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WHEN: Tuesday, May 17, 2005
9:00 a.m.–Noon

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Conference Room, Suite 700
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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

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

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 204

[CIS No. 2277–03; DHS–2004–0013]

RIN 1615–AB14

Classification of Certain Scientists of the Commonwealth of Independent States of the Former Soviet Union and the Baltic States as Employment-Based Immigrants

AGENCY: U.S. Citizenship and Immigration Services, Homeland Security.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule implements changes to the Soviet Scientists Immigration Act of 1992 (SSIA), Public Law 102–509, made by the Foreign Relations Authorization Act, Fiscal Year 2003, Public Law 107–228. The SSIA, as amended, reinstates the authority to allot visas under section 203(b)(2)(A) of the Immigration and Nationality (Act) to eligible scientists or engineers of the independent states of the former Soviet Union and the Baltic states with expertise in nuclear, chemical, biological, or other high-technology field or defense projects. This rule amends the Department of Homeland Security (DHS) regulations to codify the new sunset date of September 30, 2006 and the new numerical limit of 950 visas (excluding spouses and children if accompanying or following to join). The rule also modifies the evidence eligible scientists or engineers must submit to establish their expertise or work experience in such high technology fields or defense projects.

DATES: *Effective date:* This interim rule is effective May 25, 2005.

Comment date: Comments must be submitted on or before June 24, 2005.

ADDRESSES: You may submit comments, identified by CIS No. 2277–03 or DHS 2004–0013, by *one* of the following methods:

- *EPA Federal Partner EDOCKET Web site: http://www.epa.gov/feddocket.* Follow instructions for submitting comments on the Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: rfs.regs@dhs.gov.* When submitting comments electronically, please include CIS No. 2277–03 in the subject line of the message.
- *Mail:* The Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529. To ensure proper handling, please reference CIS No. 2277–03 on your correspondence. This mailing address may also be used for paper, disk, or CD–ROM submissions.
- *Hand Delivery/Courier:* U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529. Contact Telephone Number (202) 272–8377.

Instructions: All submissions received must include the agency name and docket number (if available) or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.epa.gov/feddocket,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

- *Docket:* For access to the docket to read background documents or comments received, go to *http://www.epa.gov/feddocket.* You may also access the Federal eRulemaking Portal at *http://www.regulations.gov.* Submitted comments may also be inspected at the office of the Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529. To ensure proper handling, please reference CIS No. 2277–03 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Efren Hernandez, Chief, Business and Trade Branch, Program and Regulation Department, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529, telephone (202) 616–7959.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. USCIS also invites comments that relate to the economic, environmental, or federalism affects that might result from this interim rule. Comments that will provide the most assistance to USCIS in developing these procedures will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments.

What Is the Soviet Scientists Immigration Act of 1992?

The Soviet Scientists Immigration Act of 1992 (SSIA) provided that up to 750 immigrant visas may be allotted under section 203(b)(2)(A) of the Immigration and Nationality Act (Act) to eligible scientists or engineers of the independent states of the former Soviet Union and the Baltic states (excluding spouses and children if accompanying or following to join), if the scientists or engineers had expertise in nuclear, chemical, biological or other high technology fields or were working on such high technology defense projects, as defined by the Attorney General. This program expired on October 24, 1996.

What Changes to the Soviet Scientists Immigration Act Were Made by the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228)?

Section 1304 of the Foreign Relations Authorization Act, Fiscal Year 2003, amended the SSIA by:

(1) Reinstating the classification authority for eligible scientists and engineers under section 203(b)(2)(A) of the Act;

(2) Reopening the eligibility period for filing petitions for 4 years from the date of enactment of the Foreign Relations Authorization Act (September 30, 2002);

(3) Raising the numerical limit for visas under the program from 750 to 950;

(4) Precluding any scientist previously admitted for lawful permanent residence from benefits under the SSIA as amended; and

(5) Requiring the Secretary of Homeland Security to consult with the Secretary of State, Secretary of Defense, Secretary of Energy, and other heads of appropriate agencies regarding previous experiences with implementation of the SSIA and any recommended changes in the regulations prescribed under the SSIA.

What Changes Is USCIS Making to Its Regulations?

USCIS is amending § 204.10 as follows:

8 CFR 204.10(a)

Section 204.10(a) is amended to reflect the new sunset date of September 30, 2006 and numerical limit of 950 for the number of visas that may be allotted under section 203(b)(2)(A) of the Act (excluding spouses and children if accompanying or following to join).

8 CFR 204.10(b) and (c)

Current § 204.10(b) is redesignated as § 204.10(c) and amended to address filing requirements and to specify which USCIS office will have jurisdiction over Form I–140s filed under the SSIA. New § 204.10(b) will now contain the definitions governing this provision.

8 CFR 204.10(d)

Current § 204.10(c) is redesignated as § 204.10(d) and addresses the priority dates of any petition filed for this classification.

8 CFR 204.10(e)

Current § 204.10(e) is amended to reflect new evidentiary requirements for petitions filed by scientists and engineers under the SSIA. Under the original program (SSIA 1992–1996), the regulations required applicants to submit documentation relating to their particular scientific expertise and prior work experience. This required documentation often proved difficult not only to obtain but also to assess to determine eligibility.

Based on discussions with the Department of State, USCIS has determined that a more effective administration of the new program (SSIA 2002–2006) can be achieved by requiring each applicant to submit a statement, signed by the Department of State's Bureau of Nonproliferation, attesting to his or her qualifications or expertise in nuclear, chemical, biological or other high technology fields or verifying his or her work on such high technology defense projects. The Bureau of Nonproliferation has been in close contact with this group of scientists and with organizations that have employed them for a number of years and is better suited to represent the individual applicant's qualifications to USCIS. In addition, the Department of State's Visa Office usually coordinates with the Bureau of Nonproliferation and other appropriate agencies during the security advisory opinion process when a visa application involves a scientist or engineer from the former Soviet Union. USCIS has determined that this coordination, and resulting assessment by Department of State, is sufficient to meet the consultation requirements of the SSIA.

Accordingly, § 204.10(e) provides that the signed statement issued by the Department of State's Bureau of Nonproliferation will be considered in lieu of the evidence of qualifications previously required under the old program. USCIS, however, reserves the right to consult independently with the Secretary of Defense, Secretary of Energy and other appropriate agency heads on the qualifications or expertise of a potential applicant under the SSIA and to accept favorable reports from such agencies in addition to the letter from the Department of State, Bureau of Nonproliferation.

8 CFR 204.10(f) and (g)

USCIS is retaining current § 204.10(f) and modifying § 204.10(g) to provide that USCIS, in addition to consulting with the Department of State's Bureau of Nonproliferation, in its discretion may consult with other appropriate government agencies and use favorable reports from such agencies in addition to the statement from the Bureau of Nonproliferation.

8 CFR 204.10(h) and (i)

Current § 204.10(h) is redesignated as § 204.10(i) and divided into two sections addressing approval and denial of petitions. New § 204.10(h) codifies section 4(a) of the SSIA, as amended, which prohibits scientists previously admitted to lawful permanent residence from receiving benefits under the new SSIA program.

8 CFR 204.10(j)

USCIS creates a new § 204.10(j) that provides for the rejection and fee refund of any petition once the program sunsets or the numerical limits for the program have been reached.

How Can Potential Applicants Obtain a Letter From the Department of State Verifying Their Previous Work Experience?

Before submitting the petition to USCIS, the applicant must obtain a letter from the Department of State's Bureau of Nonproliferation. Applicants should submit a written request to the Department of State indicating that they are seeking to immigrate to the United States or adjust status under the SSIA program and requesting verification of their relevant qualifications, expertise, and work experience. Written requests should be submitted to: Coordinator for Science Centers, Office of Proliferation Threat Reduction, NP/PTR, Room 3327, U.S. Department of State, Washington, DC 20520.

The Bureau of Nonproliferation will review the alien's expertise and prior work experience and determine if the expertise and experience are, in fact, qualifying under the program. If the Bureau determines that the applicant has the requisite expertise and experience, the Bureau of Nonproliferation will issue a letter to that effect for submission with the Form I–140 visa petition.

Good Cause Exception

The Department of Homeland Security (DHS) has determined that good cause exists under 5 U.S.C. 553(b)(B) to make this rule effective May 25, 2005, for the following reasons: Section 1304 of the Foreign Relations Authorization Act, Fiscal Year 2003 became effective immediately upon enactment on September 30, 2002, and will sunset by September 30, 2006. The delay in publication of this interim rule for consideration of public comments prior to the effective date of the rule would only serve to further limit the remaining period within which qualifying scientists or engineers may file a Form I–140 petition for an immigrant visa (or seek adjustment of status to lawful permanent residence) prior to September 30, 2006. DHS also believes that pre-promulgation comment is unnecessary because of the limited number of individuals who may qualify for or be affected by the SSIA (estimated at 500); the non-controversial nature of the implementation procedures; and the security interests that are facilitated by having a process in place for vetting scientists and engineers who might be authorized to work in the high-technology fields or on the defense projects that qualify under the SSIA program. Publication of this rule as an interim rule also will expedite implementation of section 1304 by

allowing aliens covered by the law to apply for and obtain the benefits available under the SSIA.

Accordingly, DHS finds that it would be impracticable and contrary to the public interest to delay implementation of this rule to allow the prior notice and comment period normally required under 5 U.S.C. 553(b)(B). DHS nevertheless invites written comments on this interim rule and will consider any timely comments in preparing the final rule.

Regulatory Flexibility Act

DHS has reviewed this regulation in accordance with the Regulatory and Flexibility Act (5 U.S.C. 605(b)), and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. The SSIA, as amended, is limited to 950 eligible independent states and Baltic scientist. Form I–140s generally will be filed by individual aliens, or U.S. government entities filing on behalf of such individuals, seeking classification under section 203(b)(2)(A) of the Act. These petitioners are not considered small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by DHS to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget (OMB) for review.

DHS has assessed both the costs and benefits of this rule as required by Executive Order 12866, section 1(b)(6) and has made a reasoned determination that the benefits of this regulation justify its costs. Briefly, that assessment is as follows: The rule will enhance the ability of DHS to administer this very limited program. There are no costs to the public associated with this rule, except the fee for filing the Form I–140 petition which is borne by the applicant. The $190 fee for the Form I–140 petition was established to cover the administrative costs of processing the petition. DHS estimates that there are approximately 500 visa numbers available under this program: 300 unused visas from the initial SSIA program before it expired and 200 new visas based in the increase in the numerical limit from 750 to 950. DHS estimates that the total cost for this program will be $95,000 (500 × $190 filing fee for the Form I–140). The program benefits the individual scientist-beneficiaries who gain access to the U.S. job market and other benefits available to permanent resident aliens. Also, the security of the United States is enhanced because the skills and knowledge of these scientists can be used within the United States rather than by governments or other organizations potentially inimical to the national security.

Executive Order 13132

This rule will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

This interim rule requires a petitioner to submit a letter from the Department of State, Bureau of Nonproliferation, addressing the petitioner's scientific or engineering qualifications. Previously USCIS captured this information under the Form ETA 750B, OMB No. 44–R1301, as part of the evidence requirements contained in the instructions to the Form I–140. The State Department letter will be used in lieu of the Form ETA 750B. Therefore, petitioners will no longer be required to provide information in support of, or complete, the Form ETA 750B, and the burden hours associated with the Form ETA 750B for this program are removed. Since the letter will be generated by the Department of State and issued to the petitioner for submission with the Form I–140, there are no additional information collections. Also, there are no additional information collections associated with the Form I–140 (OMB No. 1615–0015).

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Immigration, Reporting and record keeping requirements.

■ Accordingly, part 204 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 204—IMMIGRANT PETITIONS

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255, 1641; 8 CFR part 2.

■ 2. Section 204.10 is revised to read as follows:

§ 204.10 Petitions by, or for, certain scientists of the Commonwealth of Independent States or the Baltic states.

(a) *General.* A petition to classify an alien under section 203(b)(2) of the Act as a scientist or engineer of the eligible independent states of the former Soviet Union or the Baltic states must be filed on Form I–140, Immigrant Petition for Alien Worker. The petition may be filed by the alien, or anyone in the alien's behalf. USCIS must approve a petition filed on behalf of the alien on or before September 30, 2006, or until 950 petitions have been approved on behalf of eligible scientists, whichever is earliest.

(b) *Definitions.* As used in this section the term:

Baltic states mean the sovereign nations of Latvia, Lithuania, and Estonia.

Eligible independent states and Baltic scientists means aliens:

(1) Who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and

(2) Who are scientists or engineers who have expertise in nuclear, chemical, biological, or other high-technology field which is clearly applicable to the design, development, or production of ballistic missiles, nuclear, biological, chemical, or other

high-technology weapons of mass destruction, or who are working on nuclear, chemical, biological, or other high-technology defense projects, as defined by the Secretary of Homeland Security, that are clearly applicable to the design, development, and production of ballistic missiles, nuclear, biological, chemical, or other high-technology weapons of mass destruction.

Independent states of the former Soviet Union means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

(c) *Filing requirements.* (1) *Application form and time limits.* A petition to classify an alien under section 203(b)(2)(A) of the Act as a scientist from the eligible independent states of the former Soviet Union or the Baltic states must be filed on Form I–140, Immigrant Petition for Alien Worker. The petition may be filed by the alien, or by anyone on the alien's behalf. Such petition must be properly filed with all initial evidence described in paragraph (e) of this section by September 30, 2006 or before the limit of 950 visas has been reached, whichever is earliest. To clarify that the petition is for a Soviet scientist, the petitioner should clearly print the words ''SOVIET SCIENTIST'' in Part 2 of Form I–140 and check block ''d'', indicating the petition is for a member of the professions holding an advanced degree or an alien of exceptional ability.

(2) *Jurisdiction.* Form I–140 must be filed with the service center having jurisdiction over the alien's place of intended residence in the United States.

(d) *Priority date.* The priority date of any petition filed for this classification is the date the completed, signed petition (including all initial evidence as defined in paragraph (e) of this section and the correct fee) is properly filed with the USCIS.

(e) *Initial evidence.* The petition must be accompanied by:

(1) Evidence that the alien is a national of one of the independent states of the former Soviet Union or one of the Baltic States as defined in paragraph (b) of this section. Such evidence may include, but is not limited to, identifying page(s) from a passport issued by the former Soviet Union, or by one of the independent or Baltic states; and

(2) A letter from the Department of State, Bureau of Nonproliferation that verifies that the alien possesses expertise in nuclear, chemical, biological, or other high-technology field or who has prior or current work experience in high-technology defense projects which are clearly applicable to the design, development, or production of ballistic missiles, nuclear, biological, chemical, or other high-technology weapons of mass destruction and endorses the applicant as having exceptional ability in one or more of these fields. Such endorsement shall establish that the alien possesses exceptional ability in the relevant field.

(f) *No offer of employment required.* Neither an offer of employment nor a labor certification is required for this classification.

(g) *Consultation with other United States Government agencies.* USCIS may consult with other United States Government agencies, such as the Departments of Defense and Energy or other relevant agencies with expertise in nuclear, chemical, biological, or other high-technology defense projects. USCIS may, in its discretion, accept a favorable report from such agencies as evidence in addition to the documentation prescribed under paragraph (e) of this section.

(h) *Aliens previously granted permanent residence.* No alien previously granted lawful permanent residence may request or be granted classification or any benefits under this provision.

(i) *Decision.* (1) *Approval.* If the petition is approved and the beneficiary is outside the United States the applicant will be notified of the decision and the petition will be forwarded to the National Visa Center. If the beneficiary is in the United States and seeks to apply for adjustment of status, the petition will be retained by USCIS.

(2) *Denial.* If the petition is denied, the petitioner will be advised of the decision and of the right to appeal in accordance with 8 CFR part 103.

(j) *Rejection.* Petitions filed under this provision on or after September 30, 2006 or after the limit of 950 visas has been reached will be rejected and the fee refunded.

Dated: April 15, 2005.

Michael Chertoff,

Secretary.

[FR Doc. 05–8176 Filed 4–22–05; 8:45 am]

BILLING CODE 4410–10–P

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R–1228]

Availability of Funds and Collection of Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; technical amendment.

SUMMARY: The Board of Governors is amending appendix A of Regulation CC to delete the reference to the Salt Lake City branch office of the Federal Reserve Bank of San Francisco and reassign the Federal Reserve routing symbols currently listed under that office to the Denver branch office of the Federal Reserve Bank of Kansas City. These amendments will ensure that the information in appendix A accurately describes the actual structure of check processing operations within the Federal Reserve System.

DATES: The final rule will become effective on June 18, 2005.

FOR FURTHER INFORMATION CONTACT: Jack K. Walton II, Assistant Director (202/452–2660), or Joseph P. Baressi, Senior Financial Services Analyst (202/452–3959), Division of Reserve Bank Operations and Payment Systems; or Adrianne G. Threatt, Counsel (202/452–3554), Legal Division. For users of Telecommunications Devices for the Deaf (TDD) only, contact 202/263–4869.

SUPPLEMENTARY INFORMATION: Regulation CC establishes the maximum period a depositary bank may wait between receiving a deposit and making the deposited funds available for withdrawal.[1] A depositary bank generally must provide faster availability for funds deposited by a local check than by a nonlocal check. A check drawn on a bank is considered local if it is payable by or at a bank located in the same Federal Reserve check processing region as the depositary bank. A check drawn on a nonbank is considered local if it is payable through a bank located in the same Federal Reserve check processing region as the depositary bank. Checks that do not meet the requirements for local checks are considered nonlocal.

Appendix A to Regulation CC contains a routing number guide that assists banks in identifying local and nonlocal banks and thereby determining the maximum permissible hold periods

[1] For purposes of Regulation CC, the term ''bank'' refers to any depository institution, including commercial banks, savings institutions, and credit unions.

for most deposited checks. The appendix includes a list of each Federal Reserve check processing office and the first four digits of the routing number, known as the Federal Reserve routing symbol, of each bank that is served by that office for check processing purposes. Banks whose Federal Reserve routing symbols are grouped under the same office are in the same check processing region and thus are local to one another.

As explained in detail in the Board's final rule published in the **Federal Register** on September 28, 2004, the Federal Reserve Banks have decided to reduce further the number of locations at which they process checks.[2] The amendments set forth in this notice are part of a series of appendix A amendments related to that decision, and the Board will issue separate notices for each phase of the restructuring.[3]

As part of the restructuring process, the Salt Lake City branch office of the Federal Reserve Bank of San Francisco will cease processing checks on June 18, 2005, and banks with routing symbols currently assigned to that office for check processing purposes will be reassigned to the Denver branch office of the Federal Reserve Bank of Kansas City. As a result of these changes, some checks that are drawn on and deposited at banks located in the affected check processing regions and that currently are nonlocal checks will become local checks subject to faster availability schedules. Because the Denver branch office check processing region will serve banks located in more than one Federal Reserve District, banks located in the expanded Denver check processing region cannot determine that a check is nonlocal solely because the paying bank for that check is located in another Federal Reserve district.

To assist banks in identifying local and nonlocal banks, the Board accordingly is amending the lists of routing symbols associated with the Federal Reserve Banks of San Francisco and Kansas City to conform to the transfer of operations from the San Francisco Reserve Bank's Salt Lake City branch office to the Kansas City Reserve Bank's Denver branch office. To coincide with the effective date of the underlying check processing changes, the amendments are effective June 18, 2005. The Board is providing advance notice of these amendments to give affected banks ample time to make any needed processing changes. The advance notice also will enable affected banks to amend their availability schedules and related disclosures, if necessary, and provide their customers with notice of these changes.[4] The Federal Reserve routing symbols assigned to all other Federal Reserve branches and offices will remain the same at this time. The Board of Governors, however, intends to issue similar notices at least sixty days prior to the elimination of check operations at some other Reserve Bank offices, as described in the September 2004 **Federal Register** document.

Administrative Procedure Act

The Board has not followed the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of this final rule. The revisions to the appendix are technical in nature, and the routing symbol revisions are required by the statutory and regulatory definitions of ''check-processing region.'' Because there is no substantive change on which to seek public input, the Board has determined that the section 553(b) notice and comment procedures are unnecessary.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320 Appendix A.1), the Board has reviewed the final rule under authority delegated to the Board by the Office of Management and Budget. These technical amendments to appendix A of Regulation CC will delete the reference to the Salt Lake City branch office of the Federal Reserve Bank of San Francisco and reassign the routing symbols listed under that office to the Denver branch office of the Federal Reserve Bank of Kansas City. The depository institutions that are located in the affected check processing regions and that include the routing numbers in their disclosure statements would be required to notify customers of the resulting change in availability under § 229.18(e). However, because all paperwork collection procedures associated with Regulation CC already are in place, the Board anticipates that no additional burden will be imposed as a result of this rulemaking.

12 CFR Chapter II

List of Subjects in 12 CFR Part 229

Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

■ For the reasons set forth in the preamble, the Board is amending 12 CFR part 229 to read as follows:

PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

■ 1. The authority citation for part 229 continues to read as follows:

Authority: 12 U.S.C. 4001–4010, 12 U.S.C. 5001–5018.

■ 2. The Tenth and Twelfth Federal Reserve District routing symbol lists in appendix A are revised to read as follows:

Appendix A to Part 229—Routing Number Guide to Next-Day Availability Checks and Local Checks

* * * * *

Tenth Federal Reserve District

[Federal Reserve Bank of Kansas City]

Head Office

1010	3010
1011	3011
1012	3012
1019	3019

Denver Branch

1020	3020
1021	3021
1022	3022
1023	3023
1070	3070
1240	3240
1241	3241
1242	3242
1243	3243

Oklahoma City Branch

1030	3030
1031	3031
1039	3039

* * * * *

Twelfth Federal Reserve District

[Federal Reserve Bank of San Francisco]

Head Office

1210	3210
1211	3211
1212	3212
1213	3213

Los Angeles Branch

1220	3220
1221	3221
1222	3222
1223	3223
1224	3224

[2] *See* 69 FR 57837, September 28, 2004.

[3] In addition to the general advance notice of future amendments provided by the Board, and the Board's notices of final amendments, the Reserve Banks are striving to inform affected depository institutions of the exact date of each office transition at least 120 days in advance. The Reserve Banks' communications to affected depository institutions are available at *http://www.frbservices.org.*

[4] Section 229.18(e) of Regulation CC requires that banks notify account holders who are consumers within 30 days after implementing a change that improves the availability of funds.

Portland Branch

1230	3230
1231	3231
1232	3232
1233	3233

Seattle Branch

1250	3250
1251	3251
1252	3252

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, April 19, 2005.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 05–8152 Filed 4–22–05; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–CE–57–AD; Amendment 39–14066; AD 2005–08–14]

RIN 2120–AA64

Airworthiness Directives; LET a.s. Model Blanik L–13 AC Sailplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for all LET a.s. (formerly LET n.p.) (LET) Model Blanik L–13 AC sailplanes. This AD requires you to replace the original control bridge with the new strengthened control column mounting bridge. This AD is the result of a report of one case of cracks in the attachment of control levers on the control bridge. We are issuing this AD to correct cracks in the bedding of the front and rear control levers, which could result in failure of the control bridge for the sailplane. This failure could lead to loss of sailplane control.

DATES: This AD becomes effective on June 6, 2005.

As of June 6, 2005, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: You may get the service information identified in this AD from LET a.s., Kunovice 686 04, Czech Republic; telephone: +420 572 817 650; facsimile: +420 572 617 653.

You may view the AD docket at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–57–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Office hours are 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Civil Aviation Authority (CAA), which is the airworthiness authority for the Czech Republic, recently notified FAA that an unsafe condition may exist on certain LET Model Blanik L–13 AC sailplanes. The CAA reports one case of cracks in the attachment of control levers on the control bridge (Drawing No. A71 210N) on a Model Blanik L–13 AC sailplane after 130 hours time-in-service (TIS) of aerobatics. The cracks are because of material fatigue.

What Is the Potential Impact if FAA Took No Action?

Failure of the control bridge for the sailplane could lead to loss of sailplane control.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all LET a.s. (formerly LET n.p.) (LET) Model Blanik L–13 AC sailplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 9, 2004 (69 FR 10939). The NPRM proposed to require you to repetitively inspect the bedding of the front and rear control levers for cracks, and, if any cracks are found, replace with parts found free of cracks.

You would have to do the proposed actions following Letecke Zavody Mandatory Bulletin No.: L13/095a, dated October 18, 2001.

Since issuance of the NPRM, LET has issued the new Letecke Zavody Mandatory Bulletin No.: L13AC/014a, dated July 17, 2003. This service bulletin removes the repetitive inspection, requires the replacement of parts, and changes the serial numbers affected.

The CAA has not amended the Czech AD to reflect this service information. However, FAA has evaluated the new service information and determined that the NPRM should be changed to reflect the requirements in the new LET service bulletin.

A supplemental NPRM proposal was published in the **Federal Register** on October 7, 2004 (69 FR 60106). The supplemental NPRM proposed to require you to replace the original control bridge with the new strengthened control column mounting bridge.

Comments

Was the Public Invited To Comment?

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

Conclusion

What Is FAA's Final Determination on This Issue?

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

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

Changes to 14 CFR Part 39—Effect on the AD

How Does the Revision to 14 CFR Part 39 Affect This AD?

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

Costs of Compliance

How Many Sailplanes Does This AD Impact?

We estimate that this AD affects 5 sailplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Sailplanes?

We estimate the following costs to do the replacement:

Labor cost	Parts cost	Total cost for each airplane	Total cost on U.S. operators
7 workhours × $65 for each hour = $455	$2,000	$2,455	$12,275

Authority for This Rulemaking

What Authority Does FAA Have for Issuing This Rulemaking Action?

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 AD.

Regulatory Findings

Will This AD Impact Various Entities?

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.

Will This AD Involve a Significant Rule or Regulatory Action?

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 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 other information as included in the Regulatory Evaluation) 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–CE–57–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. FAA amends § 39.13 by adding a new AD to read as follows:

2005–08–14 LET a.s. (Formerly LET n.p.): Amendment 39–14066; Docket No. 2003–CE–57–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on June 6, 2005.

What Other ADs Are Affected by This Action?

(b) None.

What Sailplanes Are Affected by This AD?

(c) This AD affects Model Blanik L–13 AC sailplanes, serial numbers 988601, 988603, 008605, 008606, and 028902, that are certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of a report of one case of cracks in the attachment of control levers on the control bridge. The actions specified in this AD are intended to correct cracks in the bedding of the front and rear control levers, which could result in failure of the control bridge for the sailplane. This failure could lead to loss of sailplane control.

