitability			

Concentration

	Pre-Development	Post-Development
Density of on-site development (units per acre)		
Percent of very low income households in the development (30% of median or below)		

form HUD-52860-A (08/2002)

Attachment 6: *Application Data Form: Self-Sufficiency, Page 1*

NOTE: If property is vacant, describe previous residents.

	During Last 12 Months	At Time of Application	At Grant Award	Projected One Year after Grant Award	Projected Two Years after Grant Award	Projected at Close of Grant
A. Graduation from Public Assistance						
Number of households whose primary monthly source of income is:						
Wages/Salary						
TANF						
Other						
B. Employment/Obstacles to Employment						
Number of TANF participants enrolled in job training programs						
Number of non-TANF participants enrolled in job training programs						
Number of unemployed residents placed in:						
Section 3 jobs						
Non-Section 3 jobs						
C. Economic Development						
Number of resident-owned businesses						
D. Section 3						
Dollar amount of HOPE VI contracts going to Section 3 firms						
E. Education						
Number of residents without a high school diploma or G.E.D.						
Number of residents with a high school diploma, G.E.D., or higher degree						
F. Homeownership						
Number of residents in homeownership counseling						
G. Case Management						
If you have a Family Supportive Services program:						
Number of residents enrolled in FSS program						
Dollar amount in escrow accounts						
H. Youth Programs						
Number of youth participating in youth programs						
Number of children participating in day care programs						
I. Health						
Number of partnerships with healthcare agencies (e.g., clinics, hospitals, universities)						
J. Transportation						
Number of residents who use public transportation to get to work or services						

form **HUD-52860-A** (08/2002)

Attachment 6: *Application Data Form: Self-Sufficiency, Page 2*

K. Self-Sufficiency Projected Spending

Planned Spending	HOPE VI Funds	Other Funds	Total
Day Care			
Health Care			
Education			
Job Training			
Business Development Training			
Case Management			
Other (specify)			
Other (specify)			
Other (specify)			
Other (specify)			
Other (specify)			
Other (specify)			

TOTAL			

L. Self-Sufficiency: Programs and Partners

List of Self-Sufficiency (CSS) Programs	*List of Self-Sufficiency Partners*

form **HUD-52860-A** (08/2002)

Attachment 7: *Application Data Form: Sources and Uses, Page 1*

Uses ($)*	HOPE VI Uses ($)	+	Non-HOPE VI Uses ($)	=	Total
Administration					
Administration					
Management Improvements					
Management Improvements - Dev					
Management Improvements - CSS					
Acquisition					
Site Acquisition					
Building Acquisition, Turnkey					
Building Acquisition, Rehabilitation					
Building Acquisition, Non-Dwelling					
Building Remediation/Demolition					
Remediation, Dwelling Units					
Demolition, Dwelling Units					
Remediation, Non-Dwelling Units					
Demolition, Non-Dwelling Units					
Demolition, Other					
Site Improvements					
Site Remediation					
Site Infrastructure					
Off-site Improvements					
Construction					
Dwelling Structures - Hard Costs					
Non-Dwelling - Hard Costs					
General Requirements					
Builder's Profit					
Builder's Overhead					
Bond Premium					
Hard Cost Contingency					
Equipment					
Dwelling Equipment					
Non-Dwelling Equipment					
Professional Fees/Consultant Services					
Program Management Services					
Architectural					
Engineering					
Construction Management Services					
Appraisal					
Environmental					
Market Study					
Historic Preservation Documentation					
Other					
Legal					
Organizational					
Syndication					
PHA Outside Counsel					
Other					
Tax Credit					
Accounting					
Tax Credit Application					
Tax Credit Monitoring Fee					
Consultant					
Other					
Page 1 Total	$		$		$

form **HUD-52860-A** (08/2002)

Attachment 7: *Application Data Form: Sources and Uses, Page 2*

Uses ($)*	HOPE VI Uses ($)	+	Non-HOPE VI Uses ($)	=	Total
Other Development Costs (Soft Costs)					
Accounting Fees					
Financing Fees					
Permit Fees					
Title/Recording/Settlement Fees					
Real Estate Taxes During Construction					
Insurance During Construction					
Interest During Construction					
Bridge Loan Interest					
Marking/Rent-up Expenses					
Initial Operating Deficit					
Soft Cost Contingency					
Other					
Relocation					
Relocation Costs					
Developer Fee					
Developer Fee					
Reserves					
Operating Reserve					
Other Reserves					
Page 2 Total					
GRAND TOTAL USES:					
	$		$		$
	$		$		$
			Total Uses		$

Sources ($)	
HUD Funds	
HOPE VI Revitalization	
PH Capital Fund	
Modernization	
PH Development	
MROP	
HOPE VI Demolition Grant	
Other HUD Funds	
HOME	
CDBG	
Other	
Total HUD Funds	$
Non-HUD Public Funds	
State Funds	
Local Funds (Non PHA)	
PHA Funds	
Other Funds	
Describe Other	
Total Non-HUD Public Funds	$
Private Funds	
Tax Exempt Bonds	
Taxable Bonds	
Private LIHTC	
Other Equity	
Homebuyer Down Payment	
Donations/Grants	
Private Lender	
Other	
Describe Other:	
Total Private Funds	$
Total Sources	$

form **HUD-52860-A** (08/2002)

HOPE VI Budget

Part I: Summary

U. S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0208
(exp. 12/2004)

Public Reporting Burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.
This information is necessary to provide details on the funds requested by Housing Authorities. The form displays the amount requested, broken down by budget line item, with each use explained on Part II. The requested information will be reviewed by HUD to determine if the amount requested is reasonable and whether the required percentages of capital and supportive services funds are met. Responses to the collection are required by the appropriation under which the HOPE VI grant was funded. The information collected does not lend itself to confidentiality.
HUD may not conduct or sponsor, and a person is not required to respond to collection of information unless it displays a currently valid OMB control number.

PHA Name: 0
Devel. Name: 0

HOPE VI Grant Number: 0
Budget Revision Number: 0

Line No.		Summary by Budget Line Item	Revised Overall HOPE VI Budget for All Project Phases	Previous Amount of Funds Authorized for Expenditure	Changes Requested in this Revision	HUD-Approved Total Amount of Funds Authorized for Expenditure
1	1408	Management Improvements/ Community and Supportive Services	$ -	$ -	$ -	$ -
2	1410	Administration	$ -	$ -	$ -	$ -
3	1430	Fees and Costs	$ -	$ -	$ -	$ -
4	1440	Site Acquisition	$ -	$ -	$ -	$ -
5	1450	Site Improvement	$ -	$ -	$ -	$ -
6	1460	Dwelling Structures	$ -	$ -	$ -	$ -
7	1465	Dwelling Equipment-Nonexpendable	$ -	$ -	$ -	$ -
8	1470	Nondwelling Structures	$ -	$ -	$ -	$ -
9	1475	Nondwelling Equipment	$ -	$ -	$ -	$ -
10	1485	Demolition	$ -	$ -	$ -	$ -
11	1495	Relocation Costs	$ -	$ -	$ -	$ -
12		**Total Funds Authorization** (Sum Of Lines 1-11)		$ -	$ -	$ -
13	U2000	Funds held in Reserve		$ -		$ -
14		**Amount of HOPE VI Grant** (Sum Of Lines 1-13)	$ -	$ -		$ -

Signature of PHA Executive Director

X Date

HUD Certification: In approving this budget and providing assistance to a specific housing development(s), I hereby certify that the assistance will not be more than is necessary to make the assisted activity feasible after taking into account assistance from other government sources (24 CFR 12.50).

Signature of Authorized HUD Official

X Date

HOPE VI Budget: **Part II: Supporting Pages for Revision to Overall Budget, Expenditure Allocation and/or Authorized Spending Amount**

Prior Bdgt Date	PHA:	Budget Revision Number	Grant Number
	Development Name:		

Budget Line Item Number	Description of Proposed/Approved Action Use of Additional Authorized Funds	Current Overall HOPE VI Budget (All phases)	Requested Change in Overall HOPE VI Budget (All phases)	Requested Change in Disbursed Funds (Realignment)	Current Authorized Amount (Current Spread)	Requested Change in Amount Authorized for Expenditure (Change in Spread)	Total Funds to be Authorized for Expenditure (New Spread)
1	2	3	4	5	6	7	8
1408	MANAGEMENT IMPROVEMENTS / COMMUNITY AND SUPPORTIVE SERVICES						
Prior Bdgt Date	**Total Changes**						
	Previous Approved Budget Totals						
	NEW TOTALS FOR HUD APPROVAL						
	Percentage of BLI Budget						
1410	ADMINISTRATION						
Prior Bdgt Date	**Total Changes**						
	Previous Approved Budget Totals						
	NEW TOTALS FOR HUD APPROVAL						
	Percentage of BLI Budget						

form **HUD-52825-A**

HOPE VI Budget: **Part II: Supporting Pages for Revision to Overall Budget, Expenditure Allocation and/or Authorized Spending Amount**

Budget Line Item Number	Description of Proposed/Approved Action Use of Additional Authorized Funds	Current Overall HOPE VI Budget (All phases)	Requested Change in Overall HOPE VI Budget (All phases)	Requested Change in Disbursed Funds (Realignment)	Current Authorized Amount (Current Spread)	Requested Change in Amount Authorized for Expenditure (Change in Spread)	Total Funds to be Authorized for Expenditure (New Spread)
1	2	3	4	5	6	7	8
1430	FEES AND COSTS						
Prior Bdgt Date	**Total Changes**						
	Previous Approved Budget Totals						
	NEW TOTALS FOR HUD APPROVAL						
	Percentage of BLI Budget						
1440	SITE ACQUISITION						
Prior Bdgt Date	**Total Changes**						
	Previous Approved Budget Totals						
	NEW TOTALS FOR HUD APPROVAL						
	Percentage of BLI Budget						

form **HUD-52825-A**

HOPE VI Budget: **Part II: Supporting Pages for Revision to Overall Budget, Expenditure Allocation and/or Authorized Spending Amount**

Budget Line Item Number	Description of Proposed/Approved Action Use of Additional Authorized Funds	Current Overall HOPE VI Budget (All phases)	Requested Change in Overall HOPE VI Budget (All phases)	Requested Change in Disbursed Funds (Realignment)	Current Authorized Amount (Current Spread)	Requested Change in Amount Authorized for Expenditure (Change in Spread)	Total Funds to be Authorized for Expenditure (New Spread)
1	2	3	4	5	6	7	8
1450	SITE IMPROVEMENTS						
Prior Bdgt Date	**Total Changes**						
	Previous Approved Budget Totals						
	NEW TOTALS FOR HUD APPROVAL						
	Percentage of BLI Budget						
1460	DWELLING STRUCTURES						
Prior Bdgt Date	**Total Changes**						
	Previous Approved Budget Totals						
	NEW TOTALS FOR HUD APPROVAL						
	Percentage of BLI Budget						

form **HUD-52825-A**

HOPE VI Budget: **Part II: Supporting Pages for Revision to Overall Budget, Expenditure Allocation and/or Authorized Spending Amount**

Budget Line Item Number	Description of Proposed/Approved Action Use of Additional Authorized Funds	Current Overall HOPE VI Budget (All phases)	Requested Change in Overall HOPE VI Budget (All phases)	Requested Change in Disbursed Funds (Realignment)	Current Authorized Amount (Current Spread)	Requested Change in Amount Authorized for Expenditure (Change in Spread)	Total Funds to be Authorized for Expenditure (New Spread)
1	2	3	4	5	6	7	8
1465	DWELLING EQUIPMENT - NONEXPENDABLE						
Prior Bdgt Date	**Total Changes**						
	Previous Approved Budget Totals						
	NEW TOTALS FOR HUD APPROVAL						
	Percentage of BLI Budget						
1470	NONDWELLING STRUCTURES						
Prior Bdgt Date	**Total Changes**						
	Previous Approved Budget Totals						
	NEW TOTALS FOR HUD APPROVAL						
	Percentage of BLI Budget						

form HUD-52825-A

HOPE VI Budget: **Part II: Supporting Pages for Revision to Overall Budget, Expenditure Allocation and/or Authorized Spending Amount**

Budget Line Item Number	Description of Proposed/Approved Action Use of Additional Authorized Funds	Current Overall HOPE VI Budget (All phases)	Requested Change in Overall HOPE VI Budget (All phases)	Requested Change in Disbursed Funds (Realignment)	Current Authorized Amount (Current Spread)	Requested Change in Amount Authorized for Expenditure (Change in Spread)	Total Funds to be Authorized for Expenditure (New Spread)
1	2	3	4	5	6	7	8
1475	NONDWELLING EQUIPMENT						
Prior Bdgt Date	**Total Changes**						
	Previous Approved Budget Totals						
	NEW TOTALS FOR HUD APPROVAL						
	Percentage of BLI Budget						
1485	DEMOLITION						
Prior Bdgt Date	**Total Changes**						
	Previous Approved Budget Totals						
	NEW TOTALS FOR HUD APPROVAL						
	Percentage of BLI Budget						

form **HUD-52825-A**

HOPE VI Budget: **Part II: Supporting Pages for Revision to Overall Budget, Expenditure Allocation and/or Authorized Spending Amount**

Budget Line Item Number	Description of Proposed/Approved Action Use of Additional Authorized Funds	Current Overall HOPE VI Budget (All phases)	Requested Change in Overall HOPE VI Budget (All phases)	Requested Change in Disbursed Funds (Realignment)	Current Authorized Amount (Current Spread)	Requested Change in Amount Authorized for Expenditure (Change in Spread)	Total Funds to be Authorized for Expenditure (New Spread)
1	2	3	4	5	6	7	8
1495	RELOCATION COSTS						
Prior Bdgt Date	**Total Changes**						
	Previous Approved Budget Totals						
	NEW TOTALS FOR HUD APPROVAL						
	Percentage of BLI Budget						

Total Changes					
Previous Approved Budget Totals					
NEW BLI TOTAL					

form **HUD-52825-A**

Attachment 9:
TDC/Grant Limitations Worksheet

FOLLOW THE STEP-BY-STEP INSTRUCTIONS

Page 1

Note: If completing Attachment 9 manually, rather than using the Excel workbook, start at Step 4 (page 2).

Step 1. Select your City from the menu below.
Click as indicated to see the lists of cities, scroll through the list, click on your City, and click "OK."

Step 2. Repeat Step 1 to select your State from the menu below.
Click as indicated to see the lists of states, scroll through the list, click on your State, and click "OK."

This table includes all Total Development Cost (TDC) dollar limits published in HUD Notice PIH 2003-8. If your City is not shown, contact Mr. Satinder Munjal for assistance: HUD Office of Public Housing Investments, (202) 708-0614, extension 4196.

If you have selected a valid City/State combination, a table will be created that extends down to row 82. The TDC limits for each unit type shown on this table will be transferred automatically to the table on the next worksheet, "TDC Limit Calculation."

Step 3. After selecting the appropriate City and State, go to Step 4, page 2. (If using the Excel file, click on the worksheet tab entitled "TDC Limit Calculation" at the bottom of this window.)

City	(All)	<-- Select your City from list here
StateName	(All)	<-- Select your State from list here

		Bedrooms	Type	Data	Total
Detached / Semi-Detached	TDC Limit per Unit	0	Detached/Semi-Detached	0 Bedrooms TDC	36,069,471
		1		1 Bedrooms TDC	47,645,617
		2		2 Bedrooms TDC	62,182,902
		3		3 Bedrooms TDC	75,018,658
		4		4 BedroomsTDC	88,640,855
		5		5 Bedrooms TDC	97,131,096
		6		6 Bedrooms TDC	105,269,890
	HCC Limit per Unit	0		0 Bedrooms HCC	20,611,126
		1		1 Bedrooms HCC	27,226,067
		2		2 Bedrooms HCC	35,533,087
		3		3 Bedrooms HCC	42,867,805
		4		4 Bedrooms HCC	50,651,917
		5		5 Bedrooms HCC	55,503,483
		6		6 Bedrooms HCC	60,154,223
Elevator	TDC Limit per Unit	0	Elevator	0 Bedrooms TDC	27,102,156
		1		1 Bedrooms TDC	37,943,019
		2		2 Bedrooms TDC	48,783,882
		3		3 Bedrooms TDC	65,045,175
		4		4 BedroomsTDC	81,306,469
		5		5 Bedrooms TDC	92,147,332
		6		6 Bedrooms TDC	102,988,194
	HCC Limit per Unit	0		0 Bedrooms HCC	16,938,848
		1		1 Bedrooms HCC	23,714,387
		2		2 Bedrooms HCC	30,489,926
		3		3 Bedrooms HCC	40,653,235
		4		4 Bedrooms HCC	50,816,543
		5		5 Bedrooms HCC	57,592,082
		6		6 Bedrooms HCC	64,367,622
Row House	TDC Limit per Unit	0	Row House	0 Bedrooms TDC	32,266,407
		1		1 Bedrooms TDC	42,377,194
		2		2 Bedrooms TDC	54,964,417
		3		3 Bedrooms TDC	66,130,920
		4		4 BedroomsTDC	77,849,269
		5		5 Bedrooms TDC	85,295,434
		6		6 Bedrooms TDC	92,152,163
	HCC Limit per Unit	0		0 Bedrooms HCC	18,437,947
		1		1 Bedrooms HCC	24,215,539
		2		2 Bedrooms HCC	31,408,239
		3		3 Bedrooms HCC	37,789,097
		4		4 Bedrooms HCC	44,485,296
		5		5 Bedrooms HCC	48,740,248
		6		6 Bedrooms HCC	52,658,379
Walkup	TDC Limit per Unit	0	Walkup	0 Bedrooms TDC	27,349,151
		1		1 Bedrooms TDC	36,713,564
		2		2 Bedrooms TDC	46,713,996
		3		3 Bedrooms TDC	62,041,836
		4		4 BedroomsTDC	76,791,383
		5		5 Bedrooms TDC	86,599,050
		6		6 Bedrooms TDC	95,837,120
	HCC Limit per Unit	0		0 Bedrooms HCC	15,628,086
		1		1 Bedrooms HCC	20,979,180
		2		2 Bedrooms HCC	26,693,712
		3		3 Bedrooms HCC	35,452,478
		4		4 Bedrooms HCC	43,880,790
		5		5 Bedrooms HCC	49,485,172
		6		6 Bedrooms HCC	54,764,069

Attachment 9:
TDC/Grant Limitations Worksheet

Page 2

Step 4. Enter name of PHA:

Step 5. (a) Enter name(s) of project(s):

(b) Enter City (from TDC table): (All)
(c) Enter State (from TDC table): (All)

Note: If the selected City or State is wrong, return to Page 1, Steps 1 and 2, to correct your selections (click on "Select City & State" tab below).

Step 6. In the appropriate BUILDING TYPE and Bedroom (BR) categories below, enter the number of NEW UNITS in section 6(a), and/or REHABILITATION UNITS in section 6(b), proposed for funding under this application.

The Excel form will calculate totals for each unit type, and worksheet totals in section 6(c), based on City and State selected on page 1.

If you are completing this Attachment 9 manually, use the applicable TDC limits for each unit type found in HUD Notice PIH 2003-8.

Definitions

NEW UNITS include all on-site and off-site rental units that will receive public housing operating subsidy. Also include any homeownership units (including lease-purchase), that will be newly-constructed or acquired (with or without rehabilitation) utilizing any HOPE VI grant funds or other public housing capital assistance for development.

REHABILITATION UNITS include only existing public housing units that are proposed for rehabilitation utilizing HOPE VI grant funds or other public housing capital assistance.

Building Types

Detached buildings are single-family dwellings.
Semi-Detached buildings, also referred to as "duplex" units, are structures that include only two units.
Elevator buildings include only those structures with an elevator and four or more floors above ground.
Row House refers to any structure with three or more units that has only vertical common walls.
If a building with three or more units has upper/lower units (and is not an elevator building), it is classified as a Walkup.
Walkup buildings include all structures with three or more units that are not classified as Elevator or Row House.

6(a) **NEW UNITS (new construction, and units to be acquired and rehabilitated)**

BUILDING TYPE	BR's	Number of Units	HCC Limit per Unit	HCC Totals	Community Renewal Allowance Total	TDC Limit per Unit	TDC Limit Totals
Detached / Semi-Detached	1BR					$ 47,645,617	$ -
	2BR					$ 62,182,902	$ -
	3BR					$ 75,018,658	$ -
	4BR					$ 88,640,855	$ -
	5BR					$ 97,131,096	$ -
Elevator	1BR					$ 37,943,019	$ -
	2BR					$ 48,783,882	$ -
	3BR					$ 65,045,175	$ -
	4BR					$ 81,306,469	$ -
	5BR					$ 92,147,332	$ -
Row House	1BR					$ 42,377,194	$ -
	2BR					$ 54,964,417	$ -
	3BR					$ 66,130,920	$ -
	4BR					$ 77,849,269	$ -
	5BR					$ 85,295,434	$ -
Walkup	1BR					$ 36,713,564	$ -
	2BR					$ 46,713,996	$ -
	3BR					$ 62,041,836	$ -
	4BR					$ 76,791,383	$ -
	5BR					$ 86,599,050	$ -

Subtotal New Units: 0

6(b) **REHABILITATION UNITS (existing pubic housing units to be rehabilitated)***

BUILDING TYPE	BR's	Number of Units	HCC Limit per Unit	HCC Totals	Comm Renewal Allowance Total	TDC Limit per Unit*	TDC Limit Totals
Detached / Semi-Detached	1BR					$ 42,881,056	$ -
	2BR					$ 55,964,612	$ -
	3BR					$ 67,516,793	$ -
	4BR					$ 79,776,769	$ -
	5BR					$ 87,417,986	$ -
Elevator	1BR					$ 34,148,717	$ -
	2BR					$ 43,905,493	$ -
	3BR					$ 58,540,658	$ -
	4BR					$ 73,175,822	$ -
	5BR					$ 82,932,599	$ -
Row House	1BR					$ 38,139,475	$ -
	2BR					$ 49,467,976	$ -
	3BR					$ 59,517,828	$ -
	4BR					$ 70,064,342	$ -
	5BR					$ 76,765,891	$ -
Walkup	1BR					$ 33,042,208	$ -
	2BR					$ 42,042,597	$ -
	3BR					$ 55,837,653	$ -
	4BR					$ 69,112,245	$ -
	5BR					$ 77,939,145	$ -

Subtotal Rehab Units: 0

6(c)

Totals for all New and Rehabilitation Units	0					$ -

* Rehabilitation Units are eligible for 90% of the TDC limit. If the project unit configuration (number of units or bedrooms) will change due to rehabilitation activities, use the number of units and bedroom sizes after rehabilitation, not the unit configuration before rehabilitation.

OMB Approval No. 2577-0208
(exp. 3/31/2007)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this collection of information is mandatory to obtain a benefit. The information requested does not lend itself to confidentiality. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Attachment 9:
TDC/Grant Limitations Worksheet

COMPLETE THIS WORKSHEET LAST

To determine the maximum grant amount that may be requested in this HOPE VI revitalization application, enter the requested information. If you are using the Excel form, totals are calculated automatically.
If you are manually calculating the maximum grant amount that may be requested on this Attachment 9, follow the calculation instructions provided below on this worksheet.

6(d) TDC limit, unadjusted (entered automatically from "TDC Limit Calculation") $ -
(To calculate manually, enter the TDC Limit Total for all New and Rehabilitation Units from 6(c), page 2)

Step 7. Enter HOPE VI request for CSS funding. $ -
(from Attachment 7, Sources and Uses Budget)
(Note: request for HOPE VI Community and Supportive Services (CSS) funding may not exceed 15% of total grant requested, and amounts above 5% of grant must be matched by other sources.)

Step 8. Enter HOPE VI funds requested for demolition and remediation of dwelling units. $ -
(Enter the combined total of the dwelling unit remediation and dwelling unit demolition line items from Attachment 7, Sources and Uses Budget)

Step 9. Enter number of PH units to be demolished (after date of application only). ____

Step 10. Enter number of PH units to be built back on the original site. (-)
(Do not include existing public housing units to be rehabilitated)

10(a) Number of PH units to be demolished and not replaced back on original site -
(Number of units identified in Step 9, minus the number of units identified in Step 10)

10(b) Percent of original PH units to be demolished and not replaced back on original site - %
(Number of units identified in 10(a), divided by number of units identified in Step 9)
Example: Step 9 = 100 units to be demolished. Step 10 = 40 PH units to be built back on original site. 10(a) = 60 units demolished and not built back on original site. 10(b) = 60/100 = 60%

10(c) Demo/abatement costs attributable to units to be demolished and not replaced on orig. site $ -
(Dollar amount identified in Step 8, multiplied by percentage identified in 10(b))

Step 11. Enter HOPE VI request for "extraordinary site costs" (certified by architect or engineer). $ -

11(a) Subtotal: TDC limit, adjusted (for CSS, abatement/demolition, and extraordinary site costs) $ -
(Total of amounts above: 6(d) + Step 7 + 10(c) + Step 11)

Step 12. Enter all other HUD PH capital assistance proposed for HOPE VI development. ($ -)
(Include any project funds from the following sources: Public Housing Capital Funds or Mod funds (e.g., CIAP or CGP funds); Public Housing Development grants; previously-awarded HOPE VI demolition-only grants; and any borrowed funds secured by Capital Funds (from Attachment 7, Sources and Uses Budget))

12(a) Subtotal: Adjusted maximum allowable grant, after accounting for additional capital assistance $ -
(Total of Subtotal in 11(a), minus amount identified in Step 12)

12(b) Maximum allowable HOPE VI Revitalization Grant $20,000,000
(In accordance with provisions of the HUD 2003 HOPE VI Notice of Funding Availability)

12(c) Maximum allowable 2003 HOPE VI revitalization grant request $ -
(The lesser of 12(a) (adjusted max. possible grant), and 12(b) ($20,000,000))

Step 13. Enter the amount of your 2003 HOPE VI Revitalization Grant Request $ -
(If different than maximum allowable grant request, above)

form **HUD-52799** (2/2003)

ATTACHMENT 10: EXTRAORDINARY SITE COSTS CERTIFICATION

I hereby certify that:

1. I am a licensed engineer ☐ architect ☐ (check one).

2. I am not an employee of the applicant public housing authority or unit of local government in which the public housing project identified below is located.

3. Extraordinary site costs may be incurred in the revitalization and demolition of existing property, as well as in the development of new and rehabilitated units. Examples of such costs include, but are not limited to: abatement of extraordinary environmental site hazards; removal or replacement of extensive underground utility systems; extensive rock and/or soil removal and replacement; removal of hazardous underground tanks; work to address unusual site conditions such as slopes, terraces, water catchments, lakes, etc.; and work to address flood plain and other environmental remediation issues. Costs to abate asbestos and lead-based paint should be included in normal demolition costs where such items are found within the structures themselves. An example of extraordinary lead-based paint would be where the lead has leached into the soil and extraordinary measures are needed to remove the lead.