What Must I Do To Address This Problem?

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Replace the original control bridge (Drawing No. A741 210N) with the new strengthened control column mounting bridge (Drawing No. A740 370N).	Within the next 25 hours time-in-service (TIS) after June 6, 2005 (the effective date of this AD), unless already done.	Follow the WORK PROCEDURE paragraph of LET Letecke Zavody Mandatory Bulletin No.: L13AC/014a, dated July 17, 2003.
(2) Do not install any original control bridge (Drawing No. A741 210N).	As of the effective date of this AD	Not Applicable.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Standards Office, FAA. For information on any already approved alternative methods of compliance, contact Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; facsimile: (816) 329–4090.

Does This AD Incorporate Any Material by Reference?

(g) You must do the actions required by this AD following the instructions in LET Letecke Zavody Mandatory Bulletin No.: L13AC/014a, dated July 17, 2003. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may get a copy from LET a.s., Kunovice 686 04, Czech Republic; telephone: +420 572 817 650; facsimile: +420 572 617 653. You may review copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; 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.*

Is There Other Information That Relates to This Subject?

(h) Czech Airworthiness Directive CAA–AD–090/2001, dated October 25, 2001, also addresses the subject of this AD.

Issued in Kansas City, Missouri, on April 14, 2005.

Nancy C. Lane,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–7990 Filed 4–22–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20023; Directorate Identifier 2004–NM–49–AD; Amendment 39–14067; AD 2005–08–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 707 Airplanes and Model 720 and 720B Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Boeing Model 707 airplanes and Model 720 and 720B series airplanes. That AD currently requires a preventive modification of the front spar fitting on the outboard engine nacelle. This new AD removes the requirement to do this preventive modification, and requires repetitive inspections for cracking of the front spar fitting of the inboard and outboard nacelle struts, and replacement of any cracked fitting with a new fitting. This AD also applies to more airplanes. This AD is prompted by a report indicating that a crack was found in a front spar fitting that had been replaced as part of the modification required by the existing AD. We are issuing this AD to detect and correct this cracking, which could result in reduced structural integrity of the engine nacelle, and consequent separation of an engine from the airplane.

DATES: This AD becomes effective May 31, 2005.

The incorporation by reference of Boeing Alert Service Bulletin A3514, dated July 29, 2004, as listed in the AD, is approved by the Director of the Federal Register as of May 31, 2005.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

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–2005–20023; the directorate identifier for this docket is 2004–NM–49–AD.

FOR FURTHER INFORMATION CONTACT: Candice Gerretsen, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6428; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with an AD to supersede AD 2001–17–24, amendment 39–12415 (66 FR 45572, August 29, 2001). The existing AD applies to certain Boeing Model 707 airplanes and Model 720 and 720B series airplanes. The proposed AD was published in the **Federal Register** on January 12, 2005 (70 FR 2060), to remove the requirement to do the preventative modification of the front spar fitting on the outboard engine nacelle and to require repetitive inspections for cracking of the front spar fitting of the inboard and outboard nacelle struts, and replacement of any cracked fitting with a new fitting. The proposed AD would also apply to more airplanes.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the single comment that has been submitted on the proposed AD. The commenter supports the proposed AD.

Explanation of Changes Made to This AD

Boeing has received a Delegation Option Authorization (DOA). We have revised this final rule to delegate the authority to approve an alternative method of compliance for any repair required by this AD to the Authorized Representative for the Boeing DOA Organization rather than the Designated Engineering Representative (DER).

We have removed paragraph (h)(1) of the proposed AD because paragraph (h)(2) would supersede those actions. We have re-identified paragraph (h)(2) of the proposed AD as paragraph (h) in this final rule.

Conclusion

We have carefully reviewed the available data, including the comment that has 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

There are about 290 airplanes of the affected design in the worldwide fleet. 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	8	$65	None	$520, per inspection cycle.	87	$45,240 per inspection 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, Incorporated 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 removing amendment 39–12415 (66 FR 45572, August 29, 2001), and by adding the following new airworthiness directive (AD):

2005–08–15 Boeing: Amendment 39–14067. Docket No. FAA–2005–20023; Directorate Identifier 2004–NM–49–AD.

Effective Date

(a) This AD becomes effective May 31, 2005.

Affected ADs

(b) This AD supersedes AD 2001–17–24, amendment 39–12415 (66 FR 45572, August 29, 2001).

Applicability

(c) This AD applies to Boeing Model 707–100 long body, –200, –100B long body, and –100B short body series airplanes; Model 707–300, –300B, –300C, and –400 series airplanes; and Model 720 and 720B series airplanes; certificated in any category; having line numbers 1 through 1012 inclusive.

Unsafe Condition

(d) This AD was prompted by a report indicating that a crack was found in a front spar fitting that had been replaced as part of the modification required by AD 2001–17–24. We are issuing this AD to detect and correct this cracking, which could result in reduced structural integrity of the engine nacelle, and consequent separation of an engine from 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.

Inspection

(f) Prior to the accumulation of 3,500 total flight hours, or within 18 months after the effective date of this AD, whichever occurs later: Do a detailed inspection for cracking of the front spar fitting of the inboard and outboard nacelles according to the Accomplishment Instructions of Boeing Alert Service Bulletin A3514, dated July 29, 2004. Repeat the inspection thereafter at intervals not to exceed 700 flight hours.

Note 1: There is no terminating action at this time for the repetitive inspections required by paragraph (f) of this AD.

Replacement

(g) If any cracking is found during any inspection required by paragraph (f) of this AD: Before further flight, replace the cracked front spar fitting with a new fitting, according to the Accomplishment Instructions of Boeing Alert Service Bulletin A3514, dated July 29, 2004.

Parts Installation

(h) As of the effective date of this AD, no person may install, on any airplane, a front spar fitting having a part number other than the part numbers specified in paragraph 2.C.2. of Boeing Alert Service Bulletin A3514, dated July 29, 2004.

Alternative Methods of Compliance (AMOCs)

(i)(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 that is required by this AD, if it is approved by an Authorized Representative for the Boeing DOA 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

(j) You must use Boeing Alert Service Bulletin A3514, dated July 29, 2004, 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. To get copies of the service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. To view the AD docket, contact the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. To review copies of the service information, contact the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on April 13, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–7996 Filed 4–22–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20078; Directorate Identifier 2004–NM–210–AD; Amendment 39–14068; AD 2005–08–16]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model Avro 146–RJ 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 all BAE Systems (Operations) Limited Model Avro 146–RJ series airplanes. This AD requires an inspection of the Thales Avionics distance bearing indicator (DBI) to determine part number (P/N)

and serial number (S/N), and replacement of the affected DBI with a new or modified DBI. This AD is prompted by a report of defective electrical insulators in DBIs. We are issuing this AD to prevent a short circuit in the DBI due to defective electrical insulation, which could potentially cause a loss of primary navigation instruments (such as airspeed indicator, altimeter, and global positioning system (GPS) information).

DATES: This AD becomes effective May 31, 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 31, 2005.

ADDRESSES: For service information identified in this AD, contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171.

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–2005–20078; the directorate identifier for this docket is 2004–NM–210–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: The FAA proposed to amend 14 CFR part 39 with an AD for all BAE Systems (Operations) Limited Model Avro 146-RJ series airplanes. That action, published in the **Federal Register** on January 19, 2005 (70 FR 2987), proposed to require an inspection of the Thales Avionics distance bearing indicator (DBI) to determine part number (P/N) and serial number (S/N), and replacement of the affected DBI with a new or modified DBI.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been submitted on the proposed AD or on the determination of the cost to the public.

Clarification of Changes to Proposed AD

In addition to other minor editorial changes to the AD, additional clarifications have been made.

The requirements of new paragraph (g) (''Parts Installation'') in this final rule apply to all affected airplanes. Therefore, we revised paragraph (f)(1) of the AD to properly limit those provisions (no further action) to paragraph (f).

We revised paragraphs (f)(2) and (g) to clarify that the DBI replacement is conditional on a finding of certain part/serial numbers. We combined paragraph (f)(2) and (g), and redesignated the subsequent paragraphs accordingly.

Conclusion

We have carefully reviewed the available data 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 will affect about 54 airplanes of U.S. registry. The required actions will take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Required parts will cost about $728 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is $42,822, or $793 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 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):

2005–08–16 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–14068. Docket No. FAA–2005–20078; Directorate Identifier 2004–NM–210–AD.

Effective Date

(a) This AD becomes effective May 31, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Model Avro 146-RJ series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by a report of defective electrical insulators in distance bearing indicators (DBI). We are issuing this AD to prevent a short circuit in the DBI due to defective electrical insulation, which could potentially cause a loss of primary

navigation instruments (such as airspeed indicator, altimeter, and global positioning system (GPS) information).

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.

Part Number Inspection

(f) Within four months after the effective date of this AD, inspect the Thales Avionics DBI to determine whether a part number (P/N) and serial number (S/N) listed in the Effectivity of BAE Systems (Operations) Limited Modification Service Bulletin SB.34–371–70671A, dated September 19, 2003, is installed. Instead of an inspection of the DBI, a review of airplane maintenance records is acceptable if the P/N and the S/N of the DBI can be positively determined from that review.

(1) If the DBI P/N and S/N do not match those listed in the service bulletin, no further action is required by this paragraph.

(2) If the DBI P/N and S/N do match those listed in the service bulletin, within four months after the effective date of this AD, replace the DBI in accordance with the Accomplishment Instructions of the service bulletin. The replacement part must be either a new DBI having P/N 63543–280–1 and a S/N not listed in the service bulletin, or a new DBI having P/N 63543–280–2.

Parts Installation

(g) As of the effective date of this AD, no person may install a DBI with a P/N and S/N listed in the Effectivity of BAE Systems (Operations) Limited Modification Service Bulletin SB.34–371–70671A, dated September 19, 2003, on any airplane unless the DBI has been modified in accordance with paragraph (f)(2) of this AD.

No Reporting

(h) Although the service bulletin references a reporting requirement in paragraph 2.C.2, ''Documentation,'' that reporting is not required by 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) British airworthiness directive G–2004–0006, dated March 2, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use BAE Systems (Operations) Limited Modification Service Bulletin SB.34–371–70671A, dated September 19, 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. To get copies of the service information, contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. To view the AD docket, contact the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. To review copies of the service information, contact the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on April 14, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–8096 Filed 4–22–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21026; Directorate Identifier 2005–NM–069–AD; Amendment 39–14069; AD 2005–09–01]

RIN 2120–AA64

Airworthiness Directives; Cessna Model 750 Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Cessna Model 750 airplanes. The AD requires repetitive inspections for clearance and chafing of an auxiliary power unit (APU) fuel tube assembly in the tail cone area of the airplane, and corrective actions if necessary. For certain airplanes, this AD also requires replacing the APU fuel line. This AD is prompted by reports of chafed APU fuel tubes leaking into the tail cone area due to interference between the fuel tube assembly and elevator flight control cables, hydraulic lines, and high-temperature bleed air couplings. We are issuing this AD to detect and correct this interference, which could result in chafing, fuel leaking into an area where ignition sources are present, and possible fire in an area without fire detection or extinguishing provisions.

DATES: Effective May 10, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of May 10, 2005.

We must receive comments on this AD by June 24, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this 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.
- 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 AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277.

Examining the Dockets

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.

FOR FURTHER INFORMATION CONTACT: Robert D. Adamson, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4145; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION: We have received reports of severely chafed auxiliary power unit (APU) fuel tubes found during routine maintenance on Cessna Model 750 airplanes. The APU fuel tubes were leaking into the tail cone area of the airplane due to chafing from interference between the fuel tube and elevator flight control cables, hydraulic lines, and high temperature bleed air couplings. This condition, if not corrected, could result in fuel leaking into an area where ignition sources are present, and consequent fire in an area without fire detection or extinguishing provisions.

Relevant Service Information

We have reviewed Cessna Alert Service Letter (ASL) ASL750–49–09, Revision 2, dated March 10, 2005. The ASL describes procedures for repetitive inspections to verify the clearance and detect chafing of one of the APU fuel tube assemblies in the tail cone area of the airplanes. The inspections specifically are intended to detect and correct possible interference between the APU fuel tube and elevator flight control cables, hydraulic lines, and high-temperature bleed air couplings. Corrective actions include the following:

CORRECTIVE ACTIONS

Inspect—	And—	If you find—
For chafing damage on the APU fuel tube assembly.	Replace the APU fuel tube assembly with new parts.	Any lengthwise scratch. Other nicks/scratches, and chafing and dents that exceed certain limits.
For chafing damage on the elevator control cables.	Replace the elevator control cable with new parts. Blend out the damage	Chafing with visible wire braids and broken wires. Chafing with visible wire braids and no broken wires. Chafing with no visible wire braids.
The clearance of the APU fuel tube assembly	Adjust routing of the APU fuel tube assembly	Inadequate clearance between APU fuel tube assembly and— • elevator cables. • high-temperature bleed air lines. • electrical wiring. • airframe structure. • hydraulic lines.

The ASL specifies sending a report of the inspection results to the manufacturer.

For certain airplanes, the ASL also specifies replacing, with new parts, and relocating the APU fuel tube in the tail cone area of the airplane. Those procedures are described in Cessna Service Bulletin SB750–49–05, Revision 1, dated January 17, 2000. The ASL specifies installing the new APU fuel tube before the initial inspection specified in the ASL.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. Therefore, we are issuing this AD to prevent fuel from leaking into an area where ignition sources are present, which could result in a fire in an area without fire detection or extinguishing provisions. This AD requires accomplishing the actions specified in the service information described previously. This AD also requires reporting the inspection results to Cessna.

Interim Action

We consider this AD interim action. The manufacturer is currently developing a modification that may terminate the repetitive inspections required by this AD action. Once this modification is developed, approved, and available, we may consider additional rulemaking.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21026; Directorate Identifier 2005–NM–069–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 AD. Using the search function of our docket 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 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.*

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 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):

2005–09–01 Cessna Aircraft Company: Amendment 39–14069. Docket No. FAA–2005–21026; Directorate Identifier 2005–NM–069–AD.

Effective Date

(a) This AD becomes effective May 10, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Cessna Model 750 airplanes, certificated in any category, serial numbers–0001 through–0240 inclusive.

Unsafe Condition

(d) This AD was prompted by reports of chafed auxiliary power unit (APU) fuel tubes leaking into the tail cone area of the airplane due to interference between the APU fuel tube assembly and elevator flight control cables, hydraulic lines, and high temperature bleed air couplings. The FAA is issuing this AD to detect and correct this interference, which could result in chafing, leaking into an area where ignition sources are present, and possible fire in an area without fire detection or extinguishing provisions.

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.

Inspections

(f) For all airplanes: Within 25 flight hours or 48 days, whichever occurs first after the effective date of this AD, do a detailed inspection to verify the clearance and detect chafing of one of the APU fuel tube assemblies in the tail cone area of the airplane due to interference between the APU fuel tube and elevator flight control cables, hydraulic lines, and high temperature bleed air couplings. Do the actions in accordance with the Accomplishment Instructions of Cessna Alert Service Letter (ASL) ASL750–49–09, Revision 2, dated March 10, 2005. Do applicable corrective actions before further flight in accordance with the ASL. Repeat the inspection thereafter at the earlier of the times specified in paragraphs (f)(1) and (f)(2) of this AD.

(1) At intervals not to exceed 250 flight hours or 3 months, whichever occurs first.

(2) Before further flight after access to the inspection area for any other inspection or maintenance.

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.''

APU Replacement

(g) For airplanes having serial numbers –0001 through –0031 inclusive and –0033 through –0107 inclusive: Before the first inspection required by paragraph (f) of this AD, replace the APU fuel tube in the tail cone area of the airplane, in accordance with Cessna Service Bulletin SB750–49–05, Revision 1, dated January 17, 2000. The replacement APU fuel tube must be a new APU fuel tube having part number 6756605–23.

Report

(h) At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, report the results (both positive and negative findings) of the initial inspection required by paragraph (f) of this AD, in accordance with Cessna ASL ASL750–49–09, Revision 2, dated March 10, 2005. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) If the inspection was done after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, Wichita 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.

Material Incorporated by Reference

(j) To perform the actions that are required by this AD, you must use Cessna Alert Service Letter ASL750–49–09, Revision 2, dated March 10, 2005; and Cessna Service Bulletin SB750–49–05, Revision 1, dated January 17, 2000; as applicable, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Cessna Aircraft Co., PO Box 7706, Wichita, Kansas 67277. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. To review copies of the service information contact 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.*

Issued in Renton, Washington, on April 13, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–8097 Filed 4–22–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21027; Directorate Identifier 2005–NM–048–AD; Amendment 39–14070; AD 2005–09–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) that applies to all Boeing Model 747 series airplanes. The existing AD currently requires repetitive inspections for cracking of the top and side panel webs and panel stiffeners of the nose wheel well (NWW), and corrective actions if necessary. This new AD expands the area of inspection, adds a

new ''secondary'' inspection if certain cracking is found, and reduces the intervals for the repetitive inspections. This AD is prompted by a report of an in-flight decompression of a Model 747–100 series airplane that had accumulated 27,241 total flight cycles. We are issuing this AD to detect and correct fatigue cracks in the top and side panel webs and stiffeners of the NWW, which could compromise the structural integrity of the NWW and could lead to the rapid decompression of the airplane.

DATES: Effective May 10, 2005.

The incorporation by reference of Boeing Alert Service Bulletin 747–53A2465, Revision 4, dated February 24, 2005, as listed in the AD, is approved by the Director of the Federal Register as of May 10, 2005.

On January 27, 2005 (69 FR 76839, December 23, 2004), the Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 747–53A2465, Revision 1, dated October 16, 2003; and Boeing Alert Service Bulletin 747–53A2465, Revision 2, dated November 11, 2004.

We must receive any comments on this AD by June 24, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this 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.
- *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 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–2005–21027; the directorate identifier for this docket is 2005–NM–048–AD.

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.

FOR FURTHER INFORMATION CONTACT: Nick Kusz, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6432; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: On December 7, 2004, we issued AD 2004–25–23, amendment 39–13911 (69 FR 76839, December 23, 2004). That AD applies to all Boeing Model 747 series airplanes. That AD requires repetitive inspections for cracking of the top and side panel webs and panel stiffeners of the nose wheel well (NWW), and corrective actions if necessary. That AD was prompted by reports indicating that cracks have been found on the top and side panel webs and side panel horizontal stiffeners of the NWW on Boeing Model 747 series airplanes. Investigation revealed that the cracking was due to fatigue. The actions specified in that AD are intended to detect and correct fatigue cracks in the top and side panel webs and stiffeners of the NWW, which could compromise the structural integrity of the NWW and could lead to the rapid decompression of the airplane.

Actions Since AD Was Issued

Since we issued that AD, the FAA has received a report of an in-flight decompression on a Boeing Model 747–100 series airplane. The airplane landed safely, and investigation revealed that the right-hand side panel web of the NWW was torn open between station (STA) 260 and STA 280, and from water line (WL) 160 to WL 170. The decompression also caused damage to the nose landing gear doors and adjacent structure.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin (ASB) 747–53A2465, Revision 4, dated February 24, 2005. The ASB describes procedures for performing repetitive external detailed and ultrasonic inspections for cracking of the top and side panel webs (Areas 1 and 2) of the NWW and for performing repetitive internal detailed and surface high frequency eddy current inspections (Area 3) for cracking of the top and side panel stiffeners of the NWW; replacing cracked stiffeners with new stiffeners; and repairing any cracked panel web. Revision 4 of the ASB also describes detailed ''secondary inspections'' for certain cracking found and specifies contacting Boeing for further action if other cracking is found. Revision 4 of the ASB describes procedures for expanding the area of inspection of the web from STA 260 to STA 270 along WL 140. Revision 4 of the ASB also specifies reducing the repetitive inspection intervals for Area 1 and Area 2 and includes additional repetitive detailed and ultrasonic (UT) inspections. Revision 4 of the ASB also describes reducing the repetitive inspection intervals for the inspections of Area 3.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. This AD is being issued to supersede AD 2004–25–23. This new AD continues to require repetitive inspections for cracking of the top and side panel webs and panel stiffeners of the NWW, and corrective actions if necessary. This AD expands the area of inspection, adds a new ''secondary'' inspection if certain cracking is found, and reduces the repetitive inspection intervals.

Differences Between the AD and Revision 4 of the ASB

Although the ASB specifies that operators may contact the manufacturer for disposition of certain repair conditions, this AD requires operators to repair those conditions according to a method approved by the FAA. Although the ASB specifies certain initial inspection compliance times relative to January 27, 2005 (the effective date of AD 2004–25–23), this AD requires those certain initial inspection compliance times in relation to the effective date of this AD. While the ASB describes reducing the current repetitive inspection intervals for Area 3 from 6,000 flight cycles to 1,500 flight cycles, this AD does not require the reduced intervals. Requiring the repetitive intervals at 1,500 flight cycles would allow adequate time for public opportunity to comment, and we would issue a proposed AD to provide that comment period. Therefore, we may consider further rulemaking to address this issue. In addition, the ASB specifies that operators should report inspection results to the manufacturer, but this AD does not require those inspection results to be reported.

Change to Existing AD

This AD would retain certain requirements of AD 2004–25–23. Since AD 2004–25–23 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2004–25–23	Corresponding requirement in this AD
Paragraph (a)	Paragraph (f).

Interim Action

This is considered to be interim action. As previously discussed, we may consider further rulemaking regarding reducing certain repetitive inspection intervals. In addition, the manufacturer has advised that it currently is developing a modification that will address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21027; Directorate Identifier 2005–NM–048–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 AD. Using the search function of our docket 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 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.*

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 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 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 39–13911 (69 FR 76839, December 23, 2004), and adding the following new airworthiness directive (AD):

2005–09–02 Boeing: Docket No. FAA–2005–21027; Directorate Identifier 2005–NM–048–AD; Amendment 39–14070.

Effective Date

(a) This AD becomes effective May 10, 2005.

Affected ADs

(b) This AD supersedes AD 2004–25–23, amendment 39–13911 (69 FR 76839, December 23, 2004).

Applicability

(c) This AD applies to all Boeing Model 747 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by a report of an in-flight decompression of a Model 747–100 series airplane that had accumulated 27,241 total flight cycles. We are issuing this AD to detect and correct fatigue cracks in the top and side panel webs and stiffeners of the Nose Wheel Well (NWW), which could compromise the structural integrity of the NWW and could lead to the rapid decompression 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.

Restatement of Certain Requirements of AD 2004–25–23

Initial and Repetitive Inspections

(f) Prior to the accumulation of 16,000 total flight cycles, or within 1,000 flight cycles after January 27, 2005 (the effective date of AD 2004–25–23), whichever is later, do the inspections specified in either paragraph (f)(1) or (f)(2) of this AD.

(1) Do the inspections specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2465, Revision 1, dated October 16, 2003. Repeat the inspections thereafter at intervals not to exceed 1,000 flight cycles.

(i) Do detailed and ultrasonic inspections of the top and side panel webs of the NWW for cracks.

(ii) Do detailed and surface high frequency eddy current (HFEC) inspections of the top and side panel stiffeners of the NWW for cracks.

(2) Do the inspections specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2465, Revision 2, dated November 11, 2004. Repeat the inspections thereafter at the intervals specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD.

(i) Do external detailed inspections of the top and side panel webs of the NWW (specified as Area 1 and Area 2 in the service bulletin), as applicable, for cracks. Repeat the inspections thereafter at intervals not to exceed 1,000 flight cycles.

(ii) Do internal detailed and surface HFEC inspections of the top and side panel stiffeners of the NWW (specified as Area 3 in the service bulletin) for cracks. Repeat the inspections thereafter at intervals not to exceed 6,000 flight cycles.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirrors, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

New Requirements of This AD

(g) Do an external detailed inspection of the top and sidewall panel webs of the NWW (specified as Area 1 and Area 2 in the service bulletin) for cracks, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin (ASB) 747–53A2465, Revision 4, dated February 24, 2005, at the earlier of the times specified in paragraphs (g)(1) and (g)(2) of this AD. Accomplishment of this inspection terminates the requirements for the inspections specified in paragraphs (f)(1)(i) and (f)(2)(i) of this AD.

(1) At the later of the times specified in paragraph (g)(1)(i) and (g)(1)(ii) of this AD:

(i) Before accumulating 20,000 total flight cycles.

(ii) Within 100 flight cycles or 90 days after the effective date of this AD, whichever occurs first.

(2) At the later of the times specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD:

(i) Before accumulating 16,000 total flight cycles.

(ii) Within 1,000 flight cycles after the effective date of this AD.

Repetitive Inspections

(h) Repeat the inspection required by paragraph (g) of this AD at the intervals specified in paragraph (h)(1) or (h)(2) of this AD, as applicable.

(1) For airplanes with less than 20,000 total flight cycles as of the effective date of this AD, repeat at intervals not to exceed 1,000 flight cycles until the first inspection after the airplane reaches 20,000 total flight cycles.

(2) For airplanes with 20,000 total flight cycles or more, repeat at intervals not to exceed 500 flight cycles.

Ultrasonic Inspections (UT)

(i) Do a UT inspection of the sidewall panel web for cracks, in accordance with Boeing ASB 747–53A2465, Revision 4, dated February 24, 2005, at the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD. Repeat the inspections thereafter at intervals not to exceed 500 flight cycles.

(1) Prior to the accumulation of 20,000 total flight cycles.

(2) Within 100 flight cycles or within 90 days after the effective date of this AD, whichever occurs first.

Additional Inspections and Corrective Actions

(j) Except as specified in paragraph (l) of this AD, if any crack is found during any inspection required by this AD, prior to further flight, do any applicable additional detailed inspections of stiffeners and beams and make repairs, in accordance with the Accomplishment Instructions of Boeing ASB 747–53A2465, Revision 4, dated February 24, 2005.

Actions Accomplished per Previous Issues of Service Bulletin

(k) Inspections and corrective actions accomplished before January 27, 2005, in accordance with Boeing ASB 747–53A2465, dated April 5, 2001, are considered acceptable for compliance with the corresponding inspections specified in paragraph (f) of this AD. Inspections and corrective actions accomplished before the effective date of this AD, in accordance with Boeing Service Bulletin 747–53A2465, Revision 1, dated October 16, 2003; Revision 2, dated November 11, 2004; and Revision 3, dated December 23, 2004; are considered acceptable for compliance with the corresponding inspections specified in paragraphs (g) and (h) of this AD.

Certain Other Corrective Actions

(l) Where the ASB specifies contacting the manufacturer if certain cracking is found, this AD requires repairing the cracking according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, or by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. The repair must be accomplished before further flight. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

No Reporting Requirements

(m) Although the Boeing ASB specifies that operators should report inspection results to the manufacturer, this AD does not require those inspection results to be reported.

Alternative Methods of Compliance (AMOCs)

(n)(1) The Manager, Seattle 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

(o) You must use Boeing Service Bulletin 747–53A2465, Revision 1, dated October 16, 2003; Boeing Alert Service Bulletin 747–53A2465, Revision 2, dated November 11, 2004; and Boeing Alert Service Bulletin 747–53A2465, Revision 4, dated February 24, 2005; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The incorporation by reference of Boeing Alert Service Bulletin 747–53A2465, Revision 4, dated February 24, 2005, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Service Bulletin 747–53A2465, Revision 1, dated October 16, 2003; and Boeing Alert Service Bulletin 747–53A2465, Revision 2, dated November 11, 2004; was approved previously by the Director of the Federal Register as of January 27, 2005 (69 FR 76839, December 23, 2004).

(3) To get copies of the service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. To review copies of the service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on April 13, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–8098 Filed 4–22–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20752; Airspace Docket No. 05–ACE–15]

Modification of Class E Airspace; Columbus, NE

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 areas at Columbus, NE. A review of the Class E airspace surface area and the Class E airspace area extending upward from 700 feet above ground level (AGL) at Columbus, NE reveals neither area complies with criteria for extensions nor reflects the current Airport reference point (ARP) for the Columbus Municipal Airport. Also, the legal descriptions of both areas are not in proper format. These airspace areas and their legal descriptions are modified to conform to the criteria in FAA Orders.

EFFECTIVE DATES: This direct final rule is effective on 0901 UTC, September 1, 2005. Comments for inclusion in the Rules Docket must be received on or before June 10, 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–2005–20752/ Airspace Docket No. 05–ACE–15, 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 surface area and the Class E airspace area extending upward from 700 feet AGL at Columbus, NE. An examination of controlled airspace for Columbus, NE revealed that neither airspace area is in compliance with FAA Orders 7400.2E, Procedures for Handling Airspace Matters, and 8260.19C, Flight Procedures and Airspace. The Class E surface area is increased from a 4 mile radius to a 4.7 mile radius of the Columbus Municipal Airport. The extension to the Class E surface area relative to the Columbus VOR/DME 157° radial is decreased in length from 8.7 miles to 7 miles southeast of the VOR/DME and decreased in width from 2.6 to 2.4 miles each side of centerline. The extension to the Class E surface area relative to the Columbus VOR/DME 317° radial is decreased in length from 10.5 miles to 7 miles northwest of the VOR/DME and decreased in width from 2.6 to 2.4 miles each side of centerline. The Class E5 airspace area extending upward from 700 feet AGL is increased from a 6.6. mile radius to a 7.7 mile radius of the Columbus Municipal Airport. The extension to the Class E5 airspace relative to the Columbus VOR/DME 157° radial is increased in length from 9.5 miles to 11 miles southeast of the VOR/DME and decreased in width from 4.2 to 1.6 miles each side of centerline. The extension to the Class E5 airspace relative to the Columbus ILS localizer course is changed in length from 10.5 miles northwest of the airport to 7 miles northwest of the Platte Center NDB and decreased in width from 4 miles to 3.8 miles each side of centerline. The Columbus Municipal Airport ARP is corrected in both legal descriptions. These modifications bring the legal descriptions of the Columbus, NE Class E airspace areas into compliance with FAA Orders 7400.2E and 8260.19C. Class E airspace areas designated as surface areas are published in Paragraph 6002 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. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of the same Order. The Class E airspace designations listed in this document would be published subsequently in the Order.

The Direct Final Rule Procedure

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

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–20752/Airspace Docket No. 05–ACE–15.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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 Columbus Municipal 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 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ACE NE E2 Columbus, NE

Columbus Municipal Airport, NE
(Lat. 41°26′53″ N., long. 97°20′34″ W.)
Columbus VOR/DME
(Lat. 41°27′00″ N., long. 97°20′27″ W.)

Within a 4.7 mile radius of Columbus Municipal Airport, and within 2.4 miles each side of the Columbus VOR/DME 157° radial extending from the 4.7-mile radius of the airport to 7 miles southeast of the VOR/DME, and within 2.4 miles each side of the Columbus VOR/DME 317° radial extending from the 4.7-mile radius of the airport to 7 miles northwest of the VOR/DME. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

ACE NE E5 Columbus, NE

Columbus Municipal Airport, NE
(Lat. 41°26′53″ N., long. 97°20′34″ W.)
Columbus VOR/DME
(Lat. 41°27′00″ N., long. 97°20′27″ W.)
Columbus Municipal ILS Localizer
(Lat. 41°26′25″ N., long. 97°20′12″ W.)
Platte Center NDB
(Lat. 41°29′48″ N., long. 97°22′54″ W.)

That airspace extending upward from 700 feet above the surface within a 7.7-mile radius of Columbus Municipal Airport and within 1.6 miles each side of the Columbus VOR/DME 157° radial extending from the 7.7-mile radius of the airport to 11 miles southeast of the VOR/DME and within 3.8 miles each side of the Columbus Municipal ILS Localizer course extending from the 7.7-mile radius of the airport to 7 miles northwest of the Platte Center NDB.

* * * * *

Issued in Kansas City, MO, on April 11, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–8138 Filed 4–22–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[TD 9166]

RIN 1545–AX84

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210–AA54

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

45 CFR Part 146

RIN 0938–AL43

Final Regulations for Health Coverage Portability for Group Health Plans and Group Health Insurance Issuers Under HIPAA Titles I & IV; Correction

AGENCIES: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Correcting amendment.

SUMMARY: This document corrects final regulations that were published in the **Federal Register** on December 30, 2004 (69 FR 78720) governing portability requirements for group health plans and issuers of health insurance coverage offered in connection with a group health plan.

DATES: These corrections are effective February 28, 2005.

FOR FURTHER INFORMATION CONTACT: Dave Mlawsky, Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, at 1–877–267–2323 ext. 61565; Amy Turner, Employee Benefits Security Administration, Department of Labor, at (202) 693–8335 (not a toll-free number); or Russ Weinheimer, Internal Revenue Service, Department of the Treasury, at (202) 622–6080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under sections 9801, 9831, 9832, and 9833 of the Internal Revenue Code; sections 701, 731, 732, 733, and 734 of the Employee Retirement Income Security Act; and sections 2701, 2721, 2723, 2791, and 2792 of the Public Health Service Act.

Need for Correction

As published, the final regulation contains errors that may prove to be misleading and are in need of clarification.

List of Subjects

26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

45 CFR Part 146

Health care, Health insurance, Reporting and recordkeeping requirements, and State regulation of health insurance.

Correction of Publication

■ Accordingly, 26 CFR part 54, 29 CFR part 2590 and 45 CFR part 146 are corrected by making the following correcting amendment:

PART 54—PENSION EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 54 continues to read in part as follows:

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

§ 54.9831–1 [Corrected]

■ 1. Section 54.9831–1(c)(3)(iii)((B), the language ''of which are for treatment of

the eye.'' is removed and the language ''all of which are for treatment of the eye.'' is added in its place.

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ **Paragraph 1.** The authority citation for part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c, sec. 101(g), Public Law 104–191, 101 Stat. 1936; sec. 401(b), Public Law 105–200, 112 Stat. 645 (42 U.S.C. 651 note); Secretary of Labor's Order 1–2003, 68 FR 5374 (Feb. 3, 2003).

§ 2590.731 [Corrected]

■ 2. Section 2590.731(c)(2)(i), the language '' § 2590.701–3(a)(1)(i) (for purposes of'' is removed and the language ''§ 2590.701–3(a)(2)(i) (for purposes of'' is added in its place.

■ 3. Section 2590.731(c)(2)(ii), the language ''and § 2590.701–3(a)(1)(ii) (for purposes'' is removed and the language ''§ 2590.701–3(a)(2)(ii) (for purposes'' is added in its place.

■ 4. Section 2590.731(c)(2)(iii), the language ''the Act and §§ 2590.701–3(a)(1)(iii) and'' is removed and the language ''the Act and §§ 2590.701–3(a)(2)(iii) and'' is added in its place.

PART 146—REQUIREMENTS FOR THE GROUP HEALTH INSURANCE MARKET

■ **Paragraph 1.** The authority citation for part 146 continues to read as follows:

Authority: Secs 2701 through 2763, 2791, and 2792, of the Public Health Service Act, 42 U.S.C. 300gg through 300gg–63, 300gg–91, 30gg–92 as amended by HIPAA (Pub. L. 104–191, 110 Stat. 1936), MHPA (Pub. L. 104–204, 110 Stat. 2944, as amended by Pub. L. 107–116, 115 Stat. 2177), NMHPA (Pub. L. 104–204, 110 Stat. 2935), WHCRA (Pub. L. 105–277, 112 Stat. 2681–436), and section 103(c)(4) of HIPAA.

§ 146.125 [Corrected]

■ 5. Section 146.125, the language ''Sections 146.111 through 146.119,'' is removed and the language ''Section 144.103, §§ 146.111 through 146.119,'' is added in its place.

§ 146.143 [Corrected]

■ 6. Section 146.143(b), the language ''section 514 of the Act with respect to'' is removed and the language ''section 514 of ERISA with respect to'' is added in its place.

■ 7. Section 146.143(c)(2)(i), the language ''§ 146.111(a)(1)(i) (for purposes of'' is removed and the language ''§ 146.111(a)(2)(i) (for purposes of'' is added in its place.

■ 8. Section 146.143(c)(2)(ii), the language ''PHS Act and § 146.111(a)(1)(ii) (for'' is removed and the language ''PHS Act and § 146.111(a)(2)(ii) (for'' is added in its place.

■ 9. Section 146.143(c)(2)(iii), the language ''the PHS Act and §§ 146.111(a)(1)(iii)'' is removed and the language ''the PHS Act and §§ 146.111(a)(2)(iii)'' is added in its place.

Cynthia E. Grigsby,

Acting Chief, Publications and Regulations Branch Legal Processing Division, Associate Chief Counsel (Procedure and Administration), Internal Revenue Service, Department of the Treasury.

Dated this 16th day of March, 2005.

Ann Agnew,

Executive Secretary, Department of Health and Human Services.

Dated this 15th day of February, 2005.

Daniel J. Maguire,

Director, Office of Health Plan Standards and Compliance Assistance, Employee Benefits Security Administration, Department of Labor.

[FR Doc. 05–8154 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P; 4510–29–P; 4120–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–7885–7]

Finding of Failure To Submit Section 110 State Implementation Plans for Interstate Transport for the National Ambient Air Quality Standards for 8-Hour Ozone and PM 2.5

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is today making a finding that States have failed to submit State Implementation Plans (SIPs) to satisfy the requirements of section 110(a)(2)(D)(i) of the Clean Air Act (CAA) for the 8-hour ozone and PM2.5 (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) National Ambient Air Quality Standards (NAAQS). Section 110(a)(1) of the CAA requires that States submit SIPs to meet the applicable requirements of section 110(a)(2) within 3 years after the promulgation of a new or revised NAAQS, or within such shorter period as EPA may provide. Pursuant to section 110(a)(1), States are required to submit SIPs that satisfy the requirements of section 110(a)(2)(D)(i) related to interstate transport of pollution. At present, States have not yet submitted SIPs to satisfy this requirement of the CAA, and EPA is by this action making a finding of failure to submit which starts a 2-year clock for the promulgation of a Federal Implementation Plan (FIP) by EPA unless, prior to that time, each State makes a submission to meet the requirements of section 110(a)(2)(D)(i) and EPA approves such submission.

DATES: The effective date of this rule is May 25, 2005.

FOR FURTHER INFORMATION CONTACT: General questions concerning this final rule should be addressed to Mr. Larry D. Wallace, Ph.D., Office of Air Quality Planning and Standards, Air Qaulity Strategies and Standards Division, Mail Code C504–02, Research Triangle Park, N.C. 27711; telephone (919) 541–0906.

SUPPLEMENTARY INFORMATION: For questions related to a specific State, please contact the appropriate regional office:

Regional offices	States
Dave Conroy, Acting Branch Chief, Air Programs Branch, EPA New England, I Congress Street, Suite 1100, Boston, MA 02114–2023, (617) 918–1661.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
Raymond Werner, Chief, Air Programs Branch, EPA Region II, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–4249.	New Jersey, New York, Puerto Rico, and Virgin Islands.
Makeba Morris, Branch Chief, Air Quality Planning Branch, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2187, (215) 814–2187.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

Regional offices	States
Richard A. Schutt, Chief, Regulatory Development Section, EPA Region IV, Sam Nun Atlanta Federal Center, 61 Forsyth, Street, SW, 12th Floor, Atlanta, GA 30303, Kentucky, (404) 562–9033.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
Jay Bortzer, Chief, Air Programs Branch, EPA Region V, 77 West Jackson Street, Chicago, IL 60604, (312) 886–4447.	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
Rebecca Weber, Associate Director Air Programs, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202, (214) 665–7200.	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
Joshua A. Tapp, Chief, Air Programs Branch, EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101–2907, (913) 551–7606.	Iowa, Kansas, Missouri, and Nebraska.
Richard R. Long, Director, Air and Radiation Program, EPA Region VIII, 999 18th, Suite 300, Denver, CO 80202, (303) 312–6005.	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
Steven Barhite, Air Planning Office, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3980.	Arizona, California, Guam, Hawaii, and Nevada.
Mahbubul Islam, Manager, State and Tribal Air Programs, EPA Region X, Office of Air, Waste, and Toxics, Mail Code OAQ–107, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–6985.	Alaska, Idaho, Oregon, and Washington.

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I. Background

On July 18, 1997, EPA issued new standards for the 8-hour ozone and particulate matter (PM) NAAQS. For ozone, EPA revised the NAAQS by adding an 8-hour averaging period (versus 1 hour for the previous NAAQS), and the level of the standard was changed from 0.12 ppm to 0.08 ppm (62 FR 38856). For the PM NAAQS, EPA added a new 24-hour standard and a new annual standard for PM2.5.

Section 110(a)(1) of the CAA requires States to submit new SIPs that provide for the implementation, maintenance, and enforcement a new or revised standard within 3 years after promulgation of such standard, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, including section 110(a)(2)(D)(i) which applies to interstate transport of certain emissions. Section 110(a)(1) imposes the obligation upon States to make a SIP submission for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the State develops and submits the SIP for a new or revised NAAQS necessarily affects the content of the submission.

For the 8-hour ozone standard and the PM2.5 standards, States should already have submitted SIPs that satisfied the section 110(a)(2)(D)(i) requirement related to interstate transport for these new NAAQS. At present, States have not submitted plans to satisfy this requirement, and EPA is today making a finding of failure to submit. This finding starts a 2-year clock for promulgation by EPA of a FIP, in accordance with section 110(c)(1), for any State that does not submit a SIP meeting the requirements of section 110(a)(2)(D)(i) for the PM2.5 and 8-hour ozone NAAQS. This action does not start a sanctions clock pursuant to section 179 because this finding of failure to submit does not pertain to a part D plan for nonattainment areas required under section 110(a)(2)(I) and because this action is not a SIP Call pursuant to section 110(k)(5).

II. Today's Action

By today's action, EPA is making the finding that States have failed to submit SIPs to satisfy the requirements of section 110(a)(2)(D)(i) of the CAA for the 8-hour ozone and PM2.5 NAAQS. This finding starts a 2-year clock for the promulgation by EPA of a FIP, unless each State submits a SIP to satisfy the section 110(a)(2)(D)(i) requirements, and EPA approves such submission prior to that time. Today's action will be effective on May 25, 2005.

III. Statutory and Executive Order Reviews

A. Notice and Comment Under the Administrative Procedures Act

This is a final EPA action, but is not subject to notice-and-comment requirements of the Administrative Procedures Act (APA), 5 U.S.C. 553(b). The EPA invokes, consistent with past practice (for example, 61 FR 36294), the good cause exception pursuant to APA, 5 U.S.C. 553(b)(3)(B). Notice and comment are unnecessary because no significant EPA judgment is involved in making a finding of failure to submit SIPs or elements of SIPs required by the CAA, where States have made no submissions to meet the requirement by the statutory date.

B. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and, therefore, subject to OMB review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, a determination has been made that this rule is not a ''significant regulatory action'' because none of the above factors apply. As such, this final action was not formally submitted to The Office of Management and Budget (OMB) for review.

C. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule relates to the requirement in the CAA for States to submit SIPs under section 110(a)(1) to satisfy certain infrastructure and general authority-related elements required under section 110(a)(2) of the CAA for the 8-hour ozone and the PM2.5 NAAQS. Section 110(a)(1) of the CAA requires that States submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfies the requirements of section 110(a)(2) within 3 years of promulgation of such standard, or shorter period as EPA may provide. The present final rule does not establish any new information collection requirement apart from that required by law. Burden means that total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in the Code of Federal Regulations (CFR) are listed in 40 CFR part 9.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act (APA) or any other statute unless the EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For the purpose of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business that is a small industry entity as defined in the U.S. Small Business Administration (SBA) size standards. (*See* 13 CFR, part 121); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which independently owned and operated is not dominate in its field.

Courts have interpreted the RFA to require a regulatory flexibility analysis only when small entities will be subject to the requirements of the rule. See, *Michigan* v. *EPA,* 213 F.3d 663, 668–69 (D.C. Cir., 2000), *cert. den.,* 532 U.S. 903 (2001). This rule would not establish requirements applicable to small entities. Instead, it would require States to develop, adopt, and submit SIPs to meet the requirements of section 110(a)(2)(D)(i), and would leave to the States the task of determining how to meet those requirements, including which entities to regulate. Moreover, because affected States would have discretion to choose the sources to regulate and how much emissions reductions each selected source would have to achieve, EPA could not predict the effect of the rule on small entities.

After considering the economic impacts of today's final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small government on compliance with regulatory requirements.

Today's action does not include a Federal mandate within the meaning of UMRA that may result in expenditures of $100 million or more in any 1 year by either State, local, or Tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. It does not create any additional requirements beyond those of the PM2.5 and 8-hour ozone NAAQS (62 FR 38652; 62 FR 38856, July 18, 1997). Therefore, no UMRA analysis is needed. This rule responds to the requirement in the CAA for States to submit SIPs under section 110(a)(1) to satisfy certain infrastructure and general authority-related elements required under section 110(a)(2) of the CAA for the 8-hour ozone and PM2.5 NAAQS. Section 110(a)(1) of the CAA requires that States submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfies the requirements of section 110(a)(2) within 3 years of promulgation of such standard, or shorter period as EPA may provide.

Inasmuch as this action simply finds that States have failed to submit SIPs to address a pre-existing statutory requirement under the CAA, this Federal action will not impose mandates that will require expenditures of $100 million or more in the aggregate in any 1 year. However, EPA notes, that in another final rule signed today (the Clean Air Interstate Rule or CAIR), EPA is making findings of significant contribution for many States and requiring the submission of SIPs that will control sulfur dioxide and nitrogen oxide emissions in order to eliminate

interstate transport and that EPA has estimated in that action that such controls will have annual costs of $1.91 billion in 2010 and $2.56 billion in 2015, assuming a 3 percent discount rate. The EPA plans to issue separate guidance concerning compliance with section 110(a)(2)(D)(i) for States other than those subject to the CAIR.

F. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The CAA establishes the scheme whereby States take the lead in developing plans to meet the NAAQS. This rule will not modify the relationship of the States and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this rule.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.'' This final rule does not have ''Tribal implications'' as specified in Executive Order 13175. This rule responds to the requirement in the CAA for States to submit SIPs under section 110(a)(1) to satisfy certain elements required under section 110(a)(2) of the CAA for the 8-hour ozone and PM2.5 NAAQS. Section 110(a)(1) of the CAA requires that States submit SIPs that provide for implementation, maintenance, and enforcement of a new or revised NAAQS, and which satisfy the applicable requirements of section 110(a)(2), within 3 years of promulgation of such standard, or within shorter period as EPA may provide. The CAA provides for States and Tribes to develop plans to regulate emissions of air pollutants within their jurisdictions. The regulations clarify the statutory obligations of States and Tribes that develop plans to implement this rule. The Tribal Authority Rule (TAR) gives Tribes the opportunity to develop and implement CAA programs, but it leaves to the discretion of the Tribe whether to develop these programs and which programs, or appropriate elements of a program, the Tribe will adopt.

This rule does not have Tribal implications as defined by Executive Order 13175. It does not have a substantial direct effect on one or more Indian Tribes, because no Tribe has implemented an air quality management program related to the 8-hour ozone or the fine particle NAAQS at this time. Furthermore, this rule does not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the TAR establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Because this rule does not have Tribal implications, Executive Order 13175 does not apply.

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

Executive Order 13045: ''Protection of Children From Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health and safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not have reason to believe that the environmental health risks or safety risks addressed by this rule present a disproportionate risk or safety risk to children. Nonetheless, we have evaluated the environmental health or safety effects of the PM2.5 and the 8-hour ozone NAAQS on children. The results of this risk assessment are contained in the NAAQS for PM2.5 and 8-hour Ozone Standard, Final Rule [(62 FR 38652) and (62 FR 38856), July 18, 1997].

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Information on the methodology and data regarding the assessment of potential energy impacts is found in Chapter 6 of U.S. EPA 2002, Cost, Emission Reduction, Energy, and the Implementation Framework for the PM2.5 NAAQS, prepared by the Innovative Strategies and Economics Group, Office of Air Quality Planning and Standards, Research Triangle Park, N.C., April 24, 2003.

J. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when EPA decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The 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**.

L. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit: (i) When the EPA action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

This action making a finding of failure to submit related to the section 110(a)(2)(D)(i) requirements related to the 8-hour ozone and the PM2.5 NAAQS is ''nationally applicable'' within the meaning of section 307(b)(1).

For the same reasons, the Administrator also is determining that the requirements related to the finding of failure to submit related to section 110(a)(2)(D)(i) is of nationwide scope and effect for the purposes of section 307(b)(1). This is particularly appropriate because in the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that an action is of ''nationwide scope or effect'' would be appropriate for any action that has ''scope or effect beyond a single judicial circuit.'' H.R. Rep. No. 95–294 at 323, 324, *reprinted in* 1977 U.S.C.C.A.N. 1402–03. Here, the scope and effect of this rulemaking extends to numerous judicial circuits since the findings of failure to submit apply to all areas of the country. In these circumstances, section 307(b)(1) and its legislative history call for the Administrator to find the rule to be of ''nationwide scope or effect'' and for venue to be in the D.C. Circuit.

Thus, any petitions for review of this action related to a findings of failure to submit related to the requirements of section 110(a)(2)(D)(i) of the CAA must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

List of Subjects in 40 CFR Part 52

Air pollution control.

Dated: March 10, 2005.

Stephen L. Johnson,

Acting EPA Administrator.

[FR Doc. 05–5319 Filed 4–22–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R09–OAR–2005–CA–01; FRL–7900–3]

Revision to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District and San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). The revisions concern the emission of particulate matter (PM–10) from open outdoor burning and from incinerator burning. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on June 24, 2005 without further notice, unless EPA receives adverse comments by May 25, 2005. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Submit comments, identified by docket number R09–OAR–2005–CA–01, by one of the following methods:

1. Agency Web site: *http://docket.epa.gov/rmepub/*. EPA prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.
2. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions.
3. E-mail: *steckel.andrew@epa.gov*.
4. Mail or deliver: Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the agency Web site, eRulemaking portal, or e-mail. The agency Web site and eRulemaking portal are ''anonymous access'' systems, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at *http://docket.epa.gov/rmepub* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available in either location (*e.g.*, CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4118, *petersen.alfred@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules and dates that MBUAPCD and SJVUAPCD revised the local rules and when they were submitted to EPA by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Revised or Amended	Submitted
MBUAPCD	408	Incinerator Burning	09/15/04 Revised	01/13/05
MBUAPCD	438	Open Outdoor Fires	09/15/04 Revised	01/13/05
SJVUAPCD	4103	Open Burning	09/16/04 Amended	01/13/05

On February 16, 2005, the submittal of January 13, 2005 was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

We approved a version of MBUAPCD Rule 408 into the SIP on January 31, 2003 (68 FR 4929) and Rule 438 on January 12, 2004 (69 FR 1682). We approved a version of SJVUAPCD Rule 4103 into the SIP on February 27, 2002 (67 FR 8894).

C. What Are the Purposes of the Submitted Rule Revisions?

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions.

The purposes of the submitted rule or rule revisions are described below:

- MBUAPCD Rule 408 deletes the exemption of paragraph 1.3.1 allowing incinerator burning of yard trimmings and brush in an area not served weekly by a solid waste disposal service.
- MBUAPCD Rule 438 deletes the exemption of paragraph 1.3.1.4 for burning household rubbish at one- and two-family homes in an area not served weekly by a solid waste disposal service; deletes the exemption of paragraph 1.3.1.5 for burning household rubbish at one- and two-family homes in San Benito County; and deletes the exemption of paragraph 1.3.1.6.1 for burning cardboard and non-glossy paper in a non-incorporated area.
- SJVUAPCD Rule 4103 changes paragraph 4.2.2 into paragraph 5.9, Diseased Materials, which adds the restrictions that the applicant obtain a conditional, non-transferable permit describing the material to be burned; that the applicant not have a burning violation in the last three years; and that the county agricultural commissioner determine there is no feasible alternative to burning to prevent disease or pests to cause a quantifiable reduction on the yield of crops, animals, or fowl.

The TSD has more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule and Rule Revisions?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA), must require Best Available Control Measures (BACM) including, Best Available Control Technology (BACT), for significant source categories or major sources in serious PM–10 nonattainment areas (see section 189(b)), must require Reasonably Available Control Measures (RACM) including, Reasonably Available Control Technology (RACT), for significant source categories or major sources in moderate PM–10 nonattainment areas (see section 189(a)), and must not relax existing requirements (see sections 110(l) and 193). MBUAPCD is a PM–10 maintenance attainment area and need not fulfill the requirements of BACM/BACT or RACM/RACT. SJVUAPCD is a serious PM–10 nonattainment area and must fulfil the requirements of BACM/BACT. See 40 CFR part 81.

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *PM–10 Guideline Document*, EPA–452/R–93–008.