4. I have reviewed the attached description of the extraordinary site costs requested by the applicant Housing Authority identified below, and affirm that these costs qualify as extraordinary site costs (as that term is defined in Paragraph 3 above) and that the costs are justified and reasonable in light of my assessment of the site of the severely distressed project and the work proposed to be completed at that site.

Name: _____

Signature: _____
Date

License number: _____ State of Registration: _____

Applicant PHA: _____

Development Name: _____

Required Attachment: Description and itemized listing of extraordinary site costs.

Warning: HUD will prosecute false claims and statements. Conviction may result in the imposition of criminal and civil penalties. (18 U.S.C. 1001, 1010, 1012, 31 U.S.C. 3729, 3802)

ATTACHMENT 16: CERTIFICATION OF SEVERE PHYSICAL DISTRESS

I hereby certify that:

1. I am a licensed engineer ☐ architect ☐ (check one).

2. I am not an employee of the applicant public housing authority or unit of local government in which the public housing project identified below is located.

3. The public housing development listed below meets (in the manner described in either subparagraph (A) or (B) below) the following definition of severe physical distress:

   Requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plant of the project

check one:

A. ☐ The development currently meets the above definition of severe physical distress; or

B. ☐ The development has been legally demolished and HUD has not yet provided replacement housing assistance, other than tenant-based assistance, for the demolished units. However, the development satisfied the definition of severe physical distress (as defined above) as of the day the demolition was approved by HUD.

Name: _____

Signature: _____
Date

License number: _____ State of Registration: _____

Applicant PHA: _____

Development Name: _____

Warning: HUD will prosecute false claims and statements. Conviction may result in the imposition of criminal and civil penalties. (18 U.S.C. 1001, 1010, 1012, 31 U.S.C. 3729, 3802)

HOPE VI Revitalization
Leverage Resources

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0208
(exp.3/31/2007)

Public Reporting Burden for this collection of information is estimated to average 12 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this collection of information is mandatory to obtain a benefit. The information requested does not lend itself to confidentiality. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Attachment 19: *Physical Development Resources*

List all funds that will be used for Physical Development only. For each resource you list, you must provide a commitment document behind this Attachment that meets the standards described in the match and leveraging section of the NOFA. The amounts listed on this form must be consistent with the amounts listed on Attachment 7 (Sources & Uses) and the amounts in each resource commitment document.

Source of Resource	Dollar Value of Resource	Page # of Commitment Document	HUD Use Only Amount Approved
_____	$ _____	_____	$ _____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Page Total	$ _____		$ _____

Page ____ of ____

form HUD-52797 (12/2003)

Attachment 20: *Community and Supportive Services Resources*

List all funds or services that will be used for Community and Supportive Services only. For each resource you list, you must provide a commitment document behind this attachment that meets the standards described the match and leveraging section of the NOFA. The amounts listed on this form must be consistent with the amounts listed on Attachment 7 (Sources & Uses) and the amounts in each resource commitment document.

Source of CSS Resource	Dollar Value of Resource	Page # of Commitment Document	HUD Use Only Amount Approved
_____	$ _____	_____	$ _____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Page Total	$ _____		$ _____

Page ____ of ____

Attachment 21: *Anticipatory Resources*

List any anticipatory resources as described in the NOFA. For each resource, attach a letter certifying the expenditures incurred. Anticipatory resources cannot be counted as match and cannot be listed on Attachments 19, 20, or 22.

Source of Anticipatory Resource	Dollar Value of Resource	Page # of Commitment Document	HUD Use Only Amount Approved
_____	$ _____	_____	$ _____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Page Total	$ _____		$ _____

Page ____ of ____

Attachment 22: *Collateral Investment Resources*

List any funds or services that will be used for Collateral Investments only, as described in the NOFA. For each resource you list, attach a letter verifying the value of the collateral investment by the appropriate official (not the PHA). Collateral investment resources cannot be counted as match and cannot be listed on Attachments 19, 20, or 21.

Source of Collateral Investment Resource	Dollar Value of Resource	Page # of Commitment Document	HUD Use Only Amount Approved
	$		$
Page Total	$		$

Page ____ of ____

HOPE VI Revitalization Resident Training and Public Meeting Certification

U.S. Department of Housing and Urban Development Office of Public and Indian Housing

OMB Approval No. 2577-0208 (exp. 3/31/2007)

The public reporting burden for this collection of information for the HOPE VI Revitalization Program is estimated to average thirty minutes, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information and preparing the application package for submission to HUD.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Reports Management Officer, Paperwork Reduction Project, to the Office of Information Technology, US. Department of Housing and Urban Development, Washington, DC 20410-3600. When providing comments, please refer to OMB Approval No. 2577-0208. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

The information submitted in response to the Notice of Funding Availability for the HOPE VI Program is subject to the disclosure requirements of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101-235, approved December 15, 1989, 42 U.S.C. 3545).

ATTACHMENT 23: RESIDENT TRAINING AND PUBLIC MEETING CERTIFICATION

I hereby certify, on behalf of the Public Housing Authority identified below, that a Resident Training Session on the HOPE VI development process was held in accordance with the requirements of Section III.C.4. of the HOPE VI NOFA.

Date of HOPE VI Resident Training Session: _____

I hereby certify, on behalf of the Public Housing Authority identified below, that at least three Public Meetings were held in accordance with the requirements of Section III.C.4. of the HOPE VI NOFA.

Dates of Public Meetings:

#1_____

#2_____

#3_____

#4_____

#5_____

Name of Executive Director: _____

Signature: _____

Date

Name of PHA: _____

Development Name: _____

Warning: HUD will prosecute false claims and statements. Conviction may result in the imposition of criminal and civil penalties. (18 U.S.C. 1001, 1010, 1012, 31 U.S.C. 3729, 3802)

OMB Approval No. 2577-0208
(exp.j3/31/2007)

U.S. Department of Housing & Urban Development

Office of Public and Indian Housing

Office of Public Housing Investments

HOPE VI RELOCATION PLAN GUIDE

Housing Authority: _____

Executive Director: _____

Relocation Coordinator: _____

Planning Team Members: _____

_____

_____

_____

_____

TA Provider: _____

_____

Dated: _____

Revised 6/02

☐ Relocation plan ☐ Amendment to relocation plan

form **HUD-52774** (8/2002)

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I. Existing Project Summary

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VII. Relocation Services

VIII. Off-Site Acquisitions and/or Relocations

IX. Overcoming Potential Impediments to Relocation

X. Standards for Occupancy and Re-Occupancy

XI. Relocation Costs

XII. Resident Participation

XIII. Relocation Recordkeeping and Notices

The public reporting burden for this collection of information for the HOPE VI Relocation Plan Guide is estimated to average 15 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

In accordance with the Notice of Funding Availability, PHAs applying for HOPE VI Revitalization grant funding must certify in their application that they have completed a HOPE VI Relocation Plan in conformance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and 49 CFR part 24. PHAs may use this information collection, the HOPE VI Relocation Plan Guide, as a guide by which to develop their HOPE VI Relocation Plan. It is not required to be submitted to HUD.

This agency may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The information submitted in response to the Notice of Funding Availability for the HOPE VI Program is subject to the disclosure requirements of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101-235, approved December 15, 1989, 42 U.S.C. 3545). Warning: HUD will prosecute false claims and statements. Convictions may result in the imposition of criminal and civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

form **HUD-52774** (8/2002)

I. EXISTING PROJECT SUMMARY (AS OF _____).

HOUSING AUTHORITY NAME	
RELOCATION COORDINATOR	
ADDRESS	
PHONE NUMBER	
FAX NUMBER	
EMAIL ADDRESS	
BRIEF DESCRIPTION OF THE RELOCATION (OFF-SITE? ON SITE ETC.)	
ESTIMATED START DATE OF RELOCATION MOVES	

HOUSING DEVELOPMENT NAME(S):
HOUSING DEVELOPMENT NUMBER(S):
YEAR BUILT:
TOTAL NUMBER OF UNITS:
NUMBER OF OCCUPIED UNITS:
NUMBER OF VACANT UNITS:
SIZE OF SITE:

ACTIVITY TYPE(S): (SELECT ALL THAT APPLY)

- ☐ HOPE VI REVITALIZATION
- ☐ HOPE VI DEMOLITION GRANT
- ☐ DEMOLITION
- ☐ DISPOSITION
- ☐ MIXED-FINANCE DEVELOPMENT
- ☐ REHABILITATION
- ☐ PUBLIC HOUSING HOME OWNERSHIP
- ☐ CONVERSION OF PH TO VOUCHERS
- ☐ PUBLIC HOUSING DEVELOPMENT
- ☐ RECONFIGURATION OF UNITS

CURRENT UNIT MIX

UNIT SIZE	*OCCUPIED*	*VACANT*	*TOTAL*
0 BR			
1 BR			
2 BR			
3 BR			
4 BR			
5 BR			
TOTAL			

form **HUD-52774** (8/2002)

II. RELOCATION DESTINATIONS

BEST ESTIMATE, AS OF DATE OF SUBMISSION, OF ANTICIPATED RELOCATION DESTINATIONS

REPLACEMENT HOUSING		NUMBER OF RELOCATIONS TO EACH HOUSING TYPE						
		0BR	1BR	2BR	3BR	4BR	5BR	TOTAL
VACANT UNITS ON-SITE (WITHIN THE PH DEVELOPMENT)								
VACANT UNITS IN OTHER PUBLIC AND ASSISTED DEVELOPMENT(S)								
RESIDENT-BASED SECTION 8 (VOUCHERS								
HOMEOWNERSHIP								
OTHER HOUSING OPTIONS								
TOTAL								

Identify developments available for relocation.

Are any of the proposed relocation units located outside of the local jurisdiction? ☐ Yes ☐ No
If yes, please describe.

Development	O BR Unit	1 BR Unit	2 BR Unit	3 BR Unit	4 BR Unit
Unit Totals	0 BR Units	1 BR Units	2 BR Units	3 BR Units	4 BR Units

SUMMARY OF OTHER PUBLIC HOUSING RELOCATION ACTIVITIES PROPOSED OR ON-GOING IN THE JURISDICTION ***ACCORDING TO YOUR ONE-YEAR*** *PUBLIC HOUSING PLAN*

DEVELOPMENT NAME	PROJECT NUMBER	SITE NUMBER	NUMBER OF FAMILIES TO BE RELOCATED
TOTAL FAMILIES TO BE RELOCATED			

form **HUD-52774** (8/2002)

III. NUMBER OF FAMILIES TO BE RELOCATED

Provide a tally, as of the date of your HOPE VI application, of the families who reside in the building(s) scheduled for demolition or rehabilitation by filling out the following chart. (Note: Bedroom size refers to the size of the apartment they will need on relocation, not their current bedroom size):

UNIT SIZE	ELDER	FAMILY W/CHILDREN	NON-ELDERLY DISABLED	SINGLE	OTHER	TOTAL	ACCESSIBLE UNITS
0 BR							
1BR							
2BR							
3BR							
4BR							
5 OR MORE							
TOTAL							

PLEASE EXPLAIN ANY DUPLICATE COUNTS.
PLEASE INCLUDE RESIDENT CHARACTERISTICS 50058 DATA FOR THIS DEVELOPMENT (INCLUDE, AT A MINIMUM, INCOME, RACE, ETHNICITY AND FAMILY SIZE)

A. Temporary Move Assistance

There are no provisions for "temporary relocation" under the URA, unless a resident will not be permanently displaced but must be moved for a short period of time to allow their unit to be rehabilitated or because an emergency situation exists which is a threat to their health or safety. While many PHAs have used this term liberally, it is HUD's position that all residents of a project to be revitalized or demolished under HOPE VI should be provided full permanent relocation benefits as displaced persons unless all the following criteria are met:

- The HOPE VI project is solely rehabilitation,
- a sufficient number of suitable units will be available so that all residents can be guaranteed the ability to return to a unit in the project after rehabilitation,
- the PHA has made a final determination on each individual resident under the adopted return criteria that the resident is eligible to return to the completed project, and
- the resident will be in "temporary" housing for less than one year.

If all the above criteria are met, the person is not considered displaced under the URA, however, they must be reimbursed for all reasonable out of pocket expenses in connection with the temporary relocation pending their return to the project. In all other cases, or where a resident in a project must be moved for a period that exceeds one year, the Authority should provide full URA relocation benefits to enable a resident to make a permanent move

Temporary Housing - The PHA will provide temporary housing that is decent, safe, and sanitary on a nondiscriminatory basis for families or individuals who are moved temporarily on site, or who are moved off site in rehabilitation projects. If an Authority is unable to guarantee the resident's right to return to a rehabilitation project unit within 12 months, the Authority should issue a Notice of Eligibility for Relocation Assistance to the resident, and provide full displacement assistance.

Packing and Moving Assistance – If a resident prefers to pack their own personal possessions and items of value, they will be provided packing boxes and tape for the move. A resident who needs assistance in packing, should contact the Authority for assistance. It is the obligation of the Authority to pack and move all of a resident's belongings and household goods.

Incidental Costs - Incidental costs of a temporary move will be covered by relocation benefits and may include any required utility deposits at the temporary housing (but not permanent housing), and telephone and/or cable installation at both the temporary housing and upon return to the newly rehabilitated project (if the resident previously had telephone and/or cable service). If the newly rehabilitated project changes the utility service to resident-purchased from Authority-furnished utilities, and new or increased utility deposits will be required, the Authority cannot pay for the new utility deposits (since this is a cost required to be paid by any resident currently living in a project that is being converted to resident-purchased utilities or by any new resident moving into such a project).