B. Do the Rule Revisions Meet the Evaluation Criteria?

We believe that MBUAPCD Rules 408 and 438 and SJVUAPCD Rule 4103 are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and the requirements of BACM/BACT. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted SIP revisions because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted SIP revision. If we receive adverse comments by May 25, 2005, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 24, 2005. This will incorporate MBUAPCD Rules 408 and 438 and SJVUAPCD Rule 4103 into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final 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.

III. Statutory and Executive Order Reviews

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

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

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

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

The Congressional Review Act, 5 U.S.C. section 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. section 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 June 24, 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 29, 2005.

Wayne Nastri,

Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(335) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(335) New and amended regulations for the following APCDs were submitted on January 13, 2005, by the Governor's designee.

(i) Incorporation by reference.

(A) Monterey Bay Unified Air Pollution Control District.

(*1*) Rule 408, adopted on September 1, 1974 and revised on September 15, 2004.

(*2*) Rule 438, adopted on April 16, 2003 and revised on September 15, 2004.

(B) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4103, adopted on June 18, 1992 and amended on September 16, 2004.

* * * * *

[FR Doc. 05–8188 Filed 4–22–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[R5–MIECOS–01; SW–FRL–7902–9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA (also, ''the Agency'' or ''we'' in this preamble) is granting a petition to exclude (or ''delist'') wastewater treatment plant sludge from conversion coating on aluminum generated by the Ford Motor Company Dearborn Truck Assembly Plant (DTP) in Dearborn, Michigan from the list of hazardous wastes.

Today's action conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in a lined subtitle D landfill which is permitted, licensed, or registered by a State to manage industrial solid waste. The exclusion was proposed on March 7, 2002 as part of an expedited process to evaluate this waste under a pilot project developed with the Michigan Department of Environmental Quality (MDEQ). The rule also imposes testing conditions for waste generated in the future to ensure that this waste continues to qualify for delisting.

DATES: This rule is effective on April 25, 2005.

ADDRESSES: EPA has established a docket for this action under Docket ID No. R5–MIECOS–01. All documents in the docket are listed in the index. Publicly available docket materials are available in hard copy at the U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604. This Docket Facility is open from 8 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public may copy material from the regulatory docket at $0.15 per page. Contact Judy Kleiman for appointments at the address above, by email at *kleiman.judy@epa.gov* or by calling (312) 886–1482.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this document, contact Judy Kleiman, Waste, Pesticides, and Toxics Division, (Mail Code: DW–8J), U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604; telephone number: (312) 886–1482; fax number: (312) 353–4788; e-mail address: *kleiman.judy@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Background
A. What is a delisting petition?
B. What regulations allow a waste to be delisted?
C. What waste did DTP petition to delist?
II. The Expedited Process for Delisting
A. Why was the expedited process developed for this waste?
B. What is the expedited process to delist F019?
III. EPA's Evaluation of This Petition
A. What information was submitted in support of this petition?
B. How did EPA evaluate the information submitted?
IV. Public Comments Received on the Proposed Expedited Process
A. Who submitted comments on the proposed rule?
B. Comments received and responses from EPA
V. Final Rule Granting These Petitions
A. What decision is EPA finalizing?
B. What are the terms of this exclusion?
C. When is the delisting effective?
D. How does this action affect the states?
VI. Statutory and Executive Order Reviews

I. Background

A. What Is a Delisting Petition?

A delisting petition is a request from a generator to exclude waste from the list of hazardous wastes under RCRA regulations. In a delisting petition, the petitioner must show that waste generated at a particular facility does not meet any of the criteria for which EPA listed the waste as set forth in title 40 Code of Federal Regulations (40 CFR) 261.11 and the background document for the waste. In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. (See 40 CFR 260.22, 42 U.S.C. 6921(f) and the background documents for a listed waste.)

Generators remain obligated under RCRA to confirm that their waste remains nonhazardous based on the hazardous waste characteristics even if EPA has ''delisted'' the wastes and to ensure that future generated wastes meet the conditions set.

B. What Regulations Allow a Waste To Be Delisted?

Under 40 CFR 260.20, 260.22, and 42 U.S.C. 6921(f), facilities may petition the EPA to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. Specifically, 40 CFR 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268, and 273 of 40 CFR. 40 CFR 260.22 provides a generator the opportunity to petition the Administrator to exclude a waste from the lists of hazardous wastes on a ''generator specific'' basis.

C. What Waste Did DTP Petition To Delist?

DTP petitioned to exclude wastewater treatment sludge resulting from a zinc phosphating conversion coating process on truck bodies which have aluminum components. When treated, the wastewater from the conversion coating on aluminum results in a listed waste, F019. The wastewater from the phosphating process entering the wastewater treatment plant combines with wastewaters from other operations at the plant including cleaning and rinsing operations, electrocoating processes, vehicle leak testing, and floor scrubbing. Wastewaters include alkaline cleaners, surfactants, organic detergents, rinse conditioners from cleaning operations and overflows and rinse water from electrocoating. All sludge from the treatment of this wastewater is regulated as RCRA hazardous waste F019.

II. The Expedited Process for Delisting

A. Why Was the Expedited Process Developed for This Waste?

Automobile manufacturers are adding aluminum components to automobile and light truck bodies. When aluminum is conversion coated in a zinc phosphating process in automobile assembly plants, the resulting wastewater treatment sludge must be managed as EPA hazardous waste F019. F019 wastes generated at other auto assembly plants using the same zinc phosphating and wastewater treatment processes have been shown to be nonhazardous.

This similarity of manufacturing processes and the resultant wastes provides an opportunity for the automobile industry to be more efficient in submitting delisting petitions and for EPA to be more efficient in evaluating them. Efficiency may be gained and time saved by using a standardized approach for gathering, submitting and evaluating data. Therefore, EPA, in conjunction with MDEQ, developed a pilot project to expedite the delisting process. This approach to making delisting determinations for this group of facilities is efficient while still being consistent with current laws and regulations and protective of human health and the environment.

By removing regulatory controls under RCRA, EPA is facilitating the use of aluminum in cars. EPA believes that incorporating aluminum in cars will be advantageous to the environment since lighter cars are capable of achieving better fuel economy.

B. What Is the Expedited Process To Delist F019?

The expedited process to delist F019 is an approach developed through a Memorandum of Understanding (MOU) with MDEQ for gathering and evaluating data in support of multiple petitions from automobile assembly plants. The expedited delisting process is applicable to wastes generated by automobile and light truck assembly plants in the State of Michigan which use a similar manufacturing process and generate similar F019 waste.

Based on available historical data and other information, the expedited process identified 70 constituents which might be of concern in the waste and provides that the F019 sludge generated by automobile assembly plants may be delisted if the levels of the 70 constituents do not exceed the allowable levels established for each constituent in this rulemaking. The maximum annual quantity of waste generated by any single facility which may be covered by an expedited delisting is 3,000 cubic yards. Delisting levels were also proposed for smaller quantities of 1,000 and 2,000 cubic yards.

III. EPA's Evaluation of This Petition

A. What Information Was Submitted in Support of This Petition?

DTP submitted certification that its process was the same as the process described in the MOU between Region 5 and MDEQ. See 67 FR 10341, March 7, 2002. The facility also asserted that its waste does not meet the criteria for which F019 waste was listed and there are no other factors which might cause the waste to be hazardous.

To support its exclusion demonstration, Ford Dearborn collected six samples representing waste generated over a seven week period.[1] Each sample was analyzed for: (1) Total analyses of 69[2] constituents of concern;

[1] Because the plant was shut down from July 4–11, 2004, the time necessary to collect 6 samples was extended to 7 weeks.

[2] The expedited delisting project originally required analysis of 70 constituents. However, the analysis of acrylamide required extreme methods to achieve a detection level at the level of concern. Since no acrylamide was detected in any sample analyzed by the original facilities participating in

(2) Toxicity Characteristic Leaching Procedure (TCLP), SW–846 Method 1311, analyses of 69 constituents of concern; (3) oil and grease; and (4) total constituent analyses for sulfide and cyanide. In addition, the pH of each sample was measured and a determination was made that the waste was not ignitable, corrosive or reactive (*see* 40 CFR 261.21–261.23). With the exception of the minor change noted here, all sampling and analyses were done in accordance with the sampling and analysis plan which is an appendix to the MOU and is available in the docket for this rule. Instead of sampling directly from six different roll-off boxes which would have required multiple sampling events or long-term storage of full roll-off boxes, DTP collected representative amounts of sludge each week from June 8 through July 27, 2004. The sludge for each week was placed in a separate drum. On July 27, 2004, composite and grab samples were collected from each of the six drums.

The maximum values of constituents detected in any sample of the waste and in a TCLP extract of that waste are summarized in the following table. The data submitted included the appropriate QA/QC information validated by a third party.

Constituent detected	Maximum observed concentration		Maximum allowable concentration		GW (ug/L)
	Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP (mg/L)	
Volatile Organic Compounds					
formaldehyde	13	0.64	700	80	1,400
n-butyl alcohol	< 26 R	< 0.5 R	NA	230	4,000
toluene	< 0.5	0.0021	NA	60	1,000
Semivolatile Organic Compounds					
bis(2-ethylhexyl) phthalate	1.9	< 0.005	NA	0.09	1.5
p-cresol	< 1.5	0.042	NA	11	200
di-n-octylphthalate	1.9	0.003	NA	0.11	1.3
pentachlorophenol	< 1.5	0.0045	3,000	[3] 0.009	0.15
Metals					
arsenic	< 50	< 0.02	8,000	0.3	5
barium	1700	1.02	NA	100	2,000
chromium	49	< 0.05	NA	5	100
cobalt	1.7	0.03	NA	70	2,000
lead	36	< 0.1	NA	5	15
nickel	2610	38.9	NA	90	800
silver	288	< 0.05	NA	5	200
tin	292	< 0.5	NA	700	20,000
vanadium	226	0.02	NA	70	300
zinc	14,200	27.4	NA	900	11,000
Miscellaneous					
corrosivity (pH)			2 < x < 12.5		NA
Oil & grease	8020		NA		NA
sulfide	36		See 40 CFR 261.23		NA

R—The numerical value is not useable.
<—Not detected at the specified concentration.
NA—not applicable.
These levels represent the highest constituent concentration found in any one sample and do not necessarily represent the specific levels found in one sample.

B. How Did EPA Evaluate the Information Submitted?

EPA compared the analytical results submitted by DTP to the maximum allowable levels calculated by the DRAS and set forth in the proposed rule (67 FR 10341, March 7, 2002). The maximum allowable levels for constituents detected in the waste or a TCLP extract of the waste are summarized in the table above, along with the observed levels. The table also includes the maximum allowable levels in groundwater at a potential receptor well, as evaluated by the Delisting Risk Assessment Software (DRAS). These levels are the more conservative of either the Safe Drinking Water Act Maximum Contaminant Level (MCL) or the health-based value calculated by DRAS based on the target cancer risk level of 10^{-6}. For arsenic, the target cancer risk was set at 10^{-4} in consideration of the MCL and the potential for natural occurrence. The maximum allowable groundwater concentration and delisting level for arsenic correspond to a drinking water concentration less than one half the current MCL of 10 μg/L.

EPA also used the DRAS program to estimate the aggregate cancer risk and hazard index for constituents detected in the waste. The aggregate cancer risk is the cumulative total of all individual constituent cancer risks. The hazard

the expedited delisting project, the Agency decided it would not be appropriate to require analysis for acrylamide.

[3] In the proposed rule, the allowable level for TCLP PCP was set at 0.004 mg/L for participants generating 2,000 cubic yards annually. This value was based on child-dermal exposure to contaminated groundwater, but the model was found to overestimate this exposure by using an inappropriate exposure duration. This error in the software has since been corrected. Using the correct exposure factors, the limiting pathway is adult-dermal exposure to contaminated groundwater with an allowable level of 0.009 mg/L.

index is a similar cumulative total of non-cancer effects. The target aggregate cancer risk is 1×10^{-5} and the target hazard index is one. The wastewater treatment plant sludge at DTP met both of these criteria.

IV. Public Comments Received on the Proposed Exclusion

A. Who Submitted Comments on the Proposed Rule?

The EPA received public comments on the proposed notice published on March 7, 2002 from Alliance of Automobile Manufacturers, Honda of America Mfg., Inc., Alcoa Inc., and The Aluminum Association. All commenters were supportive of the proposal and suggested expanding the project and revising the listing.

B. Comments Received and Responses From EPA

(1) *Comment:* EPA should revise the F019 listing to specify that wastewater treatment sludge from zinc phosphating operations is not within the scope of the listing. Data gathered as a result of the Expedited Delisting Project together with the available historical data, should provide enough data to fully characterize this waste and to justify a revision of the listing.

EPA Response: The Agency is now considering revising the F019 listing. EPA is examining the data collected as a result of this project, as well as past data, as a basis for a possible revision to the F019 listing.

(2) *Comment:* EPA should issue an interpretive rule clarifying that zinc phosphating operations are outside the scope of the F019 listing.

EPA Response: An interpretive rule presents administrative and technical difficulties. A revision to the listing will require a rulemaking process. See response to comment (1) above.

(3) *Comment:* Automobile assembly facilities outside of Michigan would like to take advantage of the precedent set by this expedited delisting project to delist F019 generated by similar operations in other states and regions.

EPA Response: The Agency believes that the expedited delisting procedures and requirements set forth in this proposal are appropriate for similar automotive assembly facilities outside the State of Michigan, subject to the discretion of the regulatory agency (state or region).

(4) *Comment:* Alternatives to landfilling like recycling should be allowed within the petition process.

EPA Response: The Agency does not delist wastes which are recycled because the model used to estimate risk is based only on disposal of waste in a subtitle D landfill. The risk which might result from any other scenario is not evaluated by the delisting program. However, the Agency encourages safe recycling, and variances and exclusions from the definition of solid and hazardous wastes are available for wastes which are recycled.

(5) *Comment:* Analytical methods should be specified in the pre-approved common sampling plan instead of requiring each participant to submit a site-specific list of methods.

EPA Response: Allowing the petitioner to choose an analytical method which meets the data quality objectives specific to the delisting petition provides flexibility. Data quality objectives will vary depending on the allowable levels which are a function of the volume of petitioned waste. The Agency believes that the flexibility of performance based methods results in better data.

(6) *Comment:* Detection limits should not be required prior to sampling since they cannot be adequately predicted without a way to estimate matrix effects.

EPA Response: Although matrix effects cannot be assessed in advance of laboratory analysis, a laboratory should be able to provide estimated detection levels and reporting levels which are lower than, or at least equal to, the allowable delisting level for each constituent.

(7) *Comment:* Since the process generating the sludge is extremely stable, verification sampling should be conducted on an annual, instead of quarterly, basis. The requirement that any process change be promptly reported and the exclusion suspended until EPA gives written approval that the delisting can continue is an adequate safeguard justifying the decrease in sample event frequency.

EPA Response: Verification data submitted in conjunction with past delistings of this waste have shown significant variation on a quarterly basis over longer periods of time. Annual sampling would not detect such variations. Once enough verification data are collected to support a statistical analysis, a change in the frequency of verification sampling and/or sampling parameters may be considered.

(8) *Comment:* The final **Federal Register** should make it clear that assembly plants that manufacture light trucks are also eligible for the project.

EPA Response: Today's notice specifically defines eligible facilities as inclusive of manufacturers of light trucks.

(9) *Comment:* The table of maximum allowable levels in the March 7, 2002 proposed rule contains errors in the columns for vinyl chloride.

EPA Response: The error was caused by a missing space or tab in the table. The maximum allowable concentrations proposed for 2,000 cubic yards of waste should have been 115 mg/kg total and 0.00234 mg/L TCLP.

V. Final Rule Granting These Petitions

A. What Decision Is EPA Finalizing?

Today the EPA is finalizing an exclusion to conditionally delist an annual volume of 2,000 cubic yards of wastewater treatment plant sludge generated at DTP from conversion coating on aluminum.

On March 7, 2002, EPA proposed to exclude or delist this wastewater treatment sludge from the list of hazardous wastes in 40 CFR 261.31 and accepted public comment on the proposed rule (67 FR 10341). EPA considered all comments received, and we believe that this waste should be excluded from hazardous waste control.

B. What Are the Terms of This Exclusion?

DTP must dispose of the waste in a lined subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial solid waste. DTP must obtain and analyze on a quarterly basis a representative sample of the waste in accordance with the waste analysis plan. DTP must verify that the concentrations of the constituents of concern do not exceed the allowable levels set forth in this exclusion. The list of constituents for verification is a subset of those initially tested for and is based on the occurrence of constituents at the majority of facilities participating in the expedited process to delist F019 and the concentrations detected relative to the allowable levels.

This exclusion applies only to a maximum annual volume of 2,000 cubic yards and is effective only if all conditions contained in this rule are satisfied.

C. When Is the Delisting Effective?

This rule is effective April 25, 2005. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This rule reduces rather than increases the existing requirements and, therefore, is effective immediately upon publication under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

D. How Does This Action Affect the States?

Today's exclusion is being issued under the Federal RCRA delisting program. Therefore, only states subject to Federal RCRA delisting provisions would be affected. This exclusion is not effective in states which have received authorization to make their own delisting decisions. Also, the exclusion may not be effective in states having a dual system that includes Federal RCRA requirements and their own requirements. EPA allows states to impose their own regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. Because a dual system (that is, both Federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, we urge petitioners to contact the state regulatory authority to establish the status of their wastes under the state law. If a participating facility transports the petitioned waste to or manages the waste in any state with delisting authorization, it must obtain a delisting from that state before it can manage the waste as nonhazardous in the state.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). 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.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA.

Because this rule will affect only a particular facility, this final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism,'' (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. Similarly, because this rule will affect only a particular facility, this final rule does not have tribal implications, as specified in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule.

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 as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the DRAS program, which considers health and safety risks to infants and children, to calculate the maximum allowable concentrations for this rule.

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

This rule does not involve technical standards; 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.

As required by section 3 of Executive Order 12988, ''Civil Justice Reform,'' (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

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.

List of Subjects in 40 CFR Part 261

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

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

Dated: April 14, 2005.

Bruce Sypniewski,

Acting Director, Waste, Pesticides and Toxics Division.

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

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

■ 2. In Table 1 of appendix IX of part 261 the following wastestreams are added in alphabetical order by facility to read as follows:

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

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* * *	* * *	* * *
Ford Motor Company, Dearborn Truck Assembly Plant.	Dearborn, Michigan	Wastewater treatment plant sludge, F019, that is generated by Ford Motor Company at the Dearborn Truck Asembly Plant at a maximum annual rate of 2,000 cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of April 25, 2005. 1. *Delisting Levels:* (A) The concentrations in a TCLP extract of the waste measured in any sample may not exceed the following levels (mg/L): antimony—0.7; arsenic—0.3; barium—100; cadmium—0.5; chromium—5; lead—5; nickel—90; selenium—1; thallium—0.3; zinc—900; p-cresol—11; di-n-octyl phthlate—0.11; formaldehyde—80; and pentachlorophenol—0.009. (B) The total concentration measured in any sample may not exceed the following levels (mg/kg): mercury—9; and formaldehyde—700. 2. *Quarterly Verification Testing:* To verify that the waste does not exceed the specified delisting levels, Dearborn Truck Assembly Plant must collect and analyze one representative sample of the waste on a quarterly basis. 3. *Changes in Operating Conditions:* Dearborn Truck Assembly Plant must notify the EPA in writing if the manufacturing process, the chemicals used in the manufacturing process, the treatment process, or the chemicals used in the treatment process change significantly. Dearborn Truck Assembly Plant must handle wastes generated after the process change as hazardous until it has demonstrated that the wastes continue to meet the delisting levels and that no new hazardous constituents listed in appendix VIII of part 261 have been introduced and it has received written approval from EPA. 4. *Data Submittals:* Dearborn Truck Assembly Plant [Redln Off] must submit the data obtained through verification testing or as required by other conditions of this rule to both U.S. EPA Region 5, Waste Management Branch (DW–8J), 77 W. Jackson Blvd., Chicago, IL 60604 and MDEQ, Waste Management Division, Hazardous Waste Program Section, at P.O. Box 30241, Lansing, Michigan 48909. The quarterly verification data and certification of proper disposal must be submitted annually upon the anniversary of the effective date of this exclusion. Dearborn Truck Assembly Plant must compile, summarize and maintain on site for a minimum of five years records of operating conditions and analytical data. Dearborn Truck Assembly Plant must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12). 5. *Reopener Language*—(a) If, anytime after disposal of the delisted waste, Dearborn Truck Assembly Plant possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) relevant to the delisted waste indicating that any constituent is at a level in the leachate higher than the specified delisting level, or is in the groundwater at a concentration higher than the maximum allowable groundwater concentration in paragraph (e), then Dearborn Truck Assembly Plant must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data. (b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.

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

Facility	Address	Waste description
		(c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify Dearborn Truck Assembly Plant in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing Dearborn Truck Assembly Plant with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. Dearborn Truck Assembly Plant shall have 30 days from the date of the Regional Administrator's notice to present the information. (d) If after 30 days the Dearborn Truck Assembly Plant presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise. (e) Maximum Allowable Groundwater Concentrations (μg/L): antimony—6; arsenic—5; barium—2,000; cadmium—5; chromium—100; lead—15; nickel—800; selenium—50; thallium—2; tin—20,000; zinc—11,000; p-Cresol—200; Di-n-octyl phthlate—1.3; Formaldehyde—1,400; and Pentachlorophenol—0.15.

* * * * *

[FR Doc. 05–8189 Filed 4–22–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7776]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP) and suspended from the NFIP. These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

DATES: *Effective Dates:* The dates listed under the column headed Effective Date of Eligibility.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Mitigation Division, 500 C Street, SW.; Room 412, Washington, DC 20472, (202) 646–2878.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 202 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4016(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Administrator finds that delayed effective dates would be contrary to the public interest and that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U. S. C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State	Location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles: Emergency Program				
Oklahoma	Geary, City of, Blaine County and Canadian County.	400381	Oct. 28, 2004	Oct. 29, 1976 FHBM.
Maine	Wales, Town of, Androscoggin County.	230439	Nov. 10, 2004	Feb. 21, 1975 FHBM.
Oklahoma	Paoli, Town of, Garvin County	400317	Dec. 2, 2004	Nov. 5, 1976.
Kentucky	Fulton County, Unincorporated Areas.	210336	Dec. 17, 2004	Dec. 23, 1977.
New Eligibles: Regular Program				
Georgia	McDuffie County, Unincorporated Areas**.	130357	Oct. 1, 2004	Oct. 1, 2004.
Texas	Bruceville-Eddy, City of, Falls County and McLennan County.	481302	Oct. 4, 2004	Jun. 18, 1980.
Nebraska	Palmyra, Village of, Otoe County.	310165	.....do	Use Otoe County (CID 310462) Panel 160C, dated Aug. 4, 2004.
Do*	Davenport, Village of, Thayer County.	310267	Oct. 14, 2004	Sep. 30, 2004.
Texas	Elmendorf, City of, Bexar County.	480710	Oct. 15, 2004	Sep. 3, 1980.
Nebraska	Chester, Village of, Thayer County.	310261	.....do	Sep. 30, 2004.
Do	Elba, Village of, Howard County.	481527	Oct. 19, 2004	Oct. 19, 2004.
Do	Byron, Village of, Thayer County.	310508	Oct. 27, 2004	Sep. 30, 2004.
Do	Bruning, Village of, Thayer County.	310253	Oct. 28, 2004	Do.
Do	Carleton, Village of, Thayer County.	310509	.....do	Do.
Do	Alexandria, Village of, Thayer County.	310243	Oct. 29, 2004	Do.
Texas	Pattison, City of, Waller County.	481527	.....do	Feb. 3, 1982.
Florida	Southwest Ranches, Town of, Broward County.	120691	Nov. 1, 2004	Use Broward County (CID 125093) FIRM panels 0280F and 0285F dated Aug. 18, 1992.
North Carolina	Elm City, Town of, Wilson County**.	370521	Nov. 3, 2004	Nov. 3, 2004.
Do	Lucama, Town of, Wilson County**.	370537	.....do	Do.
Do	Black Creek, Town of, Wilson County**.	370549	Nov. 4, 2004	Do.
Alabama	Pinson, City of, Jefferson County.	010447	Nov. 10, 2004	Use Jefferson County (CID 010217) FIRM panels 0181E and 0182E dated Jan. 20,1999, and panel 0183F dated Jun. 16, 1999.
Missouri	St. Robert, City of, Pulaski County.	290662	Nov. 30, 2004	Use Pulaski County (CID 290826) FIRM Index panel INDO and panel 0090C dated Mar. 17, 2002, and panel 0095B dated Apr. 17, 1985.
Texas	New Berlin, City of, Guadalupe County.	481625	Dec. 1, 2004	Use Guadalupe County (CID 480266) FIRM panels 0205C, 0215C, and 0225C dated Nov. 20, 1998.

State	Location	Community No.	Effective date of eligibility	Current effective map date
Florida	Paxton, Town of, Walton County.	120423	Dec. 16, 2004	Use Walton County (CID 120317) FIRM panel 0050F dated Mar. 7, 2000.
Nebraska	Nuckolls County, Unincorporated Areas**.	310461	.....do	Dec. 16, 2004.
Reinstatements				
Minnesota	New Hope, City of, Hennepin County.	270177	Jul. 2, 1975, Emerg. Jan. 2, 1981, Reg. Sept. 3, 2004, Susp. December 1, 2004, Rein.	Sept. 2, 2004.
Suspensions				
Maine	Kenduskeag, Town of, Penobscot County.	230108	Dec. 6, 2004	Sep. 18, 1985.
Suspension Rescissions				
Region IV				
North Carolina	Camden County, Unincorporated Areas.	370042	Oct. 5, 2004 Suspension Notice Rescinded.	Oct. 5, 2004.
Do	Hertford, Town of, Perquimans County.	370188	.....do	Do.
Do	Perquimans County, Unincorporated Areas.	370315	.....do	Do.
Do	Winfall, Town of, Perquimans County.	370345	.....do	Do.
Do	Nashville, Town of, Nash County.	370167	Nov. 3, 2004 Suspension Notice Rescinded.	Nov. 3, 2004.
Do	Rocky Mount, City of, Edgecombe County and Nash County.	370092	.....do	Do.
Do	Tarboro, Town of, Edgecombe County.	370094	.....do	Do.
Do	Whitakers, Town of, Edgecombe County and Nash County.	370095	.....do	Do.
Alabama	Randolph County, Unincorporated Areas.	010182	Dec. 2, 2004 Suspension Notice Rescinded.	Dec. 2, 2004.
Do	Roanoke, City of, Randolph County.	010348	.....do	Do.
Do	Wadley, Town of, Randolph County.	010183	.....do	Do.
Do	Wedowee, Town of, Randolph County.	010401	.....do	Do.
Region V				
Ohio	Bentleyville, Village of, Cuyahoga County.	390682	Dec. 16, 2004 Suspension Notice Rescinded.	Dec. 16, 2004.
Do	McConnelsville, Village of, Morgan County.	390422	.....do	Do.
Region VII				
Nebraska	Dannebrog, Village of, Howard County.	310118	Oct. 19, 2004 Suspension Notice Rescinded.	Oct. 19, 2004.
Do	Howard County, Unincorporated Areas.	310446	.....do	Do.

*.....do and Do = ditto.

**Designates communities converted from Emergency Phase of participation to the Regular Phase of participation.

Code for reading fourth and fifth columns: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn; NSFHA—Non Special Flood Hazard Area.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: April 14, 2005.

David I. Maurstad,

Acting Director, Mitigation Division, Emergency Preparedness and Response Directorate.

[FR Doc. 05–8178 Filed 4–22–05; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 041110317–4364–02; I.D. 041805C]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that it has approved the request of the Commonwealth of Virginia to transfer 68,214 lb (30,941 kg) of commercial summer flounder quota to the States of Maine, Connecticut, New York, Delaware, and Maryland, and the Commonwealth of Massachusetts, in accordance with the Atlantic States Marine Fisheries Commission (ASMFC) Addendum XV to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). The recipients of the transferred quota, and the amount transferred, are as follows: Maine—1,273 lb (577 kg); Connecticut—17,799 lb (8,073 kg); New York—13,270 lb (6,019 kg); Delaware—3,924 lb (1,780 kg); Maryland—17,983 lb (8,157 kg); and Massachusetts—13,965 lb (6,334 kg). By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective April 20, 2005, through December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Mike Ruccio, Fishery Management Specialist, (978) 281–9104, FAX (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The ASMFC adopted Addendum XV to the FMP in November, 2004. The Addendum is being implemented under the adaptive management and framework procedures that are part of the FMP. Addendum XV establishes a program, for 2005 and 2006, that allocates the increase in commercial summer flounder quota (from the 2004 amount) differently than the existing allocation scheme, in order to reduce the amount of fish that must be discarded as bycatch in the commercial fishery in states with relatively low summer flounder quotas. The transfer of quota from donor states will allow recipient states to marginally increase trip limits, thereby decreasing the amount of summer flounder discarded at sea.

The final rule implementing Amendment 5 to the FMP that was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer flounder commercial quota under § 648.100(d). The Regional Administrator is required to consider the criteria set forth in § 648.100(d)(3) in the evaluation of requests for quota transfers or combinations. The Regional Administrator has reviewed those criteria and approved the quota transfer request submitted by the Commonwealth of Virginia.

Consistent with Addendum XV, Virginia, a designated ''donor state,'' has voluntarily employed the quota transfer provisions of the FMP to transfer a total of 68,214 lb (30,941 kg) to be allocated to the aforementioned recipient states, as presented in Table 1.

TABLE 1. SUMMER FLOUNDER COMMERCIAL QUOTA TRANSFERS

	Amount Transferred		2005 Initial Quota[1]		2005 Revised Quota	
	lb	kg	lb	kg	lb	kg
State	.....	.....	.....	.....	.....	.....
Virginia	-68,214	-30,941	4,073,914	1,847,896	4,005,700	1,816,955
Maine	1,273	577	8,547	3,877	9,820	4,454
Massachusetts	13,965	6,335	1,177,554	534,130	1,191,519	540,465
Connecticit	17,799	8,074	405,597	183,978	423,396	192,052
New York	13,270	6,019	1,374,164	623,317	1,387,434	629,336
Delaware[2]	3,924	1,780	-51,339	-23,287	-47,415	-21,507
Maryland	17,983	8,157	347,398	157,577	365,381	165,734

[1] Reflects quotas as published on January 4, 2005 (70 FR 303); for Virginia, amount is adjusted by a transfer of 243,292 lb (110,355 kg) from North Carolina, effective March 4, 2005 (70 FR 11584).

[2] Landings of summer flounder in Delaware by vessels holding commercial Federal fisheries permits are prohibited for the 2005 calendar year.

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: April 19, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–8222 Filed 4–20–05; 2:30 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 78
Monday, April 25, 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.

FEDERAL ELECTION COMMISSION

11 CFR Parts 109, 114, and 300

[Notice 2005–11]

Candidate Solicitation at State, District and Local Party Fundraising Events; Definition of ''Agent'' for BCRA Regulations; Payroll Deductions By Member Corporations for Contributions to a Trade Association's Separate Segregated Fund

AGENCY: Federal Election Commission.

ACTION: Notice of public hearings.

SUMMARY: The Federal Election Commission is announcing public hearings on the following rulemakings: The proposed revision to the Commission's regulations on candidate solicitation at State, district and local party fundraising events; the proposed revision of the definition of ''agent'' for the Commission's regulations on non-Federal funds and coordinated and independent expenditures; and the proposed revision to the Commission's regulations on payroll deductions by member corporations for contributions to a trade association's separate segregated fund. The Commission plans to consider final rules for these three rulemakings in an open session scheduled for June 23, 2005.

DATES: The hearings will be held on Tuesday, May 17, 2005 and will begin at 10 a.m.

ADDRESSES: Commission hearings are held in the Commission's ninth floor meeting room, 999 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Brad C. Deutsch or Ms. Mai T. Dinh, Assistants General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Rulemaking on Candidate Solicitation at State, District and Local Party Fundraising Events

On February 24, 2005, the Commission published a Notice of Proposed Rulemaking (''NPRM'') proposing revisions to the Explanation and Justification for the Commission's regulation at 11 CFR 300.64, which allow Federal officeholders and candidates to speak without restriction or regulation at fundraising events for State, district and local party committees, and proposing an alternative rule that would replace current section 300.64 with a rule barring candidates and Federal officeholders from soliciting or directing non-Federal funds while attending or speaking at party fundraising events. 70 FR 9014 (Feb. 24, 2005). The comment period for this NPRM ended on March 28, 2005. The Commission received eleven comments in response to this NPRM. Six commenters who submitted four of the comments requested to testify at a public hearing if one is held.

After considering these requests and the other comments received to date in response to this NPRM, the Commission believes a public hearing would be helpful in considering the issues raised in the rulemaking. The hearing will be held on May 17, 2005.

Rulemaking on Definition of ''Agent'' for BCRA Regulations on Non-Federal Funds or Soft Money and Coordinated and Independent Expenditures

On February 2, 2005, the Commission published an NPRM proposing to revise the definition of ''agent'' for its regulations on coordinated and independent expenditures, and non-Federal funds, by including persons acting with apparent authority in the definition of ''agent.'' 70 FR 5382 (Feb. 2, 2005). The comment period for this NPRM ended on March 4, 2005. The Commission received six comments in response to this NPRM. Four commenters who submitted two of the comments requested to testify at a public hearing if one is held.

After considering these requests and the other comments received to date in response to this NPRM, the Commission believes a public hearing would be helpful in considering the issues raised in the rulemaking. The hearing will be held on May 17, 2005.

Rulemaking on Payroll Deductions by Member Corporations for Contributions to a Trade Association's Separate Segregated Fund

On December 22, 2004, the Commission published an NPRM proposing to amend its rules regarding contributions to the separate segregated fund (''SSF'') of a trade association by employee-stockholders and executive and administrative personnel (collectively, ''restricted class employees'') of corporations that are members of the trade association. The proposed rules would amend 11 CFR 114.8 to allow a corporate member of a trade association to provide incidental services to collect and forward contributions from its restricted class employees to the SSF of the trade association, including a payroll deduction or check-off system, upon written request of the trade association. The proposed rules would also amend 11 CFR 114.2(f) to require any corporate member of a trade association that provides incidental services for contributions to the trade association's SSF also to provide the same services for contributions to the SSF of any labor organization that represents employees of the corporation, upon written request of the labor organization and at a cost not to exceed actual expenses incurred. 69 FR 76628 (Dec. 22, 2004). The comment period for this NPRM ended on January 21, 2005. The Commission received 34 comments in response to this NPRM. Two commenters asked to testify at a public hearing if one is held.

After considering these requests and the other comments received to date in response to this NPRM, the Commission believes a public hearing would be helpful in considering the issues raised in the rulemaking. The hearing will be held on May 17, 2005.

Dated: April 18, 2005.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 05–8109 Filed 4–22–05; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[REG–152945–04]

RIN 1545–BD96

Flat Rate Supplemental Wage Withholding; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of public hearing on proposed regulations relating to the flat rate of withholding applicable to calculating the amount of income tax withholding on supplemental wages.

DATES: The public hearing is being held on Thursday, June 9, 2005, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the hearing by Thursday, May 19, 2005.

ADDRESSES: The public hearing is being held in the Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Mail outlines to: CC:PA:LPD:PR (REG–152945–04), Room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–152945–04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Submit outlines electronically to the IRS e-mail address *notice.comments@irscounsel.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing Treena Garrett, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–152945–04) that was published in the **Federal Register** on Wednesday, January 5, 2005 (70 FR 767).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who have submitted written or electronic comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by May 19, 2005.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing. Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Cynthia E. Grigsby,

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

[FR Doc. 05–8155 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R09–OAR–2005–CA–01; FRL–7900–4]

Revision to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District and San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). The revisions concern the emission of particulate matter (PM–10) from open outdoor burning and from incinerator burning. We are proposing to approve local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by May 25, 2005.

ADDRESSES: Submit comments, identified by docket number R09–OAR–2005–CA–01, by one of the following methods:

1. Agency Web site: *http://docket.epa.gov/rmepub/.* EPA prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.
2. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions.
3. E-mail: *steckel.andrew@epa.gov.*
4. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the agency Web site, eRulemaking portal, or e-mail. The agency website and eRulemaking portal are ''anonymous access'' systems, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at *http://docket.epa.gov/rmepub* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available in either location (*e.g.*, CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4118, *petersen.alfred@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local MBUAPCD Rules 408 and 438 and SJVUAPCD Rule 4103. In the Rules section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this

time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 29, 2005.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 05–8187 Filed 4–22–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[R5–GMJA–05; SW–FRL–7903–4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste Proposed Exclusion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA (also, ''the Agency'' or ''we'' in this preamble) is proposing to grant a petition to exclude or ''delist'' wastewater treatment sludge from conversion coating on aluminum generated by the General Motors Corporation (GM) Janesville Truck Assembly Plant (JTAP) in Janesville, Wisconsin from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This proposed exclusion, if finalized, conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under RCRA.

This petition was evaluated in a manner similar to the expedited process developed as a special project in conjunction with the Michigan Department of Environmental Quality (MDEQ) for delisting similar wastes generated by a similar manufacturing process. Based on an evaluation of waste-specific information provided by GM, we have tentatively concluded that the petitioned waste from JTAP is nonhazardous with respect to the original listing criteria and that there are no other factors which would cause the waste to be hazardous. This exclusion, if finalized, would be valid only when the sludge is disposed of in a Subtitle D landfill which is permitted, licensed, or registered by a State to manage industrial solid waste.

DATES: We will accept public comments on this proposed rule until June 9, 2005.

ADDRESSES: Please send two copies of your comments to Judy Kleiman, Waste Management Branch (DW–8J), Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, Illinois 60604. We will stamp comments postmarked after the close of the comment period as ''late.'' These ''late'' comments may not be considered in formulating a final decision. Any person may request a hearing on this proposed decision by filing a request with Margaret Guerriero, Director, Waste, Pesticides and Toxics Division, Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, Illinois 60604. Your request for a hearing must reach EPA by May 10, 2005. The request must contain the information prescribed in Title 40 Code of Federal Regulations (40 CFR) 260.20(d).

FOR FURTHER INFORMATION CONTACT: The RCRA regulatory docket for this proposed rule, number R5–GMJA–04, is located at EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, and is available for viewing from 8 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public may copy material from the regulatory docket at $0.15 per page. For further technical information concerning this document or for appointments to view the docket, contact Judy Kleiman at the address above, by calling 312–886–1482 or by e-mail at *kleiman.judy@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Background
- A. What is a delisting petition?
- B. What regulations allow a waste to be delisted?

II. GM's Petition to Delist Waste from Janesville Truck Assembly Plant
- A. How is the petitioned waste generated?
- B. What is the process for delisting F019 from zinc phosphating operations at automobile and light truck assembly plants?
- C. What information did GM submit in support of its petition?

III. EPA's Evaluation of This Petition
- A. How did EPA evaluate the information submitted?
- B. What did EPA conclude about this waste?

IV. Proposal to Delist Waste from Janesville Truck Assembly Plant
- A. What is EPA proposing?
- B. What are the terms of this exclusion?
- C. What are the maximum allowable concentrations of hazardous constituents in the waste?

V. Statutory and Executive Order Reviews

I. Background

A. What Is a Delisting Petition?

A delisting petition is a request from a generator to exclude waste from the list of hazardous wastes under RCRA regulations. In a delisting petition, the petitioner must show that waste generated at a particular facility does not meet any of the criteria for which EPA listed the waste as set forth in 40 CFR 261.11 and the background document for the waste. In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. (See 40 CFR 260.22, 42 United States Code (U.S.C.) 6921(f) and the background document for a listed waste.)

A generator remains obligated under RCRA to confirm that its waste remains nonhazardous based on the hazardous waste characteristics even if EPA has ''delisted'' the waste and to ensure that future generated waste meets the conditions set.

B. What Regulations Allow a Waste To Be Delisted?

Under 40 CFR 260.20, 260.22, and 42 U.S.C. 6921(f), a facility may petition the EPA to remove its waste from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. Specifically, 40 CFR 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268, and 273 of 40 CFR.

II. GM's Petition To Delist Waste From Janesville Truck Assembly Plant

A. How Is the Petitioned Wasted Generated?

GM is petitioning to exclude wastewater treatment sludge resulting from a conversion coating process on truck bodies which have aluminum components. The truck bodies are immersed in a zinc phosphate bath which applies a conversion coating on the surface of the metal. The rinses and overflows from the conversion coating process comingle with wastewaters from cleaning and rinsing operations which may include alkaline cleaners, surfactants, organic detergents and rinse conditioners. After the zinc phosphating bath, the truck bodies are subjected to an electrocoating process and spray painting. Overflows and rinse water from the electrocoating process and from the paint booths combine with the wastewater from the conversion coating before entering the wastewater treatment plant. When treated, the wastewater from the conversion coating on aluminum causes all the sludge generated from these wastewaters to be a listed waste, F019.

In the wastewater treatment plant, large particles are screened out and the wastewater is sent to various thickeners

and clarifier tanks where water and solids are further separated. The pH of the wastewater may be adjusted and flocculents and coagulants may be added to facilitate the thickening process. The solids which settle in the thickeners and clarifiers are dewatered in a filter press and the resultant F019 filter cake drops into a roll off box for disposal.

The zinc phosphating process used today does not contain hexavalent chromium or cyanide for which F019 was originally listed, but trivalent chromium, nickel, and zinc may be present in the wastewater and in the sludge. Other hazardous constituents such as organic solvents, formaldehyde or additional metals could also be in the waste stream. Before a waste can be delisted, the petitioner must demonstrate that there are no hazardous constituents in the sludge from other operations in the plant at levels of concern and that there are no other factors that might cause the waste to be hazardous. GM believes that its sludge does not contain the constituents for which F019 was listed and that there are no other constituents or factors that would cause the waste to remain hazardous.

B. What Is the Process for Delisting F019 From Zinc Phospating Operations At Automobile and Light Truck Assembly Plants?

The zinc phosphating process used by GM at JTAP is substantially similar to the process used at most automobile and light truck assembly plants in conversion coating steel and aluminum. A number of automobile and light truck assembly plants have been granted hazardous waste exclusions as a result of a special expedited delisting project established in a Memorandum of Understanding (MOU) between EPA Region 5 and MDEQ (67 FR 10341, March 7, 2002 and 68 FR 44652, July 30, 2003). These facilities were able to take advantage of a common sampling approach and expedited rulemaking procedure mainly due to the similarity of the wastes and processes generating the waste. GM certified that the process generating the filter cake at JTAP is consistent with the process described in the MOU for expedited delistings.

Using available historical data and other information, the expedited process identified 70 constituents which might be of concern in the F019 waste generated at automobile and light truck assembly plants, and a Sampling and Analysis Plan was developed specifically for testing this waste. EPA agreed to allow GM to use the same Sampling and Analysis Plan and the same list of constituents of concern to demonstrate that the levels of constituents in the waste at JTAP are below the levels of concern that could pose a threat to human health or the environment when the waste is disposed in a nonhazardous landfill.

C. What Information Did GM Submit in Support of Its Petition?

To support its exclusion demonstration, GM collected six samples representing waste generated at JTAP over six weeks. All sampling was done in accordance with the Sampling and Analysis Plan developed for the expedited delisting project but modified to eliminate multiple sampling events or long term storage of full roll-off boxes. A representative amount of sludge was collected each week for six weeks starting with the week of March 15, 2004 and continuing through the week of April 19, 2004. The sludge for each week was placed in a separate 55 gallon drum, and on April 27, 2004, composite and grab samples were collected from all drums. In accordance with the Sampling and Analysis Plan, each sample was analyzed for: (1) Total analyses of 69 constituents of concern; [1] (2) Toxicity Characteristic Leaching Procedure (TCLP), Method 1311 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (SW–846) for the volatile and semivolatile constituents of concern; (3) oil and grease, SW–846 Method 9071B; (4) leachable metals using the Extraction Procedure for Oily Wastes (OWEP), SW–846 Method 1330A; (5) total constituent analysis for sulfide, SW–846 Method 9034; and (6) total constituent analysis for cyanide, SW–846 Method 9012A. In addition, the pH of each sample was measured using SW–846 Method 9045C and a determination was made that the waste was not ignitable, corrosive or reactive (see 40 CFR 261.21–261.23). The data submitted included the appropriate quality assurance/quality control information and was validated by an independent third party as required in the Sampling and Analysis Plan. The maximum values of constituents detected in any sample of the wastewater treatment sludge or in a TCLP extract of that sludge are summarized in the table below.

Constituent	Maximum concentration observed		Maximum allowable delisting level (3,000 cubic yards)		Maximum allowable groundwater concentration (mg/L)
	Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP (mg/L)	
Volatile Organic Compounds					
acetone	<10	0.33	NA	1,500	34
formaldehyde	2.4	0.12	540	43 [2]	0.950
n-butyl alcohol	25	0.2	NA	171	3.7
Semivolatile Organic Compounds					
p-cresol	2.6	0.28	NA	8.5	0.190
bis (2-ethylhexyl)-phthalate	1.7	<0.005	890,000	0.15	0.0032
2,4-dimethylphenol	<3.0	0.007	NA	34	0.750
naphthalene	<1.5	0.0046	NA	0.55	0.012

[1] The expedited delisting project originally called for the analysis of 70 constituents. However, the analysis of acrylamide required extreme methods to achieve a detection level at the level of concern. Despite the use of single ion monitoring, no acrylamide was detected in any sample analyzed by any of the original facilities participating in the expedited delisting project. Consequently, the Agency decided it would not be appropriate to require analysis for acrylamide.

[2] The allowable TCLP concentrations from the groundwater inhalation exposure pathway have been changed to account for the cumulative groundwater inhalation exposure from all residential inhalation exposures (shower, bathroom, and whole-house). Previous calculations of allowable levels were based on only the most conservative of these three. This change in the calculation results in a more conservative allowable limit for TCLP concentration of formaldehyde.

Constituent	Maximum concentration observed		Maximum allowable delisting level (3,000 cubic yards)		Maximum allowable groundwater concentration (mg/L)
	Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP (mg/L)	
Metals					
arsenic	<50	0.045	8,000	0.22	0.005
barium	210	<.35	NA	100	2
cadmium	1.6	<0.023	22,000	0.36	0.005
chromium	75	<0.12	3,200	3.7	0.100
cobalt	4.3	<0.029	14,000	18	0.750
lead	214	<0.15	500,000	5	0.015
nickel	1,180	7.99	NA	68	0.750
tin	<100	2.02	NA	540	23
zinc	7,320	0.36	NA	670	11
Miscellaneous					
cyanide	0.7	<0.05	NA	8.6	0.2
corrosivity (pH)	7.8–8.19		2.0 <ph <12.5		NA

<Not detected at the specified concentration.
NA not applicable.
mg/kg milligrams per kilogram.
mg/L milligrams per liter.
These levels represent the highest constituent concentration found in any one sample and do not necessarily represent the specific levels found in a single sample.

III. EPA's Evaluation of This Petition

A. How Did EPA Evaluate the Information Submitted?

In developing this proposal, we considered the original listing criteria and evaluated additional factors required by the Hazardous and Solid Wastes Amendments of 1984 (HSWA). See section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(2)–(4). We evaluated the petitioned waste against the listing criteria and factors cited in 40 CFR 261.11(a)(2) and (3). These factors include: (1) Whether the waste is considered acutely toxic; (2) the toxicity of the constituents; (3) the concentration of the constituents in the waste; (4) the tendency of the hazardous constituents to migrate and to bioaccumulate; (5) persistence of these constituents in the environment once released from the waste; (6) plausible and specific types of management of the petitioned waste; (7) the quantity of waste produced; and (8) waste variability.

EPA identified plausible exposure routes (ground water, surface water, air) for hazardous constituents released from the waste in an improperly managed Subtitle D landfill. To evaluate the waste, we used the Delisting Risk Assessment Software program (DRAS), a Windows based software tool, to estimate the potential release of hazardous constituents from the waste and to predict the risk associated with those releases. For a detailed description of the DRAS program and revisions see: 65 FR 58015, September 27, 2000; 65 FR 75637, December 4, 2000; 65 FR 75897, December 5, 2000; and 67 FR 10341, March 7, 2002.

B. What Did EPA Conclude About This Waste?

EPA compared the analytical results submitted by JTAP to the maximum allowable levels calculated by the DRAS for an annual volume of 3,000 cubic yards. The maximum allowable levels for constituents detected in the waste or the waste leachate are summarized in the table above. All constituents compared favorably to the allowable levels.

The table also includes the maximum allowable levels in groundwater at a potential receptor well, as evaluated by DRAS. These levels are the more conservative of either the Safe Drinking Water Act Maximum Contaminant Level (MCL) or the health-based value calculated by DRAS based on the target cancer risk level of 10^{-6} or the target hazard quotient of one. For arsenic, the target cancer risk was set at 10^{-4} in consideration of the MCL and the potential for natural occurrence. The maximum allowable groundwater concentration and delisting level for arsenic correspond to a drinking water concentration less than one half the current MCL of 0.010 mg/L.

EPA also used the DRAS program to estimate the aggregate cancer risk and hazard index for constituents detected in the waste. The aggregate cancer risk is the cumulative total of all individual constituent cancer risks. The hazard index is a similar cumulative total of non-cancer effects. The target aggregate cancer risk is 1×10^{-5} and the target hazard index is one. The wastewater treatment sludge at JTAP met both of these criteria.

IV. Proposal To Delist Waste From Janesville Truck Assembly

A. What Is EPA Proposing?

Today the EPA is proposing to conditionally exclude or delist 3,000 cubic yards annually of wastewater treatment sludge generated at JTAP from conversion coating on aluminum.

B. What Are the Terms of This Exclusion?

GM must dispose of the JTAP waste in a lined Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste. This exclusion applies only to a maximum annual volume of 3,000 cubic yards and is effective only if all conditions contained in this rule are satisfied. GM must verify on a quarterly basis that the concentrations of the constituents of concern in the JTAP sludge do not exceed the allowable levels set forth in this exclusion. The list of constituents for verification is based on the concentration and frequency of occurrence of constituents of concern in GM's JTAP sludge and in wastes generated by the majority of facilities participating in the expedited process to delist F019.

C. What Are the Maximum Allowable Concentrations of Hazardous Constituents in the Waste?

Concentrations of the following constituents measured in the TCLP (or OWEP, where appropriate) extract of the waste must not exceed the following levels (mg/L): antimony—0.49; arsenic—0.22; cadmium—0.36; chromium—3.7; lead—5; nickel—68; selenium—1; thallium—0.21; tin—540; zinc—670; p-cresol—8.5; and formaldehyde—43. The total concentrations in the waste of the following constituents must not exceed the following levels (mg/kg): formaldehyde—540; chromium—3,200; and mercury—7.

V. Statutory and Executive Order Reviews

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB).

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.*) because it applies to a particular facility only.

Because this rule is of particular applicability relating to a particular facility and does not have a significant economic impact on a substantial number of small entities, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule is not subject to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) because this rule will affect only a particular facility. Therefore, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year.

Because this rule will affect only a particular facility, this final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism,'' (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. Similarly, because this rule will affect only a particular facility, this final rule does not have tribal implications, as specified in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule.

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 as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the DRAS program, which considers health and safety risks to infants and children, to calculate the maximum allowable concentrations for this rule.

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

This rule does not involve technical standards; 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.

As required by section 3 of Executive Order 12988, ''Civil Justice Reform,'' (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

List of Subjects in 40 CFR Part 261

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

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

Dated: April 14, 2005.

Bruce Sypniewski,

Acting Director, Waste, Pesticides and Toxics Division.

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

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

2. In Table 1 of Appendix IX of part 261 the following wastestream is added in alphabetical order by facility to read as follows:

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

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* * *	* * *	* * *
General Motors Corporation Janesville Truck Assembly.	Janesville, Wisconsin	Wastewater treatment sludge, F019, that is generated at the General Motors Corporation (GM) Janesville Truck Assembly Plant (JTAP) at a maximum annual rate of 3,000 cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date).