Fair Market Rent – When it is necessary to temporarily house families or individuals in units other than public housing, rents paid by the Authority will not exceed Section 8 Existing Fair Market Rents, except as may be approved by the HUD Field Office. The portion of the rent paid by the family or individual will remain the same. When a pubic housing unit of suitable size and location becomes available, the family or individual must agree to move into the unit or any gap assistance (payments for reasonable increases in monthly housing costs at the temporary unit) will terminate.

B. Method of Payment - Move Related (Temporary)

For residents who are temporarily relocated, the Authority will provide Direct Payment or Reimbursement for all reasonable out-of-pocket expenses in connection with the move. To provide this assistance, the Authority will:

☐ Undertake the move itself, using force account labor or a moving company, and, therefore, be directly responsible for all moving and incidental costs.

☐ Authority's contractor or moving company

☐ Employees of the Authority

☐ Reimburse families or individuals for all actual and reasonable moving and incidental costs.

The Authority has determined the following estimates to be a guide for what is a reasonable cost for the moving of furniture, personal fixtures, and household goods only. In compliance with HUD's implementing instructions, it is not the intent of the Authority to use these estimates as "fixed payment" maximums.*

1-Bedroom Unit $_____	2-Bedroom Unit $_____	3-Bedroom Unit $_____
4-Bedroom Unit $_____	5-Bedroom Unit $_____	6-Bedroom Unit $_____

*NOTE: The Authority will not make fixed payments since such payments may not be representative of actual reasonable costs. However, in order for a resident to be sure of full reimbursement, residents should submit their moving cost estimate to the Authority for approval prior to the move. Failure to do so may result in the resident not being fully reimbursed.

C. Method of Payment - Utility Related (Temporary)

For residents who are temporarily relocated, the Authority will provide Direct Payment or Reimbursement for all disconnection and reconnection of necessary utilities {generally water, sewer, gas, and electricity}. To provide this assistance, the Authority has selected the following method of payment (Direct Payment or Reimbursement):

☐ The Authority will reimburse the resident the cost of transferring the following utility services to the replacement or temporary unit.

NAME OF UTILITY COMPANY	TYPE OF UTILITY SERVICE
_____	_____
_____	_____
_____	_____

NOTE: In order to receive reimbursement, each resident is required to submit proof of the cost of transferring the resident's existing utility service to the replacement or temporary unit such as a monthly statement indicating the transfer charge.

☐ The Authority will pay direct to the following utility companies the cost of transferring the resident's utility service to the replacement or temporary unit.

NAME OF UTILITY COMPANY	TYPE OF UTILITY SERVICE
_____	_____
_____	_____
_____	_____

D. Permanent Move Assistance

Displaced Person – The term "displaced person" means any person that moves from real property, or moves his or her personal property from the real property, permanently, due to HUD-funded acquisition, rehabilitation or demolition activities.

Residents who are to be displaced from the site will be given a *Notice of Eligibility for Relocation Assistance* that will discuss their eligibility for assistance under the URA. Residents will be cautioned "DO NOT MOVE UNTIL YOU RECEIVE THIS NOTICE." This Notice will be provided to each resident by the PHA as soon as possible after the Initiation of Negotiations (ION) which is the date HUD approves the PHAs Revitalization Plan, including all required supplemental submissions, and HUD authorizes the PHA to proceed with implementation of the Revitalization Plan.

Comparable Replacement Housing – The Authority will not require any family or individual to move unless at least one (where possible, three or more) comparable replacement dwelling, as defined in 49 CFR 24.2(d), is made available at least 90 days before the required move (refer to 49 CFR 24.204).

E. Move Assistance for Displaced residents *{To Other Public Housing}*

Direct Payment or Reimbursement of Moving Expenses - The Authority has chosen the following move for residents who are displaced into other Public Housing.

☐ Undertake the move itself, using force account labor or a moving company, at no cost to the individual or family being displaced. In such case, the family or individual also is entitled to a moving expense and dislocation allowance of $50.

Packing and Moving Assistance – If a resident prefers to pack their own personal possessions and items of value, they will be provided packing boxes and tape for the move. A resident should contact the PHA if he/she needs assistance in packing. The PHA is obligated to pack and move all of a resident's belongings and household goods.

☐ Allow the resident to elect one of the following displacement options.

1) The PHA will reimburse the resident for the actual cost of all actual reasonable moving and related expenses (48 CFR 24.301) such as:

- Transportation of the displaced person and personal property. (This may include reimbursement at the current mileage rate for personally owned vehicles which need to be moved). Transportation costs for a distance beyond 50 miles are not eligible, unless the Authority determines that relocation beyond 50 miles is justified.
- Packing, crating, uncrating, and packing of the personal property.
- Storage of the personal property for a period not to exceed 12 months, unless the Authority determines that a longer period is necessary.
- Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.
- Insurance for the replacement value of the property in connection with the move and necessary storage.
- The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

The PHA will pay the applicable and current fixed moving expense and dislocation allowance required under 49 CFR 24.302 directly to the resident. The current allowance schedule is based on the number of rooms of furniture to be moved.

F. Move Assistance for Displaced Residents *{To Housing Other Than Public Housing}*

Residents who are displaced out of public housing are entitled to the assistance described in the HUD brochure ***Relocation Assistance To Tenants Displaced From Their Homes (HUD-1042-CPD)***. Two of the key assistance components include moving assistance and replacement housing assistance.

Moving Assistance - For residents who are to be displaced into housing other than Public Housing, the Authority is required to permit each resident to choose from one of the following two options, but may include a third option. Even though not required, the PHA may offer the third "Local PHA" option described below, if "checked" by the Authority.

Option One – The Authority will reimburse the resident for the cost of all reasonable moving and related expenses (49 CFR 24.301).

Option Two – The Authority will pay the applicable and current fixed moving expense and dislocation allowance required under 49 CFR 24.302 directly to the resident. This allowance schedule is based on the number of rooms of furniture to be moved and is provided at the end of this section.

☐ *PHA Option* – The resident may select the same move assistance made available to residents who are moving into other public housing. The PHA will undertake the move itself, using force account labor or a moving company, at no cost to the individual or family being displaced. In such case, the family or individual is entitled to a moving expense and dislocation allowance of $50. This option ☐does include, ☐does not include, an advance loan payment to pay deposit costs.

Replacement Housing Payment - In addition to moving assistance, residents who are displaced into housing other than Public Housing may be entitled to a Replacement Housing Payment(RHP). This payment is intended to cover any increase in monthly housing costs. The RHP is calculated by multiplying the monthly difference in rent and other housing costs by 42 months. This payment may not be made as a lump sum; however, as few as two or three installments is appropriate. This amount cannot be adjusted after "vesting." When calculating the RHP, the PHA must consider the Comparable Replacement Housing unit offered to the resident. Since RHP costs above that approved by the PHA may not be eligible, residents are cautioned to work closely with the PHA prior to their move

G. Applicable Fixed Moving Expense and Dislocation Allowance ***{49 CFR 24.302}***

A resident who is displaced out of public housing may elect to receive either a payment for all actual and reasonable moving expenses or a fixed payment based on rooms of furniture. If the Authority chooses, this selection option may also be offered to residents who are displaced into other public housing. The Moving Expense and Dislocation Allowance available under 49 CFR 24.302, is based on the number of rooms of furniture, and was set at the following rates (effective _____):

1 Room $_____	2 Rooms $_____	3 Rooms $_____
4 Rooms $_____	5 Rooms $_____	6 Rooms $_____
Rooms $_____	8 Rooms $_____	

IV. RESIDENT PREFERENCES

Complete the chart below based on your tenant survey. Attach a copy of the survey instrument. Please also attach any analysis of survey results and any exceptional findings not noted elsewhere if applicable. Indicate the extent to which you plan to accommodate those preferences. Note the date of the survey.

PLANNED RELOCATION DESTINATIONS

REPLACEMENT HOUSING	NUMBER OF RELOCATIONS TO EACH HOUSING TYPE	
	ESTIMATE OF NUMBER AVAILABLE DURING RELOCATION PERIOD	NUMBER REQUESTED IN THE RESIDENT SURVEY
VACANT UNITS ON-SITE (WITHIN THE PH DEV.)		
VACANT UNITS IN OTHER PUBLIC AND ASSISTED DEV.		
RESIDENT-BASED SECTION 8 VOUCHERS		
HOMEOWNERSHIP		
OTHER HOUSING OPTIONS		
TOTAL		

General Transfer - A family or individual who is moved permanently from a project due to reasons other than HUD-funded rehabilitation or demolition activities (such as a family housed in an inappropriate size unit which is on the transfer list for an appropriate sized unit and is moved when one becomes available), is not a "displaced person" under the URA. The PHA is not required to use the funds provided by HUD for a HOPE VI project to pay for actual reasonable moving and incidental costs for general transfers between projects. The PHA's records should document the cause of the move when it is not subject to the URA.

Evictions for Cause – A resident is not entitled to relocation payments and assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA) (49 CFR Part 24) where the family or individual was evicted for serious or repeated violation of material terms of the lease and, therefore, the eviction was not undertaken by the PHA for the purpose of evading its obligation to make available moving assistance, rental assistance and/or other payments available under the URA. On the other hand, a resident who receives a Notice Of Eligibility For Relocation Assistance, and at a later date eviction proceedings are initiated which later result in his/her eviction, may still receive the relocation assistance identified in the Notice of Eligibility For Relocation Assistance (especially where such eviction is determined to be "for the project"). All eviction situations must be reviewed by the PHA to make a final determination on benefits which are due to the resident, if any..

RESIDENT REFUSAL - ONCE THE AUTHORITY HAS OFFERED REPLACEMENT HOUSING TO THE RESIDENT, EITHER TEMPORARY OR PERMANENT, THE AUTHORITY WILL SCHEDULE A MOVING DATE WITH THE RESIDENT. IF A PROBLEM ARISES WITH RELOCATING A RESIDENT IN A TIMELY MANNER, I.E., IF A RESIDENT REFUSES TO MOVE OR REFUSES TO MEET WITH THE AUTHORITY REGARDING A MOVE OR A RESIDENT CANNOT BE FOUND, THE AUTHORITY WILL INITIATE APPROPRIATE ACTION TO ADDRESS THE PROBLEM, WHICH MAY INCLUDE INITIATION OF EVICTION PROCEEDINGS. AN EVICTION "FOR THE PROJECT" SHOULD NOT EXTINGUISH A RESIDENT'S RIGHT TO RELOCATION ASSISTANCE.

V. USE OF SECTION 8 VOUCHERS

If you plan to relocate some families with Section 8 vouchers, provide the following information: (Many PHAs will already have assembled much of this information to comply with the SEMAP indicator on Expanding Housing Opportunities. Where applicable, PHAs may respond by attaching the relevant SEMAP materials). You may find it useful to consult a HUD 2020 map that details concentrations of Section 8 units.

- Availability of Rental Housing to Voucher Holders. Describe, generally, the availability of rental housing to voucher holders in the metropolitan area over the planned period of relocation. What is the vacancy rate? Is there a shortage of such housing? Is there a shortage of particular sized units?
- Voucher Success Rates. Describe the experience of households newly issued Section 8 vouchers by your agency in the past year. What proportion of families issued vouchers succeeded in using them to rent housing?
- Describe any different experience of households using Section 8 vouchers in connection with your recent relocation efforts (HOPE VI, other special initiatives).
- Utilization. Detail your Section 8 utilization rates over the past three years.
- Barriers to Voucher Usage. What barriers, if any, did these voucher-holders encounter in using their vouchers? What steps, if any, do you plan to take to help relocating families overcome these barriers (for example: raising the payment standard, extending families' search time, providing transportation assistance)?
- Expanding Housing Opportunities. What proportion of families issued vouchers by your agency have accessed neighborhoods outside areas of poverty and minority concentration? What steps, if any, do you plan to take to expand the range of neighborhoods accessible to relocating families issued Section 8 vouchers, including to neighborhoods outside areas of poverty and minority concentration? Describe the PHA's methods for recruitment of landlords with units for large families and for people with disabilities.
- Insulating Relocating Families From Increased Costs. What steps, if any, do you plan to take to ensure that families with vouchers have relocation options that will not cause their costs for housing and utilities to increase (e.g., raising the payment standard, providing supplemental payments)?
- Minimizing Conflicts With Other Relocation Efforts. Describe any other major activities that are being conducted by you or other subsidized housing providers (including other PHAs) that have or may soon result in increased numbers of families with Section 8 vouchers in the area (e.g., other HOPE VI projects, conversions of public housing, Section 8 opt-outs or pre-payments, major renovations of subsidized housing, etc.) and indicate how they will effect the availability of housing and services for relocating families. (Note: Your HUD office will be familiar with this information).