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

Facility	Address	Waste description
		1. *Delisting Levels:* (A) The concentrations in a TCLP extract of the waste measured in any sample may not exceed the following levels (mg/L): antimony—0.49; arsenic—0.22; cadmium—0.36; chromium—3.7; lead—5; nickel—68; seleium—1; thallium—0.21; tin—540; zinc—670; p-cresol—8.5; and formaldehyde—43;. (B) The total concentrations measured in any sample may not exceed the following levels (mg/kg): chromium—3,200; mercury—7; and formaldehyde—540. 2. *Quarterly Verification Testing:* To verify that the waste does not exceed the specified delisting levels, GM must collect and analyze one representative sample of JTAP's sludge on a quarterly basis. 3. *Changes in Operating Conditions:* GM must notify the EPA in writing if the manufacturing process, the chemicals used in the manufacturing process, the treatment process, or the chemicals used in the treatment process at JTAP significantly change. GM must handle wastes generated at JTAP after the process change as hazardous until it has demonstrated that the waste continues to meet the delisting levels and that no new hazardous constituents listed in appendix VIII of part 261 have been introduced and GM has received written approval from EPA. 4. *Data Submittals:* GM must submit the data obtained through verification testing at JTAP or as required by other conditions of this rule to EPA Region 5, Waste Management Branch (DW–8J), 77 W. Jackson Blvd., Chicago, IL 60604. The quarterly verification data and certification of proper disposal must be submitted annually upon the anniversary of the effective date of this exclusion. GM must compile, summarize, and maintain at JTAP records of operating conditions and analytical data for a minimum of five years. GM must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12). 5. *Reopener Language*—(a) If, anytime after disposal of the delisted waste, GM possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) relevant to the delisted waste at JTAP indicating that any constituent is at a level in the leachate higher than the specified delisting level, or is in the groundwater at a concentration higher than the maximum allowable groundwater concentration in paragraph (e), then GM must report such data in writing to the Regional Administrator within 10 days of first possessing or being made aware of that data. (b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify GM in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing GM with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. GM shall have 30 days from the date of the Regional Administrator's notice to present the information. (d) If after 30 days GM presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise. (e) Maximum Allowable Groundwater Concentrations (mg/L):; antimony—0.006; arsenic—0.005; cadmium—0.005; chromium—0.1; lead—0.015; nickel—0.750; selenium—0.050; tin—23; zinc—11; p-Cresol—0.190; and formaldehyde—0.950.

* * * * * * *

[FR Doc. 05–8190 Filed 4–22–05; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 050408096–5096–01; I.D. 033105A]

RIN 0648–AS69

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Gulf Reef Fish Limited Access System

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 24 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Amendment 24) prepared by the Gulf of Mexico Fishery Management Council (Council). This proposed rule would establish a limited access system for the commercial reef fish fishery in the Gulf of Mexico by capping participation at the current level. The intended effect of this proposed rule is to provide economic and social stability in the fishery by preventing speculative entry into the fishery.

DATES: Written comments on the proposed rule must be received no later than 5 p.m., eastern time, on June 9, 2005.

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

- E-mail: *0648–AS69.Proposed@noaa.gov*. Include in the subject line the following document identifier: 0648–AS69.
- Federal e-Rulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: 727–824–5308; Attention: Peter Hood.

Copies of Amendment 24, which includes a Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analyses (IRFA), and an Environmental Assessment, may be obtained from the Gulf of Mexico Fishery Management Council, The Commons at Rivergate, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619–2266; telephone: 813–228–2815; fax: 813–225–7015; e-mail: *gulfcouncil@gulfcouncil.org*. Copies of Amendment 24 can also be downloaded from the Council's website at *www.gulfcouncil.org*.

FOR FURTHER INFORMATION CONTACT: Peter Hood, telephone: 727–551–5728, fax: 727–824–5308, e-mail: *peter.hood@noaa.gov*.

SUPPLEMENTARY INFORMATION: The reef fish fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

Prior to 1992, the commercial reef fish fishery in the EEZ of the Gulf of Mexico operated under open access. In 1992, due to concerns about increasing levels of participation in the fishery, a 3-year moratorium on the issuance of new commercial vessel permits for Gulf reef fish was implemented under Amendment 4 to the FMP (April 8, 1992; 57 FR 11914). The moratorium was designed to stabilize the level of participation in the fishery and to allow for evaluation and development of a more comprehensive controlled access system for the commercial reef fish fishery. The moratorium was subsequently extended through 1995 (Amendment 9) (August 2, 1994; 59 FR 39301); through 2000 (Amendment 11) (December 15, 1995; 60 FR 64350); and through 2005, or until replaced by a more comprehensive access/effort control program (Amendment 17) (July 3, 2000; 65 FR 41016).

The effects of the existing permit moratorium have been to prevent increases in effort, reduce the number of permittees in the reef fish fishery, and help stabilize the economic performance of current participants. Under the moratoria, the number of commercial vessel reef fish permits has declined from 1,718 in 1993 to 1,129 in 2004.

Current commercial reef fish fishery participants have demonstrated the capability of harvesting the applicable quotas well in advance of the end of the fishing season, resulting in early closures of the fishery. Allowing the fishery to revert to open access would result in an increased number of participants in the fishery, most likely negating any reductions in effort that have been achieved as a result of the current moratorium. An increase in participants would lead to even earlier fishery closures and would have an adverse impact on the economic performance of current participants. Increased participation would also compound the complexity of any future consideration by the Council to develop a more comprehensive controlled access or effort limitation system for this fishery. For these reasons, the Council has concluded that a limited access system to continue restrictions on participation levels in the fishery is appropriate.

Limited Access System

Amendment 24 would establish a limited access system for the commercial fishery for Gulf reef fish by capping participation at the current level. Under the proposed limited access system, an owner of a vessel with a valid commercial vessel permit for Gulf reef fish on the date that Amendment 24 is approved (assuming approval) would be issued the applicable permits under the limited access system. Commercial vessel permits for Gulf reef fish would become limited access permits upon their renewal. Other than the changes in the terminology, i.e., ''limited access'' versus ''moratorium,'' there would be no changes to the current procedures for application, qualification, issuance, renewal, or transferability of these permits.

Classification

At this time, NMFS has not determined that Amendment 24, which this proposed rule would implement, is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. In making that determination, NMFS will take into account the data, views, and comments received during the comment period on Amendment 24 ending June 6, 2005, and the comment period on this proposed rule ending June 9, 2005.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in this Classification section and in the **SUMMARY** of this proposed rule. A summary of the analysis follows.

This proposed rule would establish a limited access system for the commercial reef fish fishery in the Gulf of Mexico. The purpose of the proposed

rule is to provide stability in the Gulf of Mexico commercial reef fish fishery as part of the strategy to achieve optimum yield (OY) and maximize the overall benefits to the Nation provided by the fishery. The Magnuson-Stevens Act provides the statutory basis for the proposed rule.

No duplicative, overlapping, or conflicting Federal rules have been identified.

An estimated 1,161 vessels were permitted to fish commercially for Gulf reef fish in 2003, down from 1,718 in 1993, and 61 percent to 74 percent of those vessels had logbook-reported landings during 1993 through 2003. The median annual gross revenue from all logbook-reported sales of finfish by these vessels ranged from approximately $12,000 to $23,000 during this period. The median percentage of gross revenues attributable to Gulf reef fish ranged from 95 percent to 98 percent. Although participation in the fishery has declined since 1993, this decline has been voluntary and presumed attributable to economic conditions in the fishery and fishing in general and not due to regulatory requirements. Although a limited access program has been in place in this fishery since 1992, transfer of permits is not restricted, and those seeking to enter the fishery can purchase a permit from a permit holder. Such transfers in fact occur, and 253 of the 1,175 valid permits as of February 6, 2004 were permits that had been transferred at some time since 1998. Thus, entry into the fishery occurs. However, total participation, in terms of both the number of permits and the number of permitted vessels that land fish, has consistently declined since 1993, indicating that entry is not limited by a lack of available permits.

This proposed rule will affect all current participants in the fishery and all entities that may be interested in entering the fishery. Although the number of current participants is known, no estimate of the number of prospective participants can be provided, although it is not expected to be substantial due to a decline in total participation in the fishery even though permit transfer and entry opportunities are available.

This proposed rule would not change current reporting, recordkeeping, and other compliance requirements under the FMP. These requirements include qualification criteria for the commercial vessel permit, and logbook landing reports. All of the information elements required for these processes are standard elements essential to the successful operation of a fishing business and should, therefore, already be collected and maintained as standard operating practice by the business. The requirements do not require professional skills and, therefore, are determined not to be onerous.

One general class of small business entities would be directly affected by the final rule: commercial fishing vessels. The Small Business Administration defines a small business that engages in commercial fishing as a firm that is independently owned and operated, is not dominant in its field of operation, and has annual receipts up to $3.5 million per year. Based on the revenue profiles provided above, all commercial entities operating in the Gulf reef fish fishery are considered small entities.

This proposed rule will apply to all entities that operate in the Gulf of Mexico commercial reef fish fishery and those entities interested in or seeking to enter the fishery. The proposed rule will, therefore, affect a substantial number of small entities.

The outcome of ''significant economic impact'' can be ascertained by examining two issues: disproportionality and profitability. The disproportionality question is, do the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities? All the vessel operations affected by the proposed rule are considered small entities, so the issue of disproportionality does not arise in the present case.

The profitability question is, do the regulations significantly reduce profit for a substantial number of small entities? The proposed rule would continue the limited access system in the fishery. Continuation of this system would be expected to increase profitability for the entities remaining in the fishery if participation continues to decline, as has occurred since 1993. Should the decline in participation cease, profits would be expected to continue at current levels. Should the fishery revert to open access, participation would be expected to increase, and average profit per participant would be expected to decline, possibly to the point of elimination of all profits from this fishery.

This proposed rule would continue the requirement to have a vessel permit in order to participate in the commercial reef fish fishery. The cost of the permit is $50, and renewal is required every other year (the permit is automatically renewed the second year). Because this is a current requirement, there would be no additional impacts on participant profits as a result of this requirement.

Three alternatives were considered to the proposed rule. The first, status quo alternative would allow the fishery to revert to open access. Open access conditions would be expected to lead to an increase in the number of permitted vessels, or, at least, slow the rate of decline in participation that has occurred. Any increase in the number of permitted vessels landing Gulf reef fish would lead to an expected decrease in producer surplus from that in 2003, estimated at $404,500 to $647,200.

The two remaining alternatives would continue the current moratorium on issuing new Gulf reef fish permits for five years and 10 years, respectively, compared to the proposed rule, which would continue the moratorium indefinitely. Thus, the fishery would continue as a limited access fishery under each alternative. It is not possible to distinguish these alternatives empirically in terms of fishery behavior using available data. However, it is reasonable to assume that fishermen believe that regardless of the duration of the program specified, a precedent for indefinite use of private market mechanisms to allow entry into the fishery has been established, given the history of successfully functioning private markets for vessel permits. Thus, the outcomes of these three alternatives are expected to be functionally equivalent. As stated previously, under the current limited access program, the fishery is estimated to have generated $404,500 to $647,200 in producer surplus in 2003. Assuming the increase in producer surplus mirrors that of fleet contraction exhibited recently (1.15 percent), the resultant estimates of producer surplus are approximately $450,000 to $720,000 by 2010, and $484,000 to $775,000 by 2015. Each alternative would also continue to provide for market-based compensation for vessels that exit the fishery, and the permit market would continue to provide an economically rational basis for regulating the entry of vessels into the commercial Gulf reef fish fishery and allocating access to fishery resources among competing users in the commercial fisheries.

It should be noted that although this proposed rule would imply a more permanent system than the alternatives, the system established under any alternative could be suspended at any time through appropriate regulatory action. Adopting an indefinite duration, however, eliminates the need for action at specific intervals to continue the system, thereby eliminating the costs associated with the additional regulatory process. The administrative and development cost of the current

action is estimated to be $200,000. Further, the proposed rule may better address the Council's purpose of providing stability in the commercial and recreational fisheries for Gulf reef fish, preventing speculative entry into the commercial fisheries, and achieving OY. The status quo alternative would not achieve the Council's objectives.

Copies of the IRFA are available (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: April 20, 2005.

Rebecca Lent,

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

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.4, revise the last sentence of paragraph (a)(2)(v) and introductory paragraph (m) to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(v) * * * See paragraph (m) of this section regarding a limited access system for commercial vessel permits for Gulf reef fish and limited exceptions to the earned income requirement for a permit.

* * * * *

(m) *Limited access system for commercial vessel permits for Gulf reef fish.*

* * * * *

[FR Doc. 05–8224 Filed 4–22–05; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 70, No. 78

Monday, April 25, 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

Forest Service

Idaho Panhandle National Forest, Idaho—Bussel 484 Project EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal of ecosystem management in the Bussel 484 Project Area, which is approximately 14,600 acres in size. Opportunities were developed through a comparison of existing project are conditions with desired future conditions for all the resources in the project area. The proposed action was developed utilizing the Idaho Panhandle Forests Forest Plan, a roads analysis, an ecosystem assessment at the watershed scale, findings from the St. Joe Geographic Assessment and the Upper Columbia River Basin Assessment, the National Fire Plan along with trends observewd by interdisciplinary specialists conducting on-the-ground assessments.

DATES: Comments concerning the scope of the analysis must be received within 60 days of publication of this notice in the **Federal Register**. The draft environmental impact statement is expected to be available for public review in November 2005, and the final environmental impact statement is expected to be completed in 2006.

ADDRESSES: Send written comments to Charles Mark, District Ranger, St. Joe Ranger District, 222 South 7th Street Suite 1, St. Maries, Idaho 83861 or electronically to *chudson@fs.fed.us.* For further information, mail correspondence to Cornie Hudson, Bussel 484 EIS Team Leader at the address listed above. Information on this project can also be found on the Internet by going to *http://www.fs.fed.usi/pnf/* and looking under Ecosystems, Management, Index of NEPA Projects and St. Joe Ranger District.

FOR FURTHER INFORMATION CONTACT: Connie Hudson—Bussel 484 Project Team Leader, 208–245–2531.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The Forest Service is proposing this project in order to restore and accelerate the development of early seral, shade-intolerant species (western white pine and western larch); promote and maintain mature forests with large trees; reduce stand densities to minimize stresses and disturbance risks; reduce the potential for large, severe wild fires while promoting conditions for safe and effective control of fires; provide fire protection to Bonneville Power Administration transmission line; provide wood products for the local timber dependent economy; maintain access to National Forest System lands now and in the future while reducing resource damage, protecting cultural resources, providing recreation opportunities, clarifying motorized and non-motorized access, providing wildlife security acres in the project area, improving aquatic habitat conditions, improving watershed conditions, reducing road maintenance costs, reducing possibilities of new weed establishment, and promoting sites that are less suitable for weeds; work towards restoring Bear Creek and Little Bear Creek to water quality that supports designated beneficial uses; and improve stream habitat and riparian conditions in project area streams.

Proposed Action

The proposed action includes timber harvest; road construction; storage, and decommissioning; natural and activity fuels reduction; tree and shrub planting; access management changes; and woody debris placement in streams in the Bussel 484 Project Area.

Responsible Official

Ranotta K. McNair, Forest Supervisor, Idaho Panhandle National Forests, 3815 Schreiber Way, Coeur D'Alene, Idaho 83815.

Nature of Decision To Be Made

The St. Joe Ranger District will prepare the EIS. The Forest Supervisor of the Idaho Panhandle National Forests will decide whether to implement this project, and if so, in what manner. The decision will be documented in a Record of Decision (ROD).

Scoping Process

The project was listed on the Idaho Panhandle National Forests Quarterly Schedule of Proposed Actions in January 2005. Public scoping packages describing the proposed action were mailed to the Bussel 484 Project mailing list on April 19, 2005. No public meetings are currently scheduled.

Preliminary Issues

Preliminary issues raised during the development of the proposed action include effects to water quality from motorized vehicles entering Norton Creek while using the Norton Creek Railroad Grade; controversy over changes in access management including loss of motorized access on roads and trails and implementation of an area restriction which would prohibit cross country motorized travel; and removal of site nutrients with vegetative and fuel treatment activities.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. Public participation in this analysis is welcome at any time; comments received within 60 days of publication of this notice will be especially useful in the preparation of the Draft EIS.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environment impact statement will be 45 days from the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their

participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. City of *Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulation for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Dated: April 18, 2005.

Ranotta K. McNair,

Forest Supervisor, Idaho Panhandle National Forests.

[FR Doc. 05–8172 Filed 4–22–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010604A]

Taking Marine Mammals Incidental to Specified Activities; Port of Miami Construction Project (Phase II)

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA), notification is hereby given that an Incidental Harassment Authorization (IHA) has been issued to the U.S. Army Corps of Engineers-Jacksonville District (Corps) to take bottlenose dolphins (*Tursiops truncatus*), by harassment, incidental to deepening the Dodge-Lummus Island Turning Basin in Miami, FL (Turning Basin).

DATES: This authorization is effective from April 19, 2005, through April 18, 2006.

ADDRESSES: A copy of the application may be obtained by writing to Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Species, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, Md 20910, or by telephoning the contact listed here. Documents cited in this notice may be viewed, by appointment, during regular business hours, at this address.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, NMFS, (301) 713–2055, ext 128.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of IHA Request

On December 1, 2003, NMFS received a request from the Corps for a renewal of an IHA to take bottlenose dolphins incidental to using blasting while deepening the Turning Basin in the Port of Miami, south of Dodge-Lummus Island. An IHA for this activity was issued to the Corps previously on May 22, 2003 (68 FR 32016, May 29, 2003). This IHA expired on May 21, 2004. Since the work in the Turning Basin did not occur during that period, a new IHA is warranted.

The Port of Miami is one of the major terminal complexes in Florida. The majority of this tonnage is high-value general cargo transported in trailers and containers. The Port also accommodates a large cruise ship industry. Development has primarily centered on the Lummus Island terminal and container complex facilities. Expanding and deepening the Turning Basin would eliminate the need for vessels docked at Lummus Island to back to or from the Fisher Island Turning Basin.

Completion of the dredging project may employ a hopper dredge, clamshell dredge, cutterhead dredge and/or confined blasting. The dredging will remove 1.4 million cubic yards of material from an area 1,500 ft (457.2 m) in diameter. The Corps has contracted for dredging the Turning Basin to a maximum depth of 42 ft (12.8 m) plus a 2 ft (0.61 m) overdepth. Material removed from the dredging will be placed in the Miami Ocean Dredged Material Disposal Site.

The Corps expects the contractor will employ underwater dredging and confined blasting to construct the project. Blasting has the potential to have adverse impacts on bottlenose dolphins and manatees (*Trichechus manatus latirostris*) inhabiting the area near the project. While the Corps does not presently have a blasting plan from the contractor, which will specifically identify the number of holes that will be drilled, the amount of explosives that will be used for each hole, the number of blasts per day (usually no more than 3/day), or the number of days the construction is anticipated to take to complete, the Corps has forwarded to NMFS a description of a completed project in San Juan Harbor, Puerto Rico to use as an example. For that project, the maximum weight of the explosives used for each event was 375 lbs (170 kg) and the contractors detonated explosives once or twice daily from July 16 to September 9, for a total of 38 individual detonations. Normal practice is for each charge to be placed approximately 5 - 10 ft (1.5 - 3 m) deep within the rock substrate, depending on how much rock needs to be broken and how deep a depth is sought. The charges are placed in the holes and tamped with rock. Therefore, if the total explosive weight needed is 375 lbs (170 kg) and they have 10 holes, they would average 37.5 lbs (17.0 kgs)/hole. However, a more likely weight for this project may be only 90 lbs (41 kgs) and, therefore, 9 lbs(4.1 kg)/hole. Charge weight and other determinations are expected to be made by the Corps and the contractor approximately 30–60 days prior to commencement of the construction project. Because the charge weight and other information is not presently available, NMFS will require the Corps to provide this information to NMFS, including calculations for impact/mitigation zones (for the protection of marine mammals and sea turtles from injury), prior to commencing work.

Comments and Responses

A notice of receipt of the application and proposed authorization was published on January 15, 2004 (69 FR 2333). That notice described the activity and anticipated effects on marine mammals. NMFS received comments from the Marine Mammal Commission (Commission) on the application and proposed authorization.

Comment 1: The Commission notes that, given that the formulae for determining the safety zones are based on theoretical considerations and modeling of the sound pressure levels to which animals would be exposed, the Commission believes that the applicant should collect empirical data during its operations that could assess the accuracy of the model.

Response: The caution and safety zones are based on theoretical models derived from empirical research conducted by Goertner (1981) and others. This research cannot be replicated in the United States because of ethical/humanitarian concerns using live animals, especially marine mammals. However, recent exposures of dolphin, porpoise and sea turtle cadavers to small-charge detonations should provide scientists with new information in the near future. Until the time that those results are available, NMFS has determined that the models provided by Young (1991), based on the research by Goertner (1981) are the best scientific information currently available. As explained in detail in the proposed notice and elsewhere in this document, due to the expense involved in calculating safety zones based on the NMFS dual criteria formula for explosives, the Corps adopted conservative formula, based on the Navy Diver Formula, to protect bottlenose dolphins and manatees from injury. Young's (1991) formula for open water explosions are provided here:

calf porpoise (3.3 ft) safe range = 578 $W(lb)^{.28}$

adult porpoise (8 ft) safe range = 434 $W(lb)^{.28}$

small whale 20–ft safe range = 327 $W(lb)^{.28}$

sea turtle safe range = 560 $W(lb)^{.33}$

Additional information can be found in the U.S. Navy's Final Environmental Impact Statement (Final EIS) on the Shock Trial of the *Winston S. Churchill* (see 66 FR 11288, February 23, 2001). What needs to be understood is that studies (e.g., Nedwell and Thandavamoorthy, 1992) have shown that stemmed/confined blasts have a greater than 90 percent decrease in the strength of the pressure wave released as compared to an open water blast. Therefore, once measurements are conducted and the results analyzed, blast projects would be able to reduce their safety zones. NMFS, therefore, will require empirical measurements of blasts in those situations where it believes that non-conservative values for safety zones have been adopted and will only recommend these measurements be made in other cases. For Corps' blasting projects, the Corps is analyzing sound pressure measurements made during a blasting project in New York harbor and the Corps has agreed to measure attenuation levels at this site later in 2005. While the results from these measurements are not available to modify the safety zones here, the results from these measurements will provide information to make future assessments for safety zones at other blast locations.

Comment 2: The Commission notes that it would be useful if NMFS or the applicant conducted pre- and post-blast surveys, and monitor and map the distribution of high intensity sound resulting from the shallow-water blasts.

Response: The Corps will have at least two trained biologists conducting a marine mammal/sea turtle watch from a small water craft and/or an elevated platform on the explosives barge, at least 30 minutes before through 30 minutes after each detonation to ensure that there are no dolphins or sea turtles in the area at the time of detonation. For this project, NMFS believes that level of monitoring is sufficient to ensure that no bottlenose dolphins will be injured or killed. Unlike other detonation projects that have the option to relocate its activity to ensure the lowest impact practicable, channel deepening projects do not have the ability to relocate. The Commission's concern regarding mapping areas of high intensity sound was answered in response to comment 1.

Comment 3: Because there are no reliable survey data for bottlenose dolphins in the project area, the Commission states NMFS may want to require the applicant conduct population surveys prior to initiating the proposed activities.

Response: NMFS does not believe that marine mammal surveys of this immediate area are warranted for this activity since the project is unlikely to result in more than a brief reaction to the activity that will not affect the reproduction or survival of the Western North Atlantic coastal or offshore bottlenose dolphin stocks (i.e., no animals will be injured or killed as a result of this activity). The Corps provided information regarding a survey conducted by the NMFS, Southeast Fisheries Science Center, Miami Laboratory. Studies have identified 159 individual animals residing in Biscayne Bay, 146 of which have been resighted at least one additional time. Many of these animals have been sighted within or transiting through the Port of Miami. Population studies conducted by the Southeast Fisheries Science Center have found that the size of the subpopulation of bottlenose dolphins in Biscayne Bay averages between 78 and 92 individuals (Joe Contillo, pers. com. May 5, 2003). These animals are part of significantly larger stocks of either the offshore or coastal stocks with a minimum population estimate of 24,897 and 2,482 animals, respectively. Therefore, even without marine mammal monitoring, it

is likely that no more than a small number of dolphins will be temporarily disturbed by the Corps' blasting activity in Miami Harbor.

While such minor disturbance does not warrant implementation of a population abundance survey, the monitoring team will conduct observations from the boat prior to initiation of blasts. This will provide an indication whether dolphins can be expected to be in the area and, if so, how many animals might be present.

However, NMFS agrees that information on the marine mammal distribution and abundance along the east coast of the United States can be improved.

Comment 4: The Commission recommends that the proposed mitigation and monitoring measures be carried out as described, and that NMFS ensure that the proposed monitoring activities and observer effort are adequate to detect any marine mammals that may be within the danger or caution/safety zones calculated for a particular explosion.

Response: NMFS has reviewed the Corps proposed mitigation and monitoring program and has determined that it will be effective, to the maximum extent practicable, to prevent injury or mortality to any bottlenose dolphins. These mitigation/ monitoring measures are discussed later in this document. Recognizing that bottlenose dolphins are easy to spot because of schooling and short dive periods, and the relatively small zone for injury or mortality, it is unlikely that any dolphins would be able to travel through the potential zone of impact and not be seen by the observers. Protocols have been established to ensure that, once a dolphin (manatee, or sea turtle) is spotted within the watch zone, no detonation would occur.

Comment 5: An across-the-board definition of temporary threshold shift (TTS) as constituting no more than Level B harassment inappropriately dismisses possible injury and biologically significant behavioral effects (e.g., an increased risk of natural predation or ship strikes) that can result from repeated TTS harassment and from the cumulative effects of long-term exposure. The Commission therefore reiterated its recommendation that TTS be considered as having the potential to injure marine mammals (i.e., Level A harassment).

Response: NMFS has addressed the concern of the definition of TTS in previous small take authorizations (66 FR 22450, May 4, 2001; 67 FR 46712, July 16, 2002). These authorizations state that the best scientific information available supports NMFS' determination that TTS results in Level B harassment, rather than Level A harassment. Alternative suggestions that TTS should be considered Level A harassment are based on speculation due to hypothetical second level impacts. Without the introduction of new scientific information upon which NMFS can reevaluate its previous determination, additional discussion is not warranted at this time. NMFS encourages those interested in this subject to refer to the Navy Final EIS on the *Churchill* shock trial referenced previously.

Comment 6: The Commission recommends that prior to the Corp (contractor) initiating blasting, NMFS review and approve the specific blasting plan, including the maximum weight of the explosives that will be used for each explosive event, the number of holes that will be drilled, the amount of explosives that will be used for each hole, the number of blasts each day, and the number of days the construction is anticipated to take to complete to ensure that it is within the range of the project provided by the applicant to NMFS as an example.