Comments:

PAYMENT STANDARDS (THIS INFORMATION IS AVAILABLE FROM YOUR HUD OFFICE.)				
	☐	The PHA uses one payment standard for the entire FMR area.		
	☐	The PHA uses separate payment standards for designated areas with the FMR area		
Complete the table below for each geographic area for which the PHA uses a different payment standard.				
	PAYMENT STANDARD AREA (DESCRIBE LOCATION):			
	UNIT SIZE	FAIR MKT RENT (FMR)	PHA'S PAYMENT STANDARD	PAYMENT STANDARD AS PERCENT OF FMR
	0 BR			
	1 BR			
	2 BR			
	3 BR			
	4 BR			
	5 BR			

form HUD-52774 (8/2002)

VI. RELOCATION RESOURCES – *OTHER THAN SECTION 8*

Describe in detail the housing resources, other than vouchers that you plan to use to relocate families. Include at minimum:

- If you plan to relocate some families to other public housing developments, indicate which public housing developments and, to the extent that you know, how many families you plan to move to each. Explain the basis on which these are comparable or improved housing opportunities.
- If you plan on using *resources other than vouchers or PHA*-controlled resources, describe them. Please include census tract data on poverty level and ethnicity for each identified resource. Explain the basis on which you expect these resources to improve the tenants' living environment.

Explain the basis for your conclusion that the resources you have identified are sufficient to re-house all families in need of relocation. To the extent practicable, support your response with data from objective sources.

VII. RELOCATION SERVICES

Describe in detail the relocation services you plan to provide families that are relocating, either directly or through partnerships with other agencies. See Handbook 1378, Chapter 2, for a description of advisory services required under the URA.

- How many housing search counselors will be employed and for how long? What will their caseloads be?
- What steps will be taken to ensure that families have transportation to explore different housing opportunities?
- What other relocation services will be provided to families, such as mobility counseling, self-sufficiency training, access to childcare?
- Describe information provided to residents during the planning process regarding proposed moving assistance, benefits, rights, privileges, protections, advisory services, counseling, and housing options which will be available to each household that is required to move.

VIII. OFF-SITE ACQUISITIONS AND/OR RELOCATIONS

Does the Authority plan to acquire off-site property? ☐ Yes ☐ No
If yes, how many parcels are expected to be acquired?

Will there be any "off-site" displacement of persons*? ☐ Yes ☐ No

* The term "person" is meant to include homeowners, tenants, or nonresidential owner or tenant occupants such as businesses, nonprofit organizations, or farms.

If yes, how many: Non-Residential
Homeowner
Tenant

If such off-site displacements are planned, the Authority should conduct a survey to determine the availability and cost of comparable replacement housing for tenants and homeowners, and the availability and cost of suitable locations for all businesses. Based on this survey, please provide sufficient information to assure HUD that adequate replacement housing, and suitable locations for non-residential occupants, are available for relocating those who are affected by the project.

Indicate the costs of such moves, and the costs of any planned acquisitions, in the **Off-Site Acquisitions and Moves** of **Section XI, Relocation Costs**.

NOTE: To obtain guidance and examples of notices for displacement of private sector homeowners, tenants, and businesses, the authority should review HUD Handbook 1378. The Authority is reminded that such displacements are not only complicated, they can be quite expensive and time consuming. *Example: Since Section 8 vouchers do not preclude a private sector tenant's right to opt for a replacement housing payment under the URA, a low income person, moving from a crowded, substandard unit, and into a decent, safe and sanitary comparable unit, might receive a payment of as much as $20,000 or more.*

IX. OVERCOMING POTENTIAL IMPEDIMENTS TO RELOCATION

Describe in detail any impediments that you anticipate to families' successful relocation and indicate what you plan to do to address those impediments. For example, if households that you plan to relocate with Section 8 vouchers have utility debts that will make it difficult for them to secure utility services, what do you plan to do to help them access those utilities?

Since deposits are generally ineligible for reimbursement, do you plan to offer financial assistance, under a recapture agreement, to assist the relocating families with cleaning, security, or utility deposits? ____ Yes ____No If so, briefly describe your "loan" process.

How will you ensure that suitable replacement housing will be available for large families?

UTILITY AND/OR SECURITY DEPOSITS - EVEN **THOUGH THE AUTHORITY IS NOT PERMITTED TO PAY UTILITY AND/OR SECURITY DEPOSITS FOR PERMANENT MOVES, THE AUTHORITY CAN ADVANCE NEEDED DEPOSITS TO RESIDENTS WHO CHOOSE REIMBURSEMENT FOR THE ACTUAL AND REASONABLE COSTS OF THE MOVE, PROVIDED THE RESIDENT EXECUTES AN AGREEMENT TO REPAY THE FUNDS. SUCH ADVANCE PAYMENTS OF DEPOSITS ARE IN ESSENCE LOANS, AND, THEREFORE, ARE TO BE REPAID IN ACCORDANCE WITH THE TERMS OF THE REPAYMENT AGREEMENT AGREED TO BY THE AUTHORITY AND THE RESIDENT.**

X. STANDARDS FOR OCCUPANCY AND RE-OCCUPANCY

- Describe the criteria, as currently defined, that current residents should meet in order to return to the revitalized site and other off-site replacement housing. To the extent that time limits are imposed for re-occupancy, tenants should have ample notice to potentially comply. (However, this does not apply to criminal records.)
- Do you intend to adopt any occupancy requirements or lease provisions for the HOPE VI site that differ from the occupancy requirements or lease provisions for other public housing developments administered by your agency? If so, describe.
- Based on current circumstances, what proportion of the original residents do you anticipate will be able to meet the conditions of re-occupancy without any further assistance? What additional proportion of the original residents will be able to meet the criteria for re-occupancy with the assistance of support services the PHA provides for them?
- How many residents have indicated a desire to return to the revitalized site? How many public housing units do you anticipate will be available at the revitalized site?
- If the management agent is not yet in place, describe the process for revisiting the criteria that the original residents should meet in order to return to the revitalized site.
- A resident displaced from a HOPE VI project should not be precluded from applying and being considered for housing in the project after completion.

XI. RELOCATION COSTS

Provide a detailed relocation budget that indicates the projected costs for each element of the relocation.

URA RELOCATION MOVE (INCLUDING MOVING COSTS AND UTILITIES)	
NON-URA RETURN MOVE (OPTIONAL) (INCLUDING MOVING COSTS AND UTILITIES) _____	_____
URA TEMPORARY MOVE (LESS THAN 1 YR.)(INCLUDING MOVING COSTS AND UTILITIES) _____	_____
SECTION 8 SECURITY DEPOSITS AND OTHER INITIAL OCCUPANCY PAYMENTS	_____
OFF-SITE ACQUISITIONS AND MOVES (IF ANY): ____ PROPERTY ACQUISITION(S) $ _____ ____ NON-RESIDENTIAL MOVES AT $ _____ PER MOVE ____HOMEOWNER MOVES (REPLACEMENT HOUSING AND PHYSICAL MOVE COSTS) AT $_____ PER MOVE ____TENANT MOVES (REPLACEMENT HOUSING AND PHYSICAL MOVE COSTS) AT $_____ PER MOVE. RELOCATION COSTS FOR ALL OFF-SITE PRIVATE SECTOR MOVES $_____	
RELOCATION PROGRAM ADMINISTRATION, COUNSELING	
INCREASES IN MONTHLY RELOCATION HOUSING COSTS OVER 42 MONTHS (OR 60 MONTHS IF CDBG OR HOME $ INVOLVED AND NO SECTION 8 VOUCHER IS AVAILABLE (SEE HB 1378, SECTION 7-16.E.(1)(C)).	
CONTINGENCY	
TOTAL	

SOURCE:	
SOURCE:	
SOURCE:	
TOTAL	

ESTIMATE OF PHYSICAL MOVING COSTS AND UTILITY RELOCATION COSTS			
	Of ___Resident households required to move		
	___ will be moved at $___ each for a total of	$___	

form **HUD-52774** (8/2002)

	Type Move: *A one-time move into another unit in the same public housing (PH) development*		
	___ will be moved at $___ each for a total of	$___	
	Type Move: *Two moves within the same PH development*		
	___ will be moved at $___ each for a total of	$___	
	Type Move: *One move to a unit at another PH development and then a return move back to the site*		
	___ will be moved at $___ each for a total of	$___	
	Type Move: *One permanent move into another PH development*		
	___ will be moved at $___ each for a total of	$___	
	Type Move: *One move into a unit in the private market, including moves with Section 8 vouchers*		
	___ will be moved at $___ each for a total of	$___	
	Type Move: *One move into a S.8 or non-PH unit and then a return move back to the site.*		
	Physical moving costs and utility costs (all moves)	**$___**	

Vested - Once a displaced resident has been permanently relocated into a decent, safe, and sanitary comparable replacement housing unit, and the PHA determines that a Replacement Housing Payment (RHP) is necessary to make the unit affordable, the full amount calculated based on need (see HUD Handbook 1378, Sections 3-3, 3-4, and 3-5) becomes "vested." Because eligibility for URA benefits is premised upon the situation at the time of displacement, what may occur following this vesting cannot serve to cut off rights to periodic installment RHP. In short, while the RHP cannot be paid in a lump sum and must be paid in increments, the legal obligation to make the computed sum available to the displacee is determined at the time of the displacement and cannot be terminated or altered by subsequent circumstances.

XII. RESIDENT PARTICIPATION

- Describe activities involving residents in relocation planning, including consultation with residents and/or resident council and the provision of technical assistance so that they may be involved in the development and revisions, if any, to the relocation plan.

- If applicable, describe what actions will be taken to assure effective communication with residents: (1) who need services or information in languages other than English, and (2) with disabilities.

XIII. RELOCATION RECORDKEEPING AND NOTICES

The Authority, as part of its recordkeeping requirements, is maintaining an occupant list that, when the project is completed, will identify; 1) All persons occupying the real property at the initial submission of the application for assistance; 2) All persons moving into the property on or after the date on which the project begins, and; 3) All persons occupying the property upon completion of the project.

The Authority will hand deliver, with receipt on file, or send by certified mail, return receipt requested, the following notices required at 49 CFR Part 24.

General Information Notice (GIN) – When will the Authority provide to each tenant the applicable/required GIN, along with a brochure that explains his/her benefits, rights, and privileges; and the moving assistance available for each type of move?

Initiation of Negotiation Notice – Will the Authority be prepared to provide, on the date HUD approves the Revitalization Plan, or as soon as feasible thereafter, the required Notice of Eligibility For Relocation Assistance, or Notice of Nondisplacement, as applicable, to each eligible resident?

☐ Yes ☐ No

Move In Notice – Does the Authority plan to provide a Move In Notice to all new tenants who move into a project unit, after application submission? This notice is at the Authority's discretion. [NOTE: An example Guideform Notice is found at Appendix 29 in HUD Handbook 1378.]

☐ Yes ☐ No

Attach copies of anticipated Notices that will be given to residents. Sample forms are included in the appendix to Notice CPD-02-16 and Handbook 1378.

HOPE VI Revitalization Project Readiness Certification

U.S. Department of Housing and Urban Development Office of Public and Indian Housing

OMB Approval No. 2577-0208 (exp.3/31/2007)

The public reporting burden for this collection of information for the HOPE VI Revitalization Program is estimated to average thirty minutes, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information and preparing the application package for submission to HUD.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Reports Management Officer, Paperwork Reduction Project, to the Office of Information Technology, US. Department of Housing and Urban Development, Washington, DC 20410-3600. When providing comments, please refer to OMB Approval No. 2577-0208. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

The information submitted in response to the Notice of Funding Availability for the HOPE VI Program is subject to the disclosure requirements of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101-235, approved December 15, 1989, 42 U.S.C. 3545).

ATTACHMENT 31: PROJECT READINESS

I hereby certify, on behalf of the Public Housing Authority identified below, that the activities checked below have been completed in accordance with Section V.A.9.d. of the NOFA.

_____ The targeted severely distressed public housing project is completely vacant.

_____ The targeted severely distressed public housing site is cleared or your Revitalization Plan only includes rehabilitation and no demolition of public housing units.

_____ A Master Development Agreement has been developed and is ready to submit to HUD.

_____ The preliminary site design is complete.

_____ The PHA has held 5 or more public planning sessions (including resident training sessions and public meetings) leading to resident acceptance of the Plan. No more than three of these meetings may be the same as those included as "Resident and Community Involvement" meetings required by Section III.C.4. of the NOFA. The dates of those meetings are as follows:

#1_____

#2_____

#3_____

#4_____

#5_____

Name of Executive Director: _____

Signature: _____

Date

Name of PHA: _____

Development Name: _____

Warning: HUD will prosecute false claims and statements. Conviction may result in the imposition of criminal and civil penalties. (18 U.S.C. 1001, 1010, 1012, 31 U.S.C. 3729, 3802)

Logic Model

U.S. Department of Housing and Urban Development
Office of Departmental Grants Management and Oversight

OMB Approval No. 2535-0114
(exp. 12/31/2006)

Program Name:_____

Component Name:_____

Strategic Goals	Policy Priorities	Problem, Need, Situation	Service or Activity	Benchmarks		Outcomes		Measurement Reporting Tools	Evaluation Process
				Output Goal	Output Result	Achievement Outcome Goals	End Results		
1		2	3	4	5	6	7	8	9
Policy		Planning		Intervention		Impact		Accountability	
				Short Term				a. b. c. d. e.	
				Intermediate Term				a. b. c. d. e.	
				Long Term				a. b. c. d. e.	

HUD's Strategic Goals

1. Increase homeownership opportunities.
2. Promote decent affordable housing.
3. Strengthen communities.
4. Ensure equal opportunity in housing.
5. Embrace high standards of ethics, management, and accountability.
6. Promote participation of grass-roots faith-based and other community-based organizations.