Response: NMFS will require the Corps provide this information to NMFS, including calculations for impact/mitigation ranges (for the protection of marine mammals and sea turtles from injury), 30 days prior to commencing work. However, the Puerto Rico project was provided by the Corps as an example of an earlier project and has no relationship to the current Miami project. Because NMFS believes that it does not have the expertise to determine the adequacy of the dredging/blasting plan, it will leave those determinations up to the Corps and its contractors, but will ensure, during its review of the blasting plan, that the caution and safety zones are adequate to protect marine mammals from injury or mortality.

Comment 7: NMFS should advise the Corps that manatees have been observed in this area. If there is the potential that manatees will also be taken incidental to the proposed activities, authorization for such taking would be needed from the U.S. Fish and Wildlife Service (USFWS).

Response: Under section 7 of the ESA, the Corps completed consultation with the USFWS on June 19, 2002 for this project. The USFWS concurred with the Corps that activities associated with the Corps' dredging and blasting project in the Dodge-Lummus Island Turning Basin were not likely to adversely affect listed species.

Description of the Marine Mammals Affected by the Activity

General information on marine mammal species found off the East Coast of the United States can be found in Waring *et al.* (2001, 2002). These reports are available at the following location: *http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html*

The only marine mammal species likely to be found in the Turning Basin are the bottlenose dolphin and West Indian manatee. Manatees are under the jurisdiction of the USFWS. There is no stock assessment available concerning the status of bottlenose dolphins in the inshore and nearshore waters off south Florida. Additionally, while neither a status review nor peer-reviewed reports on the status of the Biscayne Bay bottlenose dolphins have been published, the Southeast Fisheries Science Center, NMFS, is currently working on this report. Preliminary information indicates a documented population of 159 bottlenose dolphins residing within the boundaries of the Biscayne Bay area. A total of 146 bottlenose dolphins have been resighted in the Port of Miami area at least one additional time. These animals were often sighted within or transiting through the Port of Miami. It is not known whether bottlenose dolphins inhabit the Turning Basin or whether they simply use the area as a transit to North Biscayne Bay or offshore via the main port channel. The defined stocks of bottlenose dolphins that reside closest to the project area, therefore, are the western North Atlantic coastal (central Florida management unit) and offshore stocks of bottlenose dolphins with a minimum population estimated to be 24,897 for the offshore stock. Abundance of the coastal stock in central Florida is 10,652 in winter, but unknown in summer. Additional assessment information for these two stocks is available at the previously mentioned URL.

Potential Effects on Habitat

The Corps expects the effects on marine mammal habitat to be minimal. The bottom of the basin is rock and sand, and the walls of the Turning Basin are vertical rock. The Corps also believes that the area of the Turning Basin may not be suitable habitat for dolphins in Biscayne Bay. It is more likely that the animals use the area to traverse to North Biscayne Bay or offshore via the main port channel. In addition, as a large number of fish are not expected to perish during the detonations (Corps, 2004), there will not

be a significant effect on dolphins' food supply.

Potential Effects on Marine Mammals

According to the Corps, bottlenose dolphins and other marine mammals have not been documented as being directly affected by dredging activities and, therefore, the Corps does not anticipate any incidental harassment of bottlenose dolphins by dredging. NMFS concurs.

In general, potential impacts to marine mammals from explosive detonations could include both lethal and non-lethal injury, as well as Level B harassment. In the absence of mitigation, marine mammals may be killed or injured as a result of an explosive detonation due to the response of air cavities in the body, such as the lungs and bubbles in the intestines. Effects are likely to be most severe in near surface waters where the reflected shock wave creates a region of negative pressure called ''cavitation.''

A second possible cause of mortality is the onset of extensive lung hemorrhage. Extensive lung hemorrhage is considered debilitating and potentially fatal. Suffocation caused by lung hemorrhage is likely to be the major cause of marine mammal death from underwater shock waves. The estimated range for the onset of extensive lung hemorrhage to marine mammals varies depending upon the animal's weight, with the smallest mammals having the greatest potential hazard range.

NMFS' criteria for determining non-lethal injury (Level A harassment) from explosives are the peak pressure that will result in: (1) the onset of slight lung hemorrhage, or (2) a 50–percent probability level for a rupture of the tympanic membrane. These are injuries from which animals would be expected to recover on their own.

NMFS has also established dual criteria for what constitutes Level B acoustic harassment: (1) An energy-based temporary threshold shift (TTS) from received sound levels 182 dB re 1 microPa^2-sec cumulative energy flux in any 1/3 octave band above 100 Hz for odontocetes (derived from experiments with bottlenose dolphins (Ridgway *et al.*, 1997; Schlundt *et al.*, 2000); and (2) 12 psi peak pressure cited by Ketten (1995) as associated with a safe outer limit for minimal, recoverable auditory trauma (i.e., TTS). The Level B Harassment zone, therefore, is the distance from the mortality/serious injury zone to the radius where neither of these criterion is exceeded.

Mitigation and Monitoring

In the absence of acoustic measurements (due to the high cost and complex instrumentation needed), in order to protect endangered, threatened and protected species (manatees, dolphins, sea turtles), the following equations have been adopted by the Corps for blasting projects to determine zones for injury or mortality from an open water explosion and to assist the Corps in establishing mitigation to reduce impacts to the lowest level practicable. These equations are believed to be conservative because they are based on humans, who are more sensitive than dolphins, and on unconfined charges, while the proposed blasts in the Turning Basin will be confined (stemmed) charges. The equations, based on the Navy Diver Formula, are:

Caution Zone radius = 260 (lbs/delay)$^{1/3}$

Safety Zone radius = 520 (lbs/delay)$^{1/3}$

The Caution Zone represents the radius in feet from the detonation beyond which mortality is not expected from an open-water blast. The Safety Zone is the approximate distance in feet beyond which injury (Level A harassment) is unlikely from an open-water explosion. These zones will be used for implementing mitigation measures.

In the Turning Basin or any area where explosives are required to obtain channel design depth, marine mammal/sea turtle protection measures will be employed by the Corps. For each explosive charge, the Corps will ensure that detonation will not occur if a marine mammal is sighted by a dedicated marine mammal/sea turtle observer within the safety zone, a circular area around the detonation site with the following radius: $R = 520(W)^{1/3}$ (520 times the cube root of the weight of the explosive charge in pounds) where: R = radius of the safety zone in ft; W = weight of the explosive charge in lbs).

Although the area inside the Caution Zone is considered to be an area for potential mortality and the area inside the safety zone to be an area for potential injury, the Corps and NMFS believe that because all explosive charges will be stemmed (placed in a drilled hole and tamped with rock), the areas for potential mortality and injury will be significantly smaller than these areas and, therefore, it is unlikely that even non-serious injury would occur if, as is believed to be the case, monitoring this zone will be effective. For example, since bottlenose dolphins are commonly found on the surface of the water, implementation of a mitigation/monitoring program is expected by NMFS to be 100 percent effective.

The Corps will implement mitigation measures and a monitoring program that will establish both caution- and safety-zone radii to ensure that bottlenose dolphins will not be injured during blasting and that impacts will be at the lowest level practicable. Additional mitigation measures include: (1) confining the explosives in a hole with drill patterns restricted to a minimum of 8 ft (2.44 m) separation from any other loaded hole; (2) restricting the hours of detonation from 2 hours after sunrise to 1 hr before sunset to ensure adequate observation of marine mammals and sea turtles in the safety zone; (3) staggering the detonation for each explosive hole in order to spread the explosive's total overpressure over time, which in turn will reduce the radius of the caution zone; (4) capping the hole containing explosives with rock in order to reduce the outward potential of the blast, thereby reducing the chance of injuring a dolphin, manatee, or sea turtle; (5) matching, to the extent possible, the energy needed in the ''work effort'' of the borehole to the rock mass to minimize excess energy vented into the water column; and (6) conducting a marine mammal/sea turtle watch with no less than two qualified observers from a small water craft and/or an elevated platform on the explosives barge, beginning at least 30 minutes before and continuing for at least 30 minutes after each detonation to ensure that there are no dolphins or sea turtles in the area at the time of detonation.

The observer monitoring program will take place in a circular area at least three times the radius of the above described Caution Zone (called the watch zone). Any marine mammal(s) in the caution, safety, or watch zones will not be forced to move out of those zones by human intervention. Detonation shall not occur until the animal(s) move(s) out of the safety zone on its own volition.

Reporting

NMFS will require the Corps to submit a report of activities 120 days before the expiration of the IHA if the proposed work has started. This report will include the status of the work being undertaken, marine mammals sighted during the monitoring period, any behavioral observations made on bottlenose dolphins and any delays in detonation due to marine mammals or sea turtles being within the safety zone.

In the unlikely event a marine mammal or marine turtle is injured or killed during blasting, the Contractor

shall immediately notify the NMFS Regional Office.

Endangered Species Act

Under section 7 of the ESA, the Corps completed consultation with NOAA Fisheries on September 23, 2002 and with the USFWS on June 19, 2002 for this project. Both agencies concurred with the Corps that activities associated with the Corps' dredging project in the Dodge-Lummus Island Turning Basin were not likely to adversely affect listed species.

Issuance of an IHA to the Corps constitutes an agency action that is subject to section 7 of the ESA. Although the IHA does not authorize takes of listed species, it is related to activities that may result in effects to listed marine species. As the effects of the activities on listed marine species were analyzed during consultation under section 7 of the ESA between the Corps, USFWS and NMFS, and as the action has not changed from that considered in the consultations, the discussion of effects that are contained in the Biological Opinion issued by NMFS to the Corps on September 23, 2002 and by the USFWS' informal consultation pertain also to this action. In conclusion, NMFS has determined that issuance of an IHA does not lead to any effects to listed species apart from those that were considered in the consultation on the Corp's action.

National Environmental Policy Act

The Corps prepared a Final EIS in 1989 for the Navigation Study for the Miami Harbor Channel. A copy of this document is available upon request (see **ADDRESSES**). In addition, NMFS completed an Environmental Assessment (EA) and made a Finding of No Significant Impact (FONSI) on the impacts of blasting activities in Florida waters on marine life, particularly bottlenose dolphins. Therefore, preparation of an EIS on this action is not required by section 102(2) of the NEPA or its implementing regulations. A copy of the EA and FONSI are available upon request (see **ADDRESSES**).

Conclusions

NMFS has determined that the Corps' proposed action, including mitigation measures to protect marine mammals, should result, at worst, in the temporary modification in behavior by small numbers of bottlenose dolphins, including temporarily vacating the area to avoid the blasting activities and the potential for minor visual and acoustic disturbance from the detonations. This action is expected to have a negligible impact on the affected species or stocks of marine mammals. In addition, no take by injury and/or death is anticipated, and harassment takes will be at the lowest level practicable due to incorporation of the mitigation measures described in this document.

Authorization

NMFS has reissued an IHA to the Corps for the potential harassment of small numbers of bottlenose dolphins incidental to deepening the Dodge-Lummus Island Turning Basin in Miami, FL (Turning Basin), provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has determined that the proposed activity would result in the harassment of only small numbers of bottlenose dolphins and will have no more than a negligible impact on this marine mammal stock.

Dated: April 19, 2005.

Laurie K. Allen,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–8226 Filed 4–22–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041905C]

Endangered Species; File No. 1526

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Andre Landry, Sea Turtle and Fisheries Ecology Research Lab, Texas A&M University at Galveston, 5007 Avenue U, Galveston, TX 77553, has applied in due form for a permit to take Kemp's ridley (*Lepidochelys kempii*), loggerhead (*Caretta caretta*), green (*Chelonia mydas*), and hawksbill (*Eretmochelys imbricata*) for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before May 25, 2005.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Assistant Regional Administrator for Protected Resources, Southeast Region, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5517.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1526.

FOR FURTHER INFORMATION CONTACT: Patrick Opay or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The purpose of the proposed research is to study Kemp's ridley, loggerhead, green, and hawksbill sea turtles in the Gulf of Mexico to identify their relative abundance over time; detect changes in sea turtle size composition; document movement and migration patterns; and determine the role of near shore habitats in sea turtle survival. The applicant proposes to take up to 327 Kemp's ridley, 162 loggerhead, 450 green, and 15 hawksbill sea turtles over the course of a 5–year permit. Two hundred and fifty-five of the Kemp's ridley, 90 of the loggerhead, 435 green, and all hawksbill sea turtles would be captured by entanglement net. Fifteen green sea turtles would be captured by cast net. The remaining turtles would have been captured by relocation trawls authorized under separate permits and then provided to the applicant. All turtles would be blood sampled, measured, weighed, epiphyte sampled, flipper tagged, and passive integrated transponder tagged. A subset of these animals would have satellite or radio/sonic transmitters attached to their carapace and have fecal samples collected.

Dated: April 20, 2005.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–8225 Filed 4–22–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041105D]

Endangered Species; Permit No. 1247

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

ACTION: Scientific research permit modification.

SUMMARY: Notice is hereby given that a request for a modification to scientific research permit No. 1247 submitted by Thomas F. Savoy, CT Department of Environmental Protection, Marine Fisheries Division, P.O. Box 719, Old Lyme, Connecticut, 06371, has been granted.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910, phone (301) 713–2289, fax (301) 427–2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298, phone (978) 281–9328, fax (978) 281–9394.

FOR FURTHER INFORMATION CONTACT: Jennifer Jefferies (301)713–2289.

SUPPLEMENTARY INFORMATION: The requested modification has been granted under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the provisions of § 222.306 of the regulations governing the taking, importing, and exporting of endangered and threatened fish and wildlife (50 CFR 222–226).

Mr. Savory is authorized to sample for and collect 500 shortnose sturgeon (*Acipenser brevirostrum*) annually in the Connecticut River. The objectives of the study are to collect data on current distribution, abundance, length structure and movements of shortnose sturgeon in this river system. This modification will extend the permit through June 30, 2006.

Issuance of this modification, as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 18, 2005.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–8227 Filed 4–22–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Director of Administration and Management, Office of the Secretary of Defense, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Director of Administration and Management, Office of the Secretary of Defense announces the following proposed new public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 24, 2005.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Director of Administration and Management, Directorate for Organizational and Management Planning, Attn: Mr. Mark Munson, 1950 Defense Pentagon, Washington, DC 20301–1950; e-mail: *mark.munson@osd.mil*; telephone (703) 697–1141/1143.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (703) 697–1141/1143.

Title and OMB Control Number: Secretary of Defense Biennial Review of Defense Agencies and DoD Field Activities; OMB Control Number 0704–0422.

Needs and Uses: Section 192(c) of Title 10, U.S.C., requires that the Secretary of Defense review the services and supplies provided by each Defense Agency and DoD Field Activity. The purposes of the Biennial Review are to ensure the continuing need for each Agency and Field Activity and to ensure that the services and supplies provided by each entity is accomplished in a more effective, economical, or efficient manner than by the Military Departments. A standard organizational customer survey process serves as the principal data-gathering methodology in the Biennial Review. As such, it provides valuable information to senior officials in the Department regarding the levels of satisfaction held by the organizational customers of the approximately 27 Defense Agencies and DoD Field Activities covered by the Biennial Review.

Affected Review: Business or other-for-profit; Not-for-profit institutions.

Annual Burden Hours: 625.

Number of Respondents: 2500.

Responses Per Respondents: 1.

Average Burden Per Response: 15 minutes.

Frequency: Biennially.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Biennial Review employs a survey to assess organizational-customer satisfaction with the associated business line and addresses overall responsiveness to customer requirements, satisfaction with specific products and services, and quality of coordination with organizational customers. The survey identifies distinct areas of business (business lines) for all Defense Agencies and DoD Field Activities participating in the Review, creates lists of organizational customers specific to each business line, and uses a set of standard evaluation questions across all business lines. Respondents covered by this announcement are private-sector customers of these business lines, such as for the Federal Voting Assistance Program and Defense Finance and Accounting Service.

Dated: April 18, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–8146 Filed 4–22–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed new public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 24, 2005.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Community and Family Policy/Family Violence Policy), Attn: LTC James N. Jackson, 4000 Defense Pentagon, Washington, DC 20301–4000.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (703) 588–0874.

Title and OMB Control Number: Understanding Domestic Violence in the Military—Rate Comparisons Between the Military and its Civilian Counterpart; OMB CONTROL NUMBER 0704–TBD.

Needs and Uses: This information collection requirement is necessary to determine the prevalence, characteristics, and consequences of domestic violence among female members of the military community (female Service members and spouses of male Service members), and compare them to those of their civilian counterparts. The behaviors of interest include physical assault, rape and/or sexual assault, and stalking attributed to current or former spouses/boyfriends. The consequences include rates of injury and use of medical services. This information is necessary to help strengthen the Department's ability to design sound domestic violence prevention and intervention programs.

Affected Public: Individuals or households; Federal Government; State, local or tribal government.

Annual Burden Hours: 3,333.

Number of Responses: 8,000.

Responses per Respondent: 1 1.

Average Burden per Response: 25 minutes.

Frequency: One-time.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The purpose of the proposed information collection is to conduct a methodological rigorous survey to determine and compare the prevalence, characteristics, and consequences of domestic violence among female members of the military community (female Service members and spouses of male Service members) and their civilian counterparts (women 18–45 years of age). The survey will employ a questionnaire developed and fielded in 1995 for the National Violence Against Women Survey sponsored by the National Institute of Justice and the Centers for Disease Control and Prevention. It will be conducted by telephone using random digit dialing and computer assisted telephone interviewing software. Eight thousand respondents, 4,000 military (2,000 female Service members and 2,000 spouses of male Service members) and 4,000 civilian, will be required for the survey. Informed consent will be obtained at the start of each interview, which is expected to last 25 minutes on average. Respondents will be asked whether or not they have been victimized, the nature of the victimization, and the consequences of the victimization. Physical assault, rape and/or sexual assault, and stalking are among the sensitive subjects that will be examined.

Dated: April 18, 2005.

Patrical L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–8147 Filed 4–22–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Defense Acquisition University.

ACTION: Notice; Board of Visitors meeting (BoV).

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at Defense Acquisition University-Fort Belvoir, VA. The purpose of this meeting is to report back to the BoV on continuing items of interest.

DATES: May 18, 2005 from 0900–1500.

ADDRESSES: Scott Hall, Defense Acquisition University, Fort Belvoir, VA 22060.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Cizmadia at (703) 805–5134.

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Ms. Patricia Cizrnadia at (703) 805–5134.

Dated: April 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–8194 Filed 4–22–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Open Meeting on the Department of Defense Directive 1344.7, ''Personal Commercial Solicitation on DoD Installations''

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness.

ACTION: Notice; open meeting on the Department of Defense Directive 1344.7, ''Personal Commercial Solicitation on DoD Installations.''

SUMMARY: The Office of the Under Secretary of Defense for Personnel and Readiness published a document in the **Federal Register** of April 19, 2005, concerning an open meeting on the Administrative Reissuance of

Department of Defense Directive 1344.7, ''Personal Commercial Solicitation on DoD Installations,'' dated February 13, 1986. The document requires additional comments in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections.

FOR FURTHER INFORMATION CONTACT: Colonel Michael A. Pachuta or Mr. James M. Ellis at (703) 602–4994 or (703) 602–5009 respectively, or main (703) 602–5001.

Correction

In the **Federal Register** of April 19, 2005, in FR Doc. 05–7937, on page 20358, in the second column, correct the **SUMMARY** caption to read:

SUMMARY: The Office of the Under Secretary of Defense for Personnel and Readiness is announcing the opportunity to provide comment on the Administrative Reissuance of Department of Defense Directive 1344.7, ''Personal Commercial Solicitation on DoD Installations,'' dated February 13, 1986. The Department will consider comments received prior to final publication.

In the **Federal Register** of April 19, 2005, in FR Doc. 05–7937, on page 20358, in the second column, correct the **SUPPLEMENTARY INFORMATION** caption to read:

SUPPLEMENTARY INFORMATION: Written comments must be received by June 20, 2005 to be considered. All written comments should include full name, address and telephone number of the sender or a knowledgeable point of contact. If possible, please send an electronic version of the comments either on a 3½ inch DOS format floppy disk, or by e-mail to the addresses listed below, in Adobe Acrobat Portable Document Format (PDF) or Microsoft Word. Because of staffing and resource limitations we cannot accept comments by facsimile, and all comments and content are to be limited to 8.5″ wide by 11″ high vertical page orientation. Additionally, if identical/duplicate comment submissions are submitted both electronically and in paper format, each submission should clearly indicate that it is a duplicate submission. In each comment, please specify the section of the new DoDD 1344.7 to which the comment applies. Written comments can be addressed to either Colonel Michael A. Pachuta (*Michael.Pachuta@osd.mil*) or Mr. James M. Ellis (*James.Ellis@osd.mil*), at DUSD (MC&FP), 241 S. 18th St, Crystal Square #4, Suite 302, Arlington, VA 22202.

Dated: April 20, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–8193 Filed 4–22–05; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to add a system of records; DTIC 01 Defense User Registration System (DURS).

SUMMARY: The Office of the Secretary of Defense proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on May 25, 2005, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Irvin at (703) 601–4722, extension 110.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on April 19, 2005, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: April 20, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

DTIC 01

SYSTEM NAME:

Defense User Registration System (DURS).

SYSTEM LOCATION:

Defense Technical Information Center (DTIC), Directorate of User Services, Marketing and Registration Division, ATTN: DTIC–BC (Registration), 8725 John J. Kingman Road, Suite 0944, Fort Belvoir, VA 22060–6218.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DTIC Military and Civilian Personnel; contractor employees; students and employees of specifically qualifying educational institutions, Groups, and Programs, *e.g.*, Historically Black Colleges, Universities, and Minority Institutions (HBCU/MI), Hispanic Serving Institutions (HSIs), and University Research Support (URS); awardees under the Multidisciplinary University Research Initiative (MURI); awardees and researchers eligible for awards under the Defense Experimental Program to Stimulate Competitive Research (DEPSCOR); designated officials and employees of foreign embassies; and members of Small Business Innovative Research (SBIR) Organizations/Groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to registration requests by individuals seeking access to computers, databases, products, and/or services that are owned or controlled by DTIC. The records contain the individual's name; Physical and electronic addresses; organization or company addresses; the last four digits of their Social Security Number; registrant USERIDs; password/reset questions; telephone number(s); access eligibility; dissemination/distribution group codes; and their personal and facility security clearance level (s). The record also will contain the government approving official's name, phone number, and email address. Where applicable, it will also contain contract number(s), contract expiration date(s), and the Military Critical Technical Data Agreement (MCTDA) Certification Number. The record will contain the dates of registration's activation, and the projected date of expiration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulation; E.O. 12958, April 17, 1995; DOD 5200.1–R, Chapter 6; United States Security Authority North Atlantic Treaty Organization (USSAN) 1–69; Defense Information Systems Agency (DISA)Instruction 240–110–8, Chapter 8; E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system is to identify individuals who apply for, and

are granted, access privileges to DTIC automated information systems, products, and services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic storage media.

RETRIEVABILITY:

Records are electronically retrieved by name, user code, organization, company name, email address, and by contract number.

SAFEGUARDS:

Automated records are maintained in controlled areas accessible only to authorized personnel. Entry to these areas is restricted to personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of a cipher lock. Back-up data maintained at each location is stored in a locked room. The system will complies with the DoD Information Technology Security Certification and Accreditation Process (DITSCAP). Access to records is restricted to individuals who require the data in the performance of official duties.

RETENTION AND DISPOSAL:

Disposition pending approval of records disposition schedule by the National Records and Administration Agency.

SYSTEM MANAGER(S) AND ADDRESS:

The Chief, Marketing and Registration Division, DTIC–BC, 8725 John J. Kingman Road, Suite 0944, Fort Belvoir, VA 22060–6218.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves may address their inquiries to:

Defense Technical Information Center; ATTN: DTIC–BC (Registration Team), 8725 John J. Kingman Road, Suite 0944, Fort Belvoir VA 22060–6218, or send an email to *Reghelp@dtic.mil*; or send an electronic facsimile to: Attn: Leader, DTIC Registration Team, DTIC–BC, at (703) 767–9459

Requests should contain the individual's full name, Social Security Number, telephone number, street address, and email address.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system of records should address written inquires to the Privacy Act Officer, Defense Technical Information Center, 8725 John J. Kingman Road, Suite 0944, Fort Belvoir VA 22060–6218.

Requests should contain the individual's full name, Social Security Number, telephone number, street address, and email address.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from security personnel and individuals applying for access to DTIC controlled access documents, information systems, and/or services.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 05–8197 Filed 4–22–05; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Headquarters Air Force Personnel Center, DoD

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Community College of the Air Force announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 24, 2005.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Plans and Research Division, Community College of the Air Force, CCAF/DFI, 130 W. Maxwell Blvd., Maxwell AFB, AL 36112–6613.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write to above address, or call the Community College of the Air Force Institutional Effectiveness Divisions at (334) 953–2703.

Title and OMB Number: Community College of the Air Force Alumni Survey, OMB Number 0701–0136.

Needs and Uses: The information collection requirement is necessary to determine how effectively the institution is meeting its mission and also identify areas needing improvement. Survey results will provide data on the usefulness and acceptance of the Community College of the Air Force degree in the civilian sector. Documenting the institution's effectiveness is also required to maintain the Community College of the Air Force's regional accreditation.

Affected Public: Separated and retired Community College of the Air Force graduates

Annual Burden Hours: 133.

Number of Respondents: 400.

Responses per Respondent: 1.

Average Burden per Response: 20 Minutes.

Frequency: Biennial.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents will be separated and retired Community College of the Air Force graduates. Approximately 2,000 Community College of the Air Force graduates will be surveyed biennially to determine the effectiveness of the institution and the usefulness of the Community College of the Air Force degree in the civilian sector. A notification letter will be mailed directly to respondents' home addresses inviting them to complete the Alumni

Survey on the Community College of the Air Force's Internet homepage. The survey will take about 20 minutes to complete, and we expect to have about 400 responses. Survey results will be complied and evaluated at the Community College of the Air Force Administrative Center at Maxwell AFB, Alabama. While results will be used primarily in-house to make program improvements, findings may be publicized in the Air Force and civilian education communities.

Dated: April 8, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–8148 Filed 4–22–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Air Force Research Laboratory announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 24, 2005.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Air Force Research Laboratory, Human Effectiveness Directorate Directed Energy Bioeffects Division Radio Frequency Radiation Branch, AFRL/HEDR, 8303 Hawks Road, Bldg. 1162, Brooks City-Base, TX 78235.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write to above address, or call 1st Lt. Keith White of the Air Force Research Laboratory, HEDR at 210–536–5959.