Policy Priorities

1. Provide Increased Homeownership and Rental Opportunities for Low- and Moderate-Income Persons, Persons with Disabilities, the Elderly, Minorities, and Families with Limited English Proficiency.
2. Improving the Quality of Life in our Nation's Communities.
3. Encouraging Accessible Design Features.
4. Providing Full and Equal Access to Grass-Roots Faith-Based and Other Community-Based Organization in HUD Program Implementation.
5. Participation of Minority-Serving Institutions in HUD Programs
6. Ending Chronic Homelessness within Ten Years.
7. Removal of Barriers to Affordable Housing.

form **HUD-96010** (11/2003)

Logic Model Instructions U.S. Department of Housing And Urban Development Office of Departmental Grants Management and Oversight

OMB Approval No. 2535-0114 (exp. 12/31/2006)

The public reporting burden for this collection of information for the Logic Model is estimated to average 18 hours per response for applicants, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information and preparing the application package for submission to HUD. HUD may not conduct, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Reports Management Officer, Paperwork Reduction Project, in the Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, DC 20410-3600. When providing comments, please refer to OMB Approval No. 2535-0114.

The information submitted in response to the Notice of Funding Availability for the Logic Model is subject to the disclosure requirements of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101-235, approved December 15, 1989, 42 U.S.C. 3545).

Instructions:

Responses to rating factor five should be in this format. Your response should be in bullet format rather than narrative. Please read each NOFA carefully to ensure the performance measures requested for this factor are reflected on the logic model form.

Program Name: The HUD funding program under which you are applying. If you are applying for a component of a program please include the Program Name as well as the Component Name.

Component Name: The HUD funding program under which you are applying.

Column 1: ***HUD's Strategic Goals***: Indicate in this column **the number** of the goal(s) that your proposed service or activity is designed to achieve. HUD's strategic goals are:

1. Increase homeownership opportunities.
2. Promote decent affordable housing.
3. Strengthen communities.
4. Ensure equal opportunity in housing.
5. Embrace high standards of ethics, management, and accountability.
6. Promote participation of grass-roots faith-based and other community-based organizations.

***Policy Priority*:** Indicate in this column **the number** of the HUD Policy Priority(ies), if any, your proposed service or activity promotes. Applicants are encouraged to undertake specific activities that will assist the Department in implementing its Policy Priorities. HUD's Policy Priorities are:

1. Provide Increased Homeownership and Rental Opportunities for Low- and Moderate-Income Persons, Persons with Disabilities, the Elderly, Minorities, and Families with Limited English Proficiency.
2. Improving the Quality of Life in our Nation's Communities.
3. Encouraging Accessible Design Features.
4. Providing Full and Equal Access to Grass-Roots Faith-Based and Other Community-Based Organization in HUD Program Implementation.
5. Participation of Minority-Serving Institutions in HUD Programs
6. Ending Chronic Homelessness within Ten Years.
7. Removal of Barriers to Affordable Housing.

Column 2: **Problem, Need, or Situation**: Provide a general statement of need that provides the rationale for the proposed service or activity.

Column 3: **Service or Activity:** Identify the activities or services that you are undertaking in your work plan, which are crucial to the success of your program. Not every activity or service yields a direct outcome.

Column 4 and Column 5: **Benchmarks:** These columns ask you to identify benchmarks that will be used in measuring the progress of your services or activities. Column 4 asks for specific interim or final products (called outputs) that you establish for your program's services or activities. Column 5 should identify the results associated with the product or output. These may be numerical measures characterizing the results of a program activity, service or intervention and are used to measure performance. These outputs should lead to targets for achievement of outcomes. Results should be represented by both the actual # and % of the goal achieved.

Column 4: **Benchmarks/Output Goal:** Set quantifiable output goals, including timeframes. These should be products or interim products, which will allow you and HUD to monitor and assess your progress in achieving your program workplan.

Column 5: **Benchmark/ Output Result:** Report actual result of your benchmarks. The actual result could be number of housing units developed or rehabilitated, jobs created, or number of persons assisted. Outputs may be short, intermediate or long-term. ***(Do not fill out this section with the application)***

Column 6 and Column 7: **Outcomes:** Column 6 and Column 7 ask you to report on your expected and actual outcomes – the ultimate impact you hope to achieve. Column 6 asks you to identify outcomes in terms of the impact on the community, people's lives, changes in economic or social status, etc. Column 7 asks for the actual result of the outcome measure listed in Column 6, which should be updated as applicable.

Column 6: **Outcomes/ Goals:** Identify the outcomes that resulted in broader impacts for individuals, families/households, and/or the community. For example, the program may seek to improve the environmental conditions in a neighborhood, increase affordable housing, increase the assets of a low-income family, or improve self-sufficiency.

Proxy Outcome(s): Often direct measurement of the intended outcome is difficult or even impossible -- to measure. In these cases, applicants/grantees should use a proxy or surrogate measure that corresponds with the desired outcome. For example, improving quality of life in a neighborhood could be measured by a proxy indicator such as increases in home prices or decreases in crime. Training programs could be measured by the participant's increased wages or reading skills. The person receiving the service must meet eligibility requirements of the program.

Column 7: **Outcomes/Actual Result:** Identify specific achievements of outcomes listed in Column 6. ***(Do not fill out this section with the application)***

Column 8: **Measurement Reporting Tools:** (a) List the tools used to track output or outcome information (e.g., survey instrument; attendance log; case report; pre-post test; waiting list; etc); (b) Identify the place where data is maintained, e.g. central database; individual case records; specialized access database, tax assessor database; local precinct; other; (c) Identify the location, e.g. on-site; subcontractor; other; (d) Indicate how often data is required to be collected, who will collect it and how often data is reported to HUD; and (e) Describe methods for retrieving data, e.g. data from case records is retrieved manually, data is maintained in an automated database. This tool will be available for HUD review and monitoring and should be used in submitting reporting information.

Column 9: **Evaluation Process:** Identify the methodology you will periodically use to assess your success in meeting your benchmark output goals and output results, outcomes associated to the achievement of the purposes of the program, as well as the impact that the work has made on the individuals assisted, the community, and the strategic goals of the Department. If you are not meeting the goals and results projected for your performance period, the evaluation process should be used as a tool to ensure that you can adjust schedules, timing, or business practices to ensure that goals are met within your performance period.

America's Affordable Communities Initiative	U.S. Department of Housing and Urban Development	OMB approval no. 2510-0013 (exp. 01/01/2006)

Public reporting burden for this collection of information is estimated to average 3 hours. This includes the time for collecting, reviewing, and reporting the data. The information will be used for encourage applicants to pursue and promote efforts to remove regulatory barriers to affordable housing. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Questionnaire for HUD's Initiative on Removal of Regulatory Barriers

Part A. Local Jurisdictions. Counties Exercising Land Use and Building Regulatory Authority and Other Applicants Applying for Projects Located in such Jurisdictions or Counties [Collectively, Jurisdiction]

	1	2
1. Does your jurisdiction's comprehensive plan (or in the case of a tribe or TDHE, a local Indian Housing Plan) include a "housing element? A local comprehensive plan means the adopted official statement of a legislative body of a local government that sets forth (in words, maps, illustrations, and/or tables) goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within its planning jurisdiction and that includes a unified physical plan for the public development of land and water. If your jurisdiction does not have a local comprehensive plan with a "housing element," please enter no. If no, skip to question # 4.	☐ No	☐ Yes
2. If your jurisdiction has a comprehensive plan with a housing element, does the plan provide estimates of current and anticipated housing needs, taking into account the anticipated growth of the region, for existing and future residents, including low, moderate and middle income families, for at least the next five years?	☐ No	☐ Yes
3. Does your zoning ordinance and map, development and subdivision regulations or other land use controls conform to the jurisdiction's comprehensive plan regarding housing needs by providing: a) sufficient land use and density categories (multifamily housing, duplexes, small lot homes and other similar elements); and, b) sufficient land zoned or mapped "as of right" in these categories, that can permit the building of affordable housing addressing the needs identified in the plan? (For purposes of this notice, "as-of-right," as applied to zoning, means uses and development standards that are determined in advance and specifically authorized by the zoning ordinance. The ordinance is largely self-enforcing because little or no discretion occurs in its administration.). If the jurisdiction has chosen not to have either zoning, or other development controls that have varying standards based upon districts or zones, the applicant may also enter yes.	☐ No	☐ Yes
4. Does your jurisdiction's zoning ordinance set minimum building size requirements that exceed the local housing or health code or is otherwise not based upon explicit health standards?	☐ Yes	☐ No

Form HUD-27300 (4/04)

5. If your jurisdiction has development impact fees, are the fees specified and calculated under local or state statutory criteria? If no, skip to question #7. Alternatively, if your jurisdiction does not have impact fees, you may enter yes.	☐ No	☐ Yes
6. If yes to question #5, does the statute provide criteria that sets standards for the allowable type of capital investments that have a direct relationship between the fee and the development (nexus), and a method for fee calculation?	☐ No	☐ Yes
7. If your jurisdiction has impact or other significant fees, does the jurisdiction provide waivers of these fees for affordable housing?	☐ No	☐ Yes
8. Has your jurisdiction adopted specific building code language regarding housing rehabilitation that encourages such rehabilitation through gradated regulatory requirements applicable as different levels of work are performed in existing buildings? Such code language increases regulatory requirements (the additional improvements required as a matter of regulatory policy) in proportion to the extent of rehabilitation that an owner/developer chooses to do on a voluntary basis. For further information see HUD publication: "*Smart Codes in Your Community: A Guide to Building Rehabilitation Codes*" (www.huduser.org/publications/destech/smartcodes.html)	☐ No	☐ Yes
9. Does your jurisdiction use a recent version (i.e. published within the last 5 years or, if no recent version has been published, the last version published) of one of the nationally recognized model building codes (i.e. the International Code Council (ICC), the Building Officials and Code Administrators International (BOCA), the Southern Building Code Congress International (SBCI), the International Conference of Building Officials (ICBO), the National Fire Protection Association (NFPA)) without significant technical amendment or modification. In the case of a tribe or TDHE, has a recent version of one of the model building codes as described above been adopted or, alternatively, has the tribe or TDHE adopted a building code that is substantially equivalent to one or more of the recognized model building codes? Alternatively, if a significant technical amendment has been made to the above model codes, can the jurisdiction supply supporting data that the amendments do not negatively impact affordability.	☐ No	☐ Yes
10. Does your jurisdiction's zoning ordinance or land use regulations permit manufactured (HUD-Code) housing "as of right" in all residential districts and zoning classifications in which similar site-built housing is permitted, subject to design, density, building size, foundation requirements, and other similar requirements applicable to other housing that will be deemed realty, irrespective of the method of production?	☐ No	☐ Yes

11. Within the past five years, has a jurisdiction official (i.e., chief executive, mayor, county chairman, city manager, administrator, or a tribally recognized official, etc.), the local legislative body, or planning commission, directly, or in partnership with major private or public stakeholders, convened or funded comprehensive studies, commissions, or hearings, or has the jurisdiction established a formal ongoing process, to review the rules, regulations, development standards, and processes of the jurisdiction to assess their impact on the supply of affordable housing?	☐ No	☐ Yes
12. Within the past five years, has the jurisdiction initiated major regulatory reforms either as a result of the above study or as a result of information identified in the barrier component of the jurisdiction's "HUD Consolidated Plan?" If yes, attach a brief list of these major regulatory reforms.	☐ No	☐ Yes
13. Within the past five years has your jurisdiction modified infrastructure standards and/or authorized the use of new infrastructure technologies (*e.g.* water, sewer, street width) to significantly reduce the cost of housing?	☐ No	☐ Yes
14. Does your jurisdiction give "as-of-right" density bonuses sufficient to offset the cost of building below market units as an incentive for any market rate residential development that includes a portion of affordable housing? (As applied to density bonuses, "as of right" means a density bonus granted for a fixed percentage or number of additional market rate dwelling units in exchange for the provision of a fixed number or percentage of affordable dwelling units and without the use of discretion in determining the number of additional market rate units.)	☐ No	☐ Yes
15. Has your jurisdiction established a single, consolidated permit application process for housing development that includes building, zoning, engineering, environmental, and related permits? Alternatively, does your jurisdiction conduct concurrent, not sequential, reviews for all required permits and approvals?	☐ No	☐ Yes
16. Does your jurisdiction provide for expedited or "fast track" permitting and approvals for all affordable housing projects in your community?	☐ No	☐ Yes
17. Has your jurisdiction established time limits for government review and approval or disapproval of development permits in which failure to act, after the application is deemed complete, by the government within the designated time period, results in automatic approval?	☐ No	☐ Yes
18. Does your jurisdiction allow "accessory apartments" either as: a) a special exception or conditional use in all single-family residential zones or, b) "as of right" in a majority of residential districts otherwise zoned for single-family housing?	☐ No	☐ Yes
19. Does your jurisdiction have an explicit policy that adjusts or waives existing parking requirements for all affordable housing developments?	☐ No	☐ Yes
20. Does your jurisdiction require affordable housing projects to undergo public review or special hearings when the project is otherwise in full compliance with the zoning ordinance and other development regulations?	☐ Yes	☐ No
Total Points:		

Form HUD-27300 (4/04)

Part B. State Agencies and Departments or Other Applicants for Projects Located in Unincorporated Areas or Areas Otherwise Not Covered in Part A

		1	2
1	Does your state, either in its planning and zoning enabling legislation or in any other legislation, require localities regulating development have a comprehensive plan with a "housing element?" If no, skip to question # 4	☐ No	☐ Yes
2.	Does you state require that a local jurisdiction's comprehensive plan estimate current and anticipated housing needs, taking into account the anticipated growth of the region, for existing and future residents, including low, moderate, and middle income families, for at least the next five years?	☐ No	☐ Yes
3.	Does your state's zoning enabling legislation require that a local jurisdiction's zoning ordinance have a) sufficient land use and density categories (multifamily housing, duplexes, small lot homes and other similar elements); and, b) sufficient land zoned or mapped in these categories, that can permit the building of affordable housing that addresses the needs identified in the comprehensive plan?	☐ No	☐ Yes
4.	Does your state have an agency or office that includes a specific mission to determine whether local governments have policies or procedures that are raising costs or otherwise discouraging affordable housing?	☐ No	☐ Yes
5.	Does your state have a legal or administrative requirement that local governments undertake periodic self-evaluation of regulations and processes to assess their impact upon housing affordability address these barriers to affordability?	☐ No	☐ Yes
6.	Does your state have a technical assistance or education program for local jurisdictions that includes assisting them in identifying regulatory barriers and in recommending strategies to local governments for their removal?	☐ No	☐ Yes
7.	Does your state have specific enabling legislation for local impact fees? If no skip to question #9.	☐ No	☐ Yes
8.	If yes to the question #7, does the state statute provide criteria that sets standards for the allowable type of capital investments that have a direct relationship between the fee and the development (*nexus*) and a method for fee calculation?	☐ No	☐ Yes
9.	Does your state provide significant financial assistance to local governments for housing, community development and/or transportation that includes funding prioritization or linking funding on the basis of local regulatory barrier removal activities?	☐ No	☐ Yes

10. Does your state have a mandatory state-wide building code that a) does not permit local technical amendments and b) uses a recent version (i.e. published within the last five years or, if no recent version has been published, the last version published) of one of the nationally recognized model building codes (i.e. the International Code Council (ICC), the Building Officials and Code Administrators International (BOCA), the Southern Building Code Congress International (SBCI), the International Conference of Building Officials (ICBO), the National Fire Protection Association (NFPA)) without significant technical amendment or modification? Alternatively, if the state has made significant technical amendment to the model code, can the state supply supporting data that the amendments do not negatively impact affordability?	☐ No	☐ Yes
11. Has your jurisdiction adopted specific building code language regarding housing rehabilitation that encourages such rehabilitation through gradated regulatory requirements applicable as different levels of work are performed in existing buildings? Such code language increases regulatory requirements (the additional improvements required as a matter of regulatory policy) in proportion to the extent of rehabilitation that an owner/developer chooses to do on a voluntary basis. For further information see HUD publication: "*Smart Codes in Your Community: A Guide to Building Rehabilitation Codes*" (www.huduser.org/publications/destech/smartcodes.html)	☐ No	☐ Yes
12. Within the past five years has your state made any changes to its own processes or requirements to streamline or consolidate the state's own approval processes involving permits for water or wastewater, environmental review, or other State-administered permits or programs involving housing development. If yes, briefly list these changes.	☐ No	☐ Yes
13. Within the past five years, has your state (i.e., Governor, legislature, planning department) directly or in partnership with major private or public stakeholders, convened or funded comprehensive studies, commissions, or panels to review state or local rules, regulations, development standards, and processes to assess their impact on the supply of affordable housing?	☐ No	☐ Yes
14. Within the past five years, has the state initiated major regulatory reforms either as a result of the above study or as a result of information identified in the barrier component of the states' "Consolidated Plan submitted to HUD?" If yes, briefly list these major regulatory reforms.	☐ No	☐ Yes
15. Has the state undertaken any other actions regarding local jurisdiction's regulation of housing development including permitting, land use, building or subdivision regulations, or other related administrative procedures? If yes, briefly list these actions.	☐ No	☐ Yes
Total Points:		

ATTACHMENT 40

HOPE VI REVITALIZATION APPLICANT CERTIFICATIONS

Acting on behalf of the Board of Commissioners of the Housing Authority listed below, as its Chairman, I approve the submission of the HOPE VI Revitalization application of which this document is a part and make the following certifications to and agreements with the Department of Housing and Urban Development (HUD) in connection with the application and implementation thereof:

1. The public housing project or building in a project targeted in this HOPE VI Revitalization grant application meets the definition of severe distress in accordance with Section 24(j)(2) of the United States Housing Act of 1937 ("1937Act").

2. The PHA has not received assistance from the Federal government, State, or unit of local government, or any agency or instrumentality, for the specific activities for which funding is requested in the HOPE VI Revitalization application.

3. The PHA does not have any litigation pending which would preclude timely startup of activities.

4. The PHA is in full compliance with any desegregation or other court order related to Fair Housing (e.g., Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Section 504 of the Rehabilitation Act of 1973) that affects the PHA's public housing program and that is in effect on the date of application submission.

5. The PHA has returned any excess advances received during development or modernization, or amounts determined by HUD to constitute excess financing based on a HUD-approved Actual Development Cost Certificate (ADCC) or Actual Modernization Cost Certificate (AMCC), or that HUD has approved a pay-back plan.

6. There are no environmental factors, such as sewer moratoriums, precluding development in the requested locality.

7. In accordance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128), the property targeted for acquisition or construction (including rehabilitation) is not located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(a) The community in which the area is situated is participating in the National Flood Insurance program (see 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and

(b) Where the community is participating in the National Flood Insurance Program, flood insurance is obtained as a condition of execution of a Grant Agreement and approval of any subsequent demolition or disposition application.

8. The application does not target properties in the Coastal Barrier Resources System, in accordance with the Coastal Barrier Resources Act (16 U.S.C. 3501).

<u>If selected for HOPE VI Revitalization funding</u>:

9. The PHA will comply with all policies, procedures, and requirements prescribed by HUD for the HOPE VI Program, including the implementation of HOPE VI revitalization activities, in a timely, efficient, and economical manner.

10. The PHA will not receive assistance from the Federal government, State, or unit of local government, or any agency or instrumentality, for the specific activities funded by the HOPE VI Revitalization grant. The PHA has established controls to ensure that any activity funded by the HOPE VI Revitalization grant is not also funded by any other HUD program, thereby preventing duplicate funding of any activity.

11. The PHA will not provide to any development more assistance under the HOPE VI Revitalization grant than is necessary to provide affordable housing after taking into account other governmental assistance provided.

12. The PHA will supplement the aggregate amount of the HOPE VI Revitalization grant with funds from sources other than HOPE VI in an amount not less than 5 percent of the amount of HOPE VI grant.

13. In addition to supplemental amounts provided in accordance with Certification 12 above, if the PHA uses more than 5 percent of the HOPE VI grant for the community and supportive services component, it will provide supplemental funds from sources other than HOPE VI, dollar for dollar, for the amount over 5 percent of the grant used for the community and supportive services component.

14. Disposition activity under the grant will be conducted in accordance with Section 18 of the 1937 Act.

15. The PHA will carry out acquisition of land, or acquisition of off-site units with or without rehabilitation to be used as public housing, in accordance with 24 CFR part 941, or successor part.

16. The PHA will carry out major rehabilitation and other physical improvements of housing and non-dwelling facilities in accordance with 24 CFR 968.11 2(b), (d), (e), and (g)-(o), 24 CFR 968.130, and 24 CFR 968.135(b) and (d) or successor part.

17. The PHA will carry out construction of public housing rental replacement housing, both on-site and off-site, and community facilities, in accordance with 24 CFR part 941 or successor part, including mixed-finance development in accordance with subpart F.

18. The PHA will carry out replacement homeownership activities in conformance with the requirements of section 24(d)(1)(J), which may include a homeownership proposal under Section 32 of the 1937 Act, the income limitations, and other applicable homeownership requirements of the 1937 Act.

19. The PHA will administer and operate public housing rental units in accordance with all requirements applicable to public housing, including the 1937 Act, HUD's implementing regulations thereunder, the ACC, the Mixed-Finance ACC Amendment (if applicable), and all other applicable Federal statutory, Executive Order, and regulatory requirements as such requirements may be amended from time to time.

20. The PHA will comply with:

(a) The Fair Housing Act (42 U.S.C. 3601-19) and regulations at 24 CFR part 100;

(b) The prohibitions against discrimination on the basis of disability under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations at 24 CFR part 8);

(c) Title II of the Americans with Disabilities Act (42 U.S.C 12101 et seq.) and its implementing regulations at 28 CFR part 36;

(d) The Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151) and regulations at 24 CFR part 40).

21. The PHA will comply with regulations at 24 CFR 85.36(e) which require recipients of assistance (grantees and subgrantees) to take all necessary affirmative steps in contracting for purchase of goods or services to assure that small businesses, small disadvantaged businesses, minority firms, women's business enterprises, and labor surplus area firms are used when possible.

22. The PHA will comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects) and its implementing regulation at 24 CFR part 135, including the reporting requirements of subpart E.

23. The PHA will comply with Davis-Bacon or HUD-determined prevailing wage rate requirements to the extent required under Section 12 of the 1937 Act.

24. As applicable, the PHA will comply with the relocation assistance and real property acquisition requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and government-wide implementing regulations at 49 CFR part 24; relocation regulations at 24 CFR 968.108 or successor regulation (rehabilitation, temporary relocation); 24 CFR 941.207 or successor regulation (acquisition); and Section 18 of the 1937 Act as amended (disposition).

25. The PHA will comply with all HOPE VI requirements for reporting and providing access to records.

26. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et seq.) and is subject to 24 CFR part 35 and 24 CFR 965.701, as they may be amended from time to time, and Section 968.110(k) or successor regulation.

27. The PHA will comply with the policies, guidelines, and requirements of OMB Circular A-87 (Cost Principles Applicable to Grants, Contracts, and Other Agreements with State and Local Governments).

28. The PHA will comply with 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments), as modified by 24 CFR 941 or successor part, subpart F, relating to the procurement of partners in mixed finance developments.

29. The PHA will keep records in accordance with 24 CFR 85.20 that facilitate an effective audit to determine compliance with program requirements, and comply with the audit requirements of 24 CFR 85.26.

30. The PHA will start construction within 12 months from the date of HUD's approval of the Supplemental Submissions as requested by HUD after grant award. This time period may not exceed 18 months from the date the Grant Agreement is executed.

31. The PHA will submit the development proposal for the first phase of construction within 12 months of grant award.

32. The PHA will complete construction within 48 months from the date of HUD's approval of the Supplemental Submissions. This time period for completion may not exceed 54 months from the date the Grant Agreement is executed.

33. All activities that include construction, rehabilitation, lead-based paint removal, and related activities will meet or exceed local building codes. New construction will comply with the latest HUD-adopted Model Energy Code issued by the Council of American Building Officials.

34. Prior to entering into an agreement with HUD, the PHA will submit a copy of their Code of Conduct, which will also describe the methods they will use to ensure that all officers, employees, and agents of their organization are aware of the Code of Conduct. This certification may be provided in the form of a letter.

Name of Housing Authority: _____

Attested By: Board Chairman's Name: _____

Board Chairman's Signature: _____

Date: _____

Warning: HUD will prosecute false claims and statements. Conviction may result in the imposition of criminal and civil penalties. (18 U.S.C. 1001,1010,1012, 32 U.S.C. 3729,3802)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*: 4c	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing and Urban Development

OMB Approval No. 2510-0011 (exp. 08/31/2006)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

Applicant/Recipient Information

Indicate whether this is an Initial Report ☐ **or an Update Report** ☐

1. Applicant/Recipient Name, Address, and Phone (include area code):	2. Social Security Number or Employer ID Number:
3. HUD Program Name	4. Amount of HUD Assistance Requested/Received

5. State the name and location (street address, City and State) of the project or activity:

Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3).
   ☐ **Yes** ☐ **No**

2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD), involving the project or activity in this application, in excess of $200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9
   ☐ **Yes** ☐ **No.**

If you answered "**No**" to either question 1 or 2, **Stop**! You do not need to complete the remainder of this form. ***However***, you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(**Note:** Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity ($ and %)

(**Note:** Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

I certify that this information is true and complete.

Signature: X	Date: (mm/dd/yyyy)

Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions

Overview.

A. Coverage. You must complete this report if:

(1) You are applying for assistance from HUD for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of $200,000 during the during the fiscal year;

(2) You are updating a prior report as discussed below; or

(3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

B. Update reports (filed by "Recipients" of HUD Assistance): General. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

Line-by-Line Instructions.

Applicant/Recipient Information.

All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

Part I. Threshold Determinations - Applicants Only

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to ***either*** questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

Part II. Other Government Assistance and Expected Sources and Uses of Funds.

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD ***and any other source*** - that have been or are to be, made available for the project or activity. Non-government sources of

funds typically include (but are not limited to) foundations and private contributors.

Part III. Interested Parties.

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).
   Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

Notes:

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, "person" means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

Funding Application

Section 8 Tenant-Based Assistance
Rental Certificate Program
Rental Voucher Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(exp. 07/31/2007)

Send the original and two copies of this application form and attachments to the local HUD Field Office

Public reporting burden for this collection of information is estimated to average 1 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Eligible applicants (HAs) must submit this information when applying for grant funding for tenant-based housing assistance programs under Section 8 of the U.S. Housing Act of l937 (42 U.S.C. 1437f). HUD will use the information to evaluate an application based on selection criteria stated in the Notice of Funding Availability (NOFA). HUD will notify the HA of its approval/disapproval of the funding application. Responses are required to obtain a benefit from the Federal Govenment. The information requested does not lend itself to confidentiality.

Name and Mailing Address of the Housing Agency (HA) requesting housing assistance payments

Application/Project No. (HUD use only)

Do you have an ACC with HUD	No	Yes	Date of Application	Legal Area of Operation (area in which the HA has authority under State and local law to administer the program)
for Section 8 Certificates?	☐	☐		
for Section 8 Vouchers?	☐	☐		

A. Area(s) From Which Families To Be Assisted Will Be Drawn.

Locality (city, town, etc.)	County	Congressional District	Units

B. Proposed Assisted Dwelling Units. (Complete this section based on the unit sizes of the applicants at the top of the waiting list)

	Number of Dwelling Units by Bedroom Size							Total Dwelling Units
	0-BR	1-BR	2-BR	3-BR	4-BR	5-BR	6+BR	
Certificates								
Vouchers								

C. Average Monthly Adjusted Income. Complete this section based on actual incomes of current participants by unit size. Enter average monthly adjusted income for each program separately and only for the unit sizes requested in Section B.

	0-BR	1-BR	2-BR	3-BR	4-BR	5-BR	6+BR
Certificates	$	$	$	$	$	$	$
Vouchers	$	$	$	$	$	$	$

D. Need for Housing Assistance. Demonstrate that the project requested in this application is responsive to the condition of the housing stock in the community and the housing assistance needs of low-income families residing in or expected to reside in the community. (If additional space is needed, add separate pages.)

E. Housing Quality Standards (HQS). (Check applicable box)

☐ HUD's HQS will be used with no modifications ☐ Attached for HUD approval are HQS acceptability criteria variations

F. New HA Information. Complete this section if HA currently does not administer a tenant-based certificate or voucher program.

Financial and Administrative Capability. Describe the experience of the HA in administering housing or other programs and provide any other relevant information which evidences present or potential management capability for the proposed rental assistance program. Submit this narrative on a separate page.

Qualification as an HA. Demonstrate that the applicant qualifies as an HA and is legally qualified and authorized to administer the funds applied for in this application. Submit the relevant enabling legislation and a supporting legal opinion.

Note: If this application is approved, the HA must submit for HUD approval a utility allowance schedule and budget documents.

G. Certifications. The following certifications are incorporated as a part of this application form. The signature on the last page of this application of the HA representative authorized to sign the application signifies compliance with the terms of these certifications.

Equal Opportunity Certification

The Housing Agency (HA) certifies that:

(1) The HA will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations issued pursuant thereto (24 CFR Part 1) which state that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives financial assistance; and will take any measures necessary to effectuate this agreement.

(2) The HA will comply with the Fair Housing Act (42 U.S.C. 3601-19) and regulations issued pursuant thereto (24 CFR Part 100) which prohibit discrimination in housing on the basis of race, color, religion, sex, handicap, familial status, or national origin, and administer its programs and activities relating to housing in a manner to affirmatively further fair housing.

(3) The HA will comply with Executive Order 11063 on Equal Opportunity in Housing which prohibits discrimination because of race, color, creed, or national origin in housing and related facilities provided with Federal financial assistance and HUD regulations (24 CFR Part 107).

(4) The HA will comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations issued pursuant thereto (24 CFR Part 8) which state that no otherwise qualified individual with handicaps in the United States shall solely by reason of the handicap be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(5) The HA will comply with the provisions of the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and regulations issued pursuant thereto (24 CFR Part 146) which state that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under a program or activity receiving Federal financial assistance.

(6) The Housing Agency will comply with the provisions of Title II of the Americans with Disabilities Act (42 U.S.C. 12131) and regulations issued pursuant thereto (28 CFR Part 35) which state that subject to the provisions of Title II, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity, or be subjected to discrimination by any such entity.

The following provisions apply only to housing assisted with Project-Based Certificates:

(7) The HA will comply with Executive Order 11246 and all regulations pursuant thereto (41 CFR Chapter 60-1) which state that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of Federal contracts and shall take affirmative action to ensure equal employment opportunity.

(8) The HA will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) and regulations issued pursuant thereto (24 CFR Part 135), which require that, to the greatest extent feasible, opportunities for training and employment be given to low-income persons residing within the unit of local government for metropolitan area (or non-metropolitan county) in which the project is located.

Certification Regarding Lobbying

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Certification Regarding Drug-Free Workplace Requirements

Instructions for Drug-Free Workplace Requirements Certification:

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

5. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).

6. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All *direct charge* employees; (ii) All *indirect charge* employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees or subrecipients or subcontractors in covered workplaces).

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, State, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Housing Agency Signature

Signature of HA Representative	Print or Type Name of Signatory	
	Phone No.	Date

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REMINDERS

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.

RULES GOING INTO EFFECT MARCH 31, 2005

FEDERAL TRADE COMMISSION

Alternative fuels and alternative fueled vehicles; labeling requirements; technical amendments; published 9-14-04

SOCIAL SECURITY ADMINISTRATION

Social security benefits:
- Federal old age, survivors, and disability insurance—
  - Nonpayment of benifits when insured person is deported or removed from the United States; published 3-31-05

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AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton classing, testing and standards:
- Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:
- Highly pathogenic avian influenza; list of affected regions—
  - Malaysia; comments due by 4-4-05; published 2-1-05 [FR 05-01796]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Northeastern United States fisheries—
  - Monkfish; comments due by 4-4-05; published 3-18-05 [FR 05-05348]

International fisheries regulations:
- Atlantic highly migratory species—
  - Bluefin tuna, bigeye tuna, and swordfish; comments due by 4-7-05; published 3-8-05 [FR 05-04477]

COMMERCE DEPARTMENT

Patent and Trademark Office

Patent cases:
- Patent Cooperation Treaty applications entering the national stage; fees; comments due by 4-4-05; published 2-1-05 [FR 05-01850]

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

Acquisition regulations:
- Extraordinary contractual actions; comments due by 4-8-05; published 2-7-05 [FR 05-02173]
- Pilot Mentor-Protege Program; Open for comments until further notice; published 12-15-04 [FR 04-27351]

EDUCATION DEPARTMENT

Grants and cooperative agreements; availability, etc.:
- Vocational and adult education—
  - Smaller Learning Communities Program; Open for comments until further notice; published 2-25-05 [FR E5-00767]

ENERGY DEPARTMENT

Meetings:
- Environmental Management Site-Specific Advisory Board—
  - Oak Ridge Reservation, TN; Open for comments until further notice; published 11-19-04 [FR 04-25693]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Commercial and industrial equipment; energy efficiency program:
- Test procedures and efficiency standards—
  - Commercial packaged boilers; Open for comments until further notice; published 10-21-04 [FR 04-17730]

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]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- Pennsylvania; comments due by 4-4-05; published 3-4-05 [FR 05-04270]
- Tennessee; comments due by 4-6-05; published 3-7-05 [FR 05-04336]

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 4-7-05; published 3-8-05 [FR 05-04340]
- Washington; comments due by 4-7-05; published 3-8-05 [FR 05-04470]

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]

Water pollution control:
- National Pollutant Discharge Elimination System—
  - Concentrated animal feeding operations in New Mexico and Oklahoma; general permit for discharges; Open for comments until further notice; published 12-7-04 [FR 04-26817]

Water pollution; effluent guidelines for point source categories:
- Meat and poultry products processing facilities; Open for comments until further notice; published 9-8-04 [FR 04-12017]
- Transportation equipment cleaning operations; correction; comments due by 4-4-05; published 2-1-05 [FR 05-01861]

Water programs:
- Federal Insecticide, Fungicide, and Rodenticide Act; implementation—
  - Pesticides applied to U.S. waters; statement and guidance; comments due by 4-4-05; published 2-1-05 [FR 05-01868]

FEDERAL COMMUNICATIONS COMMISSION

Committees; establishment, renewal, termination, etc.:
- Technological Advisory Council; Open for comments until further notice; published 3-18-05 [FR 05-05403]

Common carrier services:
- Federal-State Joint Board on Universal Service—
  - Rural health care support mechanism; comments due by 4-8-05; published 2-7-05 [FR 05-02268]
- Interconnection—
  - Incumbent local exchange carriers unbounding obligations; local competition provisions; wireline services offering advanced telecommunications capability; Open for comments until further notice; published 12-29-04 [FR 04-28531]

Radio stations; table of assignments:
- Pennsylvania; comments due by 4-4-05; published 3-3-05 [FR 05-04113]

Television broadcasting:
- Cable television systems—
  - Satellite Home Viewer Extension and Reauthorization Act; Communications Act Section 340; implementation; comments due by 4-8-05; published 3-8-05 [FR 05-03847]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:
- Electronic Prescription Drug Program; voluntary Medicare prescription drug benefit; comments due by 4-5-05; published 2-4-05 [FR 05-01773]
- Organ procurement organizations; conditions for coverage; comments due by 4-5-05; published 2-4-05 [FR 05-01695]
- Organ transplant centers; hospital participation conditions; approval requirements; comments due by 4-5-05; published 2-4-05 [FR 05-01696]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

Orally administered drug products; symptoms associated with overindulgence in food and drink, relief (OTC); tentative final monograph; comments due by 4-5-05; published 1-5-05 [FR 05-00154]

Reports and guidance documents; availability, etc.:

Evaluating safety of antimicrobial new animal drugs with regard to their microbiological effects on bacteria of human health concern; Open for comments until further notice; published 10-27-03 [FR 03-27113]

Medical devices—

Dental noble metal alloys and base metal alloys; Class II special controls; Open for comments until further notice; published 8-23-04 [FR 04-19179]

HEALTH AND HUMAN SERVICES DEPARTMENT

Supplemental standards of ethical conduct and financial disclosure requirements for department employees; comments due by 4-4-05; published 2-3-05 [FR 05-02029]

HOMELAND SECURITY DEPARTMENT

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Alaska; high capacity passenger vessels protection; regulated navigation area and security zones; comments due by 4-8-05; published 3-9-05 [FR 05-04598]

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HOMELAND SECURITY DEPARTMENT

Nonimmigrant classes:

Aliens—

H-2B Program; one-step application process for U.S. employers seeking workers to perform temporary labor or services; comments due by 4-8-05; published 3-9-05 [FR 05-04514]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Enterprise Oversight Office

Safety and soundness:

Mortgage fraud reporting; comments due by 4-4-05; published 3-24-05 [FR 05-05776]

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Fish and Wildlife Service

Endangered and threatened species permit applications

Recovery plans—

Paiute cutthroat trout; Open for comments until further notice; published 9-10-04 [FR 04-20517]

Endangered and threatened species:

Salt Creek tiger beetle; comments due by 4-4-05; published 2-1-05 [FR 05-01669]

Scimitar-horned oryx, addax, and dama gazelle; comments due by 4-4-05; published 2-1-05 [FR 05-01698]

LABOR DEPARTMENT

Employment and Training Administration

Aliens; temporary employment in U.S.:

H-2B petitions in all occupations other than excepted occupations; post-adjudication audits; comments due by 4-8-05; published 3-9-05 [FR 05-04534]

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

NARA facilities:

Locations and hours; comments due by 4-8-05; published 2-7-05 [FR 05-02256]

NUCLEAR REGULATORY COMMISSION

Environmental statements; availability, etc.:

Fort Wayne State Developmental Center; Open for comments until further notice; published 5-10-04 [FR 04-10516]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

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Practice before Commission; procedural rules; revisions; comments due by 4-4-05; published 3-4-05 [FR 05-04257]

SECURITIES AND EXCHANGE COMMISSION

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Mutual funds and other securities; point of sale disclosure and transaction confirmation requirements; comments due by 4-4-05; published 3-4-05 [FR 05-04215]

SMALL BUSINESS ADMINISTRATION

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Maine; Open for comments until further notice; published 2-17-04 [FR 04-03374]

Small business size standards:

Size standards for most industries and SBA programs; restructuring; comments due by 4-3-05; published 1-19-05 [FR 05-01035]

STATE DEPARTMENT

Passports:

Electronic passport; definitions, validity, replacement, and expedited processing; comments due by 4-4-05; published 2-18-05 [FR 05-03080]

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Trade Representative, Office of United States

Generalized System of Preferences:

2003 Annual Product Review, 2002 Annual Country Practices Review, and previously deferred product decisions; petitions disposition; Open for comments until further notice; published 7-6-04 [FR 04-15361]

TRANSPORTATION DEPARTMENT

Navigation of foreign civil aircraft within the United States; policy determination request; comments due by 4-8-05; published 2-7-05 [FR 05-02035]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

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Air Tractor, Inc.; comments due by 4-5-05; published 2-9-05 [FR 05-02507]

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Boeing; Open for comments until further notice; published 8-16-04 [FR 04-18641]

Bombardier; comments due by 4-7-05; published 3-8-05 [FR 05-04407]

Empresa Brasileria de Aeronautica, S.A.; comments due by 4-7-05; published 3-8-05 [FR 05-04409]

Kelly Aerospace Power Systems; comments due by 4-7-05; published 3-9-05 [FR 05-04556]

McDonnell Douglas; comments due by 4-5-05; published 2-4-05 [FR 05-01931]

Rolls-Royce plc; comments due by 4-4-05; published 2-2-05 [FR 05-01799]

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Internal Revenue Service

Employment taxes and collection of income taxes at source:

Flat rate supplemental wage withholding; comments due by 4-5-05; published 1-5-05 [FR 05-00071]

TREASURY DEPARTMENT

Alcohol and Tobacco Tax and Trade Bureau

Alcohol; viticultural area designations:

Covelo, Mendocino County, CA; comments due by 4-4-05; published 2-2-05 [FR 05-01875]

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.

S. 686/P.L. 109–3

For the relief of the parents of Theresa Marie Schiavo. (Mar. 21, 2005; 119 Stat. 15)

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