Title and OMB Number: Control Force Experiences with Crowds Data Collection; OMB Number 0701–TBD.

Needs and Uses: The Air Force Research Laboratory Human Effectiveness Directorate (AFRL/HEDR), under the funding of the Joint Non-Lethal Weapons Directorate (JNLWD), is conducting crowd behavior research. The AFRL/HEDR is currently working to collect and assess crowd behavior data in an effort to supply a predictive model of crowd behavior for the assessment and implementation of various Non-Lethal Weapons platforms. This research has, in part, been recommended from Penn State University's Applied Research Laboratory Human Effects Advisory Panel (HEAP). Specifically, the HEAP report entitled ''Crowd Behavior, Crowd Control, and the use of Non-lethal Weapons'' offers a crowd behavior research plan that is guided by a need to discover the underlying factors of crowd behavior (Kenny, Farrer, Heal, Ijames, McPhail, Odenthal, Taylor & Waddington, 2001). The AFRL/HEDR crowd behavior research team has acknowledged the value of control force members' experiences in the validation of invalidation of the crowd behavior variables currently under investigation and the research proposed in this protocol is expected to yield a true account of control force members' crowd management experiences. Any information control force members can provide about their experiences managing crowds is instrumental in the development of the aforementioned predictive model of crowd behavior. This model will eventually contribute to a training module that warfighters will utilize to refine their crowd management skills for future missions.

Affected Public: The affected public will be United States military servicemen who have acquired direct experience with crowds outside the continental U.S. and U.S. civilian law enforcement officers from specified metropolitan areas.

Annual Burden Hours: 100–200 hours.

Number of Respondents: 200, personally interviewed or administered a paper survey.

Responses per Respondent: Either one interview or survey administration.

Average Burden per Response: 30 minutes–1 hour.

Frequency: One-time.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The data collection procedures proposed in this protocol will consist of dyadic interviews and survey administration. Two hundred adult volunteer participant (n = 200) will be recruited from among civilian law enforcement agencies and military personnel who have recently experienced crowd management situations while on deployment. Interview participants will meet individually with one researcher. Survey participants will complete the questionnaire as administered by available investigators or their respective superior officer(s). The research will be conducted at military installations that serve as crowd management training centers and police departments throughout the U.S. that implement crowd tactics, training, and procedures. Interview transcripts and written survey responses will be sorted and coded according to the content of the responses. This coding process is intended to reveal which features of a crowd situation control forces consistently identify as significant to effective crowd management.

Dated: April 18, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–8149 Filed 4–22–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend a system of records; A0600–8–1c AHRC DoD, Defense Casualty Information Processing System (DCIPS).

SUMMARY: The Department of the Army is proposing to amend a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 25, 2005 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, ATTN: AHRC–PDD–FPZ, 7701

Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 428–6497.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 20, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

A0600–8–1c AHRC DoD

SYSTEM NAME:

Defense Casualty Information Processing System (DCIPS) (March 2, 2005, 70 FR 10076).

CHANGES:

* * * * *

SYSTEM LOCATION:

Add a new first paragraph to read 'Office of the Under Secretary of Defense, Personnel and Readiness, Military Severely Injured Joint Support Operations Center, 2107 Wilson Blvd., Arlington, VA 22201–3058.'

In the third paragraph, delete 'Headquarters Air Force Military Personnel Center' and replace with 'Headquarters Air Force Personnel Center.'

* * * * *

SYSTEM MANAGERS AND ADDRESSES:

Add a new first paragraph to read 'Office of the Under Secretary of Defense, Personnel and Readiness, Military Severely Injured Joint Support Operations Center, 2107 Wilson Blvd., Arlington, VA 22201–3058.'

In the third paragraph, delete 'Headquarters Air Force Military Personnel Center' and replace with 'Headquarters Air Force Personnel Center.'

* * * * *

A0600–8–1c AHRC DoD

SYSTEM NAME:

Defense Casualty Information Processing System (DCIPS).

SYSTEM LOCATION:

Office of the Under Secretary of Defense, Personnel and Readiness, Military Severely Injured Joint Support Operations Center, 2107 Wilson Blvd., Arlington, VA 22201–3058.

U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0481.

Commander, Headquarters Air Force Personnel Center, 550 C Street W, Randolph Air Force Base, TX 78150–4703.

Commander, Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055–3130.

Commandant of the Marine Corps Headquarters, U.S. Marine Corps, 3280 Russell Road, Quantico, VA 22134–5101.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense military personnel (active component and reserve component) and their family members; DoD civilian personnel, retired service members, non-DoD civilians, and other individuals that are reported as casualties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, date of birth, branch of service, organization, duty, Army rank and military occupational specialty (MOS), Air Force Specialty Code (AFSC) and rank, Navy rank and rate, Marine Corp rank and specialty code, sex, race, religion, home of record, and other pertinent information; personnel records, correspondence with primary next of kin/secondary next of kin, inquiries from other agencies and individuals, DD Form 1300 (Report of Casualty).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 5043, Commandant of the Marine Corps; DoD Instruction 1300.18, Personnel Casualty Matters, Policies, and Procedures; DoD Directive 1300.22, Mortuary Affairs Policy; DoD Directive 1300.15, Military Funeral Support; Office of the Assistant Secretary of Defense Memorandum, subject: Defense Casualty Information Processing System, dated Oct 22, 1999; and E.O. 9397 (SSN). For a complete list of individual Service implementing regulations, contact the system manager.

PURPOSE(S):

To provide DoD with a single joint military casualty information processing system; to provide support for the management of casualty and mortuary affairs by the Services Casualty and Mortuary Affairs Offices; to respond to inquiries; to provide statistical data comprising type, number, place and cause of incident to DoD Services' members; and to support the families of service members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information from these records may be disclosed to the Department of Veterans Affairs, and other Federal agencies in connection with eligibility, notification and assistance in obtaining benefits due.

Information from these records may be released to family members of injury or killed DoD personnel to aid in the settlement of the member's estate or other affairs.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on electronic storage media.

RETRIEVABILITY:

By individual's name and/or Social Security Number or any other data element.

SAFEGUARDS:

All information is restricted to a secure area in buildings that employ security guards. Computer printouts and magnetic tapes and files are protected by password known only to properly screened personnel possessing special authorization for access.

RETENTION AND DISPOSAL:

Records are permanent.

SYSTEM MANAGERS AND ADDRESSES:

Office of the Under Secretary of Defense, Personnel and Readiness, Military Severely Injured Joint Support Operations Center, 2107 Wilson Blvd., Arlington, VA 22201–3058.

Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0481.

Commander, Headquarters Air Force Personnel Center, 550 C Street W,

Randolph Air Force Base, TX 78150–4703.

Commander, Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055–3130.

Commandant of the Marine Corps Headquarters, U.S. Marine Corps, 3280 Russell Road, Quantico, VA 22134–5101.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the appropriate system manager.

Individual should provide full name, current address and telephone number, and should identify the person who is the subject of the inquiry by name, rank and Social Security Number or Service Number.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the appropriate system manager.

Individual should provide full name, current address and telephone number, and should identify the person who is the subject of the inquiry by name, rank and Social Security Number or Service Number.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From casualty reports and investigations received from commander, medical personnel, medical examiners, and other related official sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 05–8196 Filed 4–22–05; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services Overview Information: National Institute on Disability and Rehabilitation Research (NIDRR)—Research Fellowships Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133F–3.

Dates: Applications Available: April 25, 2005.

Deadline for Transmittal of Applications: June 24, 2005.

Eligible Applicants: Only individuals who have training and experience that indicate a potential for engaging in scientific research related to the solution of rehabilitation problems of individuals with disabilities are eligible. The program provides two categories of Research Fellowships: Merit Fellowships and Distinguished Fellowships.

(a) To be eligible for a Distinguished Fellowship, an individual must have seven or more years of research experience in subject areas, methods, or techniques relevant to rehabilitation research and must have a doctorate, other terminal degree, or comparable academic qualifications.

(b) To be eligible for a Merit Fellowship, an individual must have either advanced professional training or independent study experience in an area that is directly pertinent to disability and rehabilitation. In the most recent competitions, recipients of a Merit Fellowship had research experience at the doctoral level.

Note: Institutions are not eligible to be recipients of Research Fellowships.

Estimated Available Funds: $500,000.

Maximum Award: Merit Fellowships: $45,000; Distinguished Fellowships: $55,000.

Estimated Number of Awards: 10 for both Merit and Distinguished Fellowships.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Research Fellowships Program is to build research capacity by providing support to enable highly qualified individuals, including those who are individuals with disabilities, to conduct research about the rehabilitation of individuals with disabilities.

Note: NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom/*

The Fellowship program is in concert with NIDRR's 1999–2003 Long-Range Plan (Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research and development topics. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

Priority: In accordance with 34 CFR 75.105(b)(2)(ii), this priority is from the regulations for this program (34 CFR part 356).

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:

Research Fellowships Program

Fellows must conduct original research in an area authorized by section 204 of the Rehabilitation Act of 1973, as amended. Section 204 authorizes research designed to maximize the full inclusion and integration into society, employment, independent living, family, support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities.

Program Authority: 29 U.S.C. 762(e).

Applicable Regulations: (a) The provisions in Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 77, 82, 84, and 85; (b) 34 CFR sections 350.51–52; and (c) 34 CFR part 356, Disability and Rehabilitation Research Fellowships.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $500,000.

Maximum Award: Merit Fellowships: $45,000; Distinguished Fellowships: $55,000.

Estimated Number of Awards: 10 for both Merit and Distinguished Fellowships.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

III. Eligibility Information

1. *Eligible Applicants:* Only individuals who have training and experience that indicate a potential for engaging in scientific research related to the solution of rehabilitation problems of individuals with disabilities are

eligible. The program provides two categories of Research Fellowships: Merit Fellowships and Distinguished Fellowships.

(a) To be eligible for a Distinguished Fellowship, an individual must have seven or more years of research experience in subject areas, methods, or techniques relevant to rehabilitation research and must have a doctorate, other terminal degree, or comparable academic qualifications.

(b) To be eligible for a Merit Fellowship, an individual must have either advanced professional training or independent study experience in an area that is directly pertinent to disability and rehabilitation. In the most recent competitions, recipients of a Merit Fellowship had research experience at the doctoral level.

Note: Institutions are not eligible to be recipients of Fellowships.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You may obtain an application package via Internet or from the ED Publications Center (ED Pubs). To obtain a copy via Internet use the following address: *http://www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write or call the following: 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: *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 this competition as follows: CFDA Number 84.133F.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed under section VII of this notice.

Applicants submitting a paper application must place their Social Security Number in Block #2 on the ED 424 form in place of the D–U–N–S Number. Applicants submitting electronically using Grants.gov must place their Social Security Number in Block #6 on the SF 424 in place of the Employer Identification Number (EIN).

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. The application package will provide instructions for completing all components to be included in either the paper application or electronically using Grants.gov. Each application must include the required forms; an abstract; Human Subjects narrative, if applicable; Part III narrative; resume; and other related materials, if applicable.

Note: Part II, the budget section, is not required for this program and should not be included.

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 24 pages using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, 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, Application for Federal Assistance; 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 narrative in Part III.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply these standards and exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: April 25, 2005.

Deadline for Transmittal of Applications: June 24, 2005.

Applications for grants under this competition 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.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* Applicants are not required to submit a budget with their proposal. These are one Full Time Equivalent (FTE) awards. The Fellow must work principally on the fellowship during the year. We define one FTE as equal to 40 hours per week. The Fellow cannot receive support through any other Federal Government grants during this period.

We reference additional 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 government wide Grants.gov Apply site in FY 2005. Research Fellowships—CFDA Number 84.133F–3 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 the Research Fellowships Program 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 register as an individual. You do not need to register in the Central Contractor Registry (CCR). The steps to register as an individual are—

(1) Go to the Grants.gov Credential Provider web page, *http://apply.grants.gov/IndCPRegister.* Then enter the funding opportunity number.

Note: The funding opportunity number can be located when you search for this grant announcement on *http://www.grants.gov/Find.*

(2) Fill out the credential information to obtain a credential username and password.

(3) Take the credential username and password and go to the Register with Grants.gov link to complete the registration *http://apply.grants.gov/IndGGRegister.*

(4) Registration for individuals is complete, once the Grants.gov registration step is finished.

• 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), 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 acknowledgement 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 84.133F–3), 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 84.133F–3), 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 84.133F–3), 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

Selection Criteria: In evaluating an application for a Fellowship under this competition, we use the selection criteria in 34 CFR 356.30 through 356.32. These selection criteria are listed in the application package for this competition.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify

administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period you must submit a final performance report as directed by 34 CFR 356.51.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through review of grantee performance and products. Each year, NIDRR examines a portion of its grantees to determine the extent to which grantees are conducting high-quality research and related activities that lead to high quality products. Performance measures for the Research Fellowship program include—

- The number of former pre- and post-doctoral students and fellows who received research training supported by NIDRR who are actively engaged in conducting high-quality research and demonstration projects; and
- The percentage of NIDRR-supported fellows, post-doctoral trainees, and doctoral students who publish results of NIDRR-sponsored research in refereed journals.

NIDRR evaluates the overall success of individual research and development grants through review of grantee performance and products. NIDRR uses information submitted by grantees as part of their final performance report for these reviews. Approved final performance report guidelines require grantees to submit information regarding research methods, results, outputs, and outcomes.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20204. Telephone: (202) 245–7462 or via Internet: *donna.nangle@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.

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: April 20, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–8228 Filed 4–22–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Extension of Project Period and Waiver for the Spinal Cord Injury Model Systems Centers (SCIMS)

AGENCY: National Institute on Disability and Rehabilitation Research (NIDRR), Office of Special Education and Rehabilitative Services, Department of Education.

SUMMARY: The Secretary proposes to waive the requirements in Education Department General Administrative Regulations (EDGAR), in 34 CFR 75.250 and 75.261(c)(2), respectively, that generally prohibit project periods exceeding five years and project period extensions involving the obligation of additional Federal funds. This extension of project period and waiver would enable the current SCIMS (a total of 16), which provide assistance to establish innovative projects for the delivery, demonstration, and evaluation of comprehensive medical, vocational, and other rehabilitation services to meet the wide range of needs of individuals with Spinal Cord Injury (SCI), to receive additional Federal funding from September 1, 2005, until December 1, 2006, a period exceeding the original project period of five years.

DATES: We must receive your comments on or before May 25, 2005.

ADDRESSES: Address all comments about this proposed extension and waiver to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20204–2700. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov.*

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 245–7462.

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 contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding this proposed extension of project period and waiver.

During and after the comment period, you may inspect all public comments about this proposed extension of project period and waiver in room 6030, Potomac Center Plaza, 550 12th Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed extension of project period and waiver. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

NIDRR supports the goals of the President's New Freedom Initiative (NFI) and the National Institute on Disability and Rehabilitation Research Long Range Plan (Plan), which are designed to help improve rehabilitation services and outcomes for individuals with disabilities.

Note: The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom/.*

The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/rschstat/research/pubs/index.html.*

Background

In accordance with the goals of the NFI and the Plan, and as authorized under section 204(a)(1) of the Rehabilitation Act of 1973, as amended, through NIDRR, the Department provides funding for projects to improve services and outcomes for individuals with disabilities. The Conference Report accompanying the 2005 Appropriations Act noted that NIDRR received additional funding for the SCIMS program and stated that the conferees intended that the additional funds should be used to support investments that could facilitate multi-center research on therapies, interventions, and the use of technology. NIDRR is conducting background work to inform the competition and plans to defer new awards, formerly scheduled for 2005, until 2006 in order to use the background information to guide development of competition priorities, allow applicants sufficient time to prepare proposals, and place all SCIMS grants on the same funding schedule.

The grants for 16 SCIMS at University of Alabama/Birmingham, Santa Clara Valley Medical Center (SCVMC), Los Amigos Research and Education Institute, Inc. (LAREI), Craig Hospital, University of Miami, Shepherd Center, Inc., Boston University Medical Center Hospital, University of Michigan, University of Missouri/Columbia, Kessler Medical Rehabilitation Research and Education Corporation (KMRREC), Mount Sinai School of Medicine, Thomas Jefferson University Hospital, University of Pittsburgh, The Institute for Rehabilitation and Research (TIRR), Virginia Commonwealth University, and the University of Washington are scheduled to expire on various dates between August 31, 2005, and November 30, 2005. It would be contrary to the public interest, however, to have any lapses in these SCI research activities before the new awards are made in FY 2006.

To avoid any lapse in research and related activities, the Secretary is proposing to fund each of these projects for an additional 12 months. Accordingly, the Secretary proposes to waive the requirements in 34 CFR 75.250 and 75.261(c)(2), which prohibit project periods exceeding five years and extensions of project periods that involve the obligation of additional Federal funds.

Regulatory Flexibility Act Certification

The Secretary certifies that the proposed extension of the project period and waiver would not have a significant economic impact on a substantial number of small entities. The only entities that would be affected are the 16 Spinal Cord Injury Model Systems Centers.

Paperwork Reduction Act of 1995

This proposed extension of project period and waiver does not contain any information collection requirements.

Intergovernmental Review

This program is not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/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: April 20, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–8229 Filed 4–22–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket Nos. PP–234–1 and PP–235–2]

Record of Decision and Floodplain Statement of Findings; Imperial-Mexicali 230-kV Transmission Lines

AGENCY: Office of Electricity and Energy Assurance,[1] U.S. Department of Energy (DOE).

ACTION: Record of Decision (ROD) and Floodplain Statement of Findings.

SUMMARY: DOE announces its decision to implement the Proposed Action alternative, identified as the preferred alternative, in the ''Final Environmental Impact Statement for the Imperial-Mexicali 230-kV Transmission Lines'' (DOE/EIS–0365). That alternative is to grant a Presidential permit to both Baja California Power, Inc. (BCP; hereinafter referred to as Intergen [2]) and Sempra Energy Resources (hereinafter referred to as Sempra [3]) for each to construct, operate, maintain, and connect a double-circuit, 230,000-volt (230-kV) electric transmission line that crosses the U.S.-Mexico border in the vicinity of Calexico, California, and connects to the associated natural gas-fired electric power plant located near Mexicali, Mexico. The permits will authorize the transmission lines to connect to the respective power plants as those plants are presently designed.

In reaching this decision, DOE considered the potential environmental impacts in the U.S. from constructing and operating the two transmission lines and from the related action of operating the two associated Mexico power plants. DOE also considered the continuing need for additional electrical supplies in the region, the low potential environmental impacts, the lack of adverse impacts to the reliability of the U.S. electric power supply system, the practicality or the availability of the alternatives, and public comments provided during the preparation of the EIS.

This ROD and Floodplain Statement of Findings have been prepared in accordance with the regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508) for implementing the National Environmental Policy Act (NEPA), DOE's NEPA Implementing Procedures (10 CFR Part 1021), and

[1] On April 13, 2005, the Secretary of Energy transferred the authority to grant Presidential permits from the Office of Fossil Energy to the Office of Electricity and Energy Assurance.

[2] Throughout court proceedings and the EIS process, BCP has been referred to as Intergen. This naming convention was used to avoid confusion and because that was the name by which the court knew the permit applicant. This naming convention also will be used throughout this ROD.

[3] On August 29, 2002, Sempra and Termoeléctrica U.S., LLC (T–US) jointly filed an application with DOE for the voluntary transfer from Sempra to T–US of the facilities authorized by Presidential Permit PP–235, which was issued to Sempra by DOE on December 5, 2001. Sempra and T–US, both indirect wholly-owned subsidiaries of Sempra Energy, a California corporation, requested the transfer of Presidential Permit PP–235 to enable the parties to effectuate an internal corporate reorganization that would result in T–US owning, operating, and maintaining the international transmission facilities as an exempt wholesale generator. After an appropriate administrative proceeding, on November 12, 2002, DOE issued Presidential Permit PP–235–1 to T–U.S. The name Sempra will be used in this ROD because that was the name commonly used in the court proceeding. However, the permit that DOE has decided to issue will be issued in the name T–US.

DOE's Compliance with Floodplain and Wetland Environmental Review Requirements (10 CFR Part 1022).

ADDRESSES: The Final EIS and this ROD are available on the DOE NEPA Web site at *http://www.eh.doe.gov/nepa/documents.html* and on the project Web site at *http://web.ead.anl.gov/bajatermoeis.* Copies of the Final EIS and this ROD may be requested by toll-free telephone at 866–542–5903, or by contacting Ellen Russell at the Office of Electricity and Energy Assurance, TD–1, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, or 202–586–9624, or by electronic mail at *ellen.russell@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: For further information on the Imperial-Mexicali 230-kV Transmission Lines EIS, contact Ellen Russell as indicated in the **ADDRESSES** section above. For general information on the DOE NEPA process, contact Carol Borgstrom, Director, Office of NEPA Policy and Compliance, EH–42, at U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, or 202–586–4600, or leave a message at 800–472–2756.

SUPPLEMENTARY INFORMATION: In the EIS DOE considers the environmental impacts associated with granting Presidential permits to Sempra and Intergen that would authorize the construction, operation, maintenance, and connection of the proposed double-circuit 230-kV electric transmission lines that would cross the U.S.-Mexico border in the vicinity of Calexico, California. Because the proposed routes for these lines cross Federal lands managed by the U.S. Department of the Interior's Bureau of Land Management (BLM), BLM worked on the EIS with DOE as a cooperating agency. BLM will issue a separate ROD, also based upon the EIS, in which it will announce its decision whether to grant rights-of-way (ROWs) for the proposed transmission lines.

Background

Executive Order (E.O.) 10485 (September 9, 1953), as amended by E.O. 12038 (February 7, 1978), requires that DOE issue a Presidential permit before an electric transmission facility may be constructed, operated, maintained, or connected at the U.S. international border. DOE may issue a permit if it determines that the permit is in the public interest and after obtaining favorable recommendations from the U.S. Departments of State and Defense. In determining whether issuance of a permit for a proposed action is in the public interest, DOE considers the environmental impacts of the proposed project pursuant to NEPA, the project's impact on electric reliability by ascertaining whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions, and any other factors that DOE may also consider relevant to the public interest.

On February 27, 2001, Intergen applied to DOE for a Presidential permit to construct a double-circuit 230-kV electric transmission line across the U.S.-Mexico border in the vicinity of Calexico, California. In a separate but similar application filed with DOE on March 7, 2001, Sempra applied to DOE for a Presidential permit also proposing to construct a double-circuit 230-kV transmission line across the U.S.-Mexico border within the same existing utility corridor as the Intergen line.

Each applicant sought to construct a line parallel to an existing San Diego Gas & Electric Company (SDG&E) transmission line and both would connect to the existing SDG&E Imperial Valley (IV) Substation located approximately 6 miles (10 km) north of the U.S.-Mexico border in Imperial County, California. The centerline of the Intergen line would lie 120 feet (37 m) east of the centerline of the existing SDG&E line, and the Sempra line would lie 120 feet (37 m) east of the centerline of the Intergen line, each centered in adjacent 120-foot (37 m) wide ROWs. Because both proposed lines were intended to cross lands managed by BLM, both Intergen and Sempra applied to BLM for ROW grants.

Previous NEPA Review and Litigation

Due to the similarities of these proposals, DOE and BLM decided to cooperate on the environmental review and to consider both proposals in a single environmental document. DOE and BLM originally determined that the appropriate level of NEPA review for the Presidential permit applications and the ROW grants was an environmental assessment (EA). An EA is prepared to determine whether a proposed action would have a significant impact on the human environment. If the EA shows that it would, the agency would then prepare an EIS; if not, the agency would issue a finding of no significant impact (FONSI).

DOE and BLM issued their EA in December 2001 (DOE/EA–1391), and on December 5, 2001, DOE issued a FONSI together with the requested permits. Similarly, on December 19, 2001, BLM issued two FONSIs, and the next day granted the ROWs. Following these decisions, Intergen and Sempra constructed the transmission lines and began commercial operations, transmitting electricity to the U.S. from their respective power plants in Mexico.

On March 19, 2002, the Border Power Plant Working Group (hereinafter referred to as Border Power) sued DOE and BLM in the U.S. District Court for the Southern District of California (Case No. 02–CV–513–IEG (POR)), alleging violations of NEPA and the Administrative Procedure Act (APA). Border Power sought to have the EA, DOE's and BLM's FONSIs, the Presidential permits, and the ROW grants determined to be illegal and requested an injunction forbidding the use of the transmission lines. After briefings and oral arguments in which Intergen and Sempra participated as intervenors, the District Court issued two orders. In its May 2, 2003, order, the court held that the EA and the FONSIs did not comply with NEPA and the APA. On July 8, 2003, after a hearing to determine an appropriate remedy, the court sent the matter back to DOE and BLM for additional NEPA review. At the same time, the court declined to immediately enjoin operation of the transmission lines; instead, it deferred setting aside the Presidential permits and the FONSIs until July 1, 2004, or until such time as superseding NEPA documents were issued, whichever was earlier. Thus, the transmission lines could continue to provide electricity to California while DOE and BLM conducted additional NEPA review. The court has since extended the July deadline, and the lines continue to operate.

In light of the concerns raised by the court and to increase opportunities for public and stakeholder participation in the environmental review process, DOE and BLM decided to prepare an EIS. In its July 8, 2003, order, the court expressly prohibited DOE and BLM from considering in the additional NEPA review or in their final decisions the fact that the transmission lines had already been built and were operating. The court also prohibited the Federal agencies from relying upon the court's analyses of environmental impacts of the proposed actions. DOE and BLM interpreted this language as requiring that they conduct their NEPA review from a fresh slate. Thus, the discussion of the transmission lines and the environmental analysis is presented in the EIS as if the lines do not exist.

In contrast, DOE and BLM interpreted the court's ruling to allow them to consider the associated power plants in Mexico as they have been built. Assuming otherwise would limit DOE's

and BLM's ability to perform an analysis of sufficient detail to effectively evaluate the Alternative Technologies alternative, which would be implemented in the context of a retrofit of alternative technologies to the existing plants. The agencies also believe that the focus of the court's decision was directed to the decision before the Federal agencies, that is, whether to permit the transmission lines themselves. This interpretation allowed the agencies to perform a more realistic evaluation of the Alternative Technologies alternative, that is, the retrofit of existing plants, than could have been performed with respect to hypothetical plants.

On October 30, 2003, DOE published a notice of intent to prepare an EIS (68 FR 61796). On May 14, 2004, the U.S. Environmental Protection Agency (EPA) published a notice of the availability of the Draft EIS (69 FR 26817), thereby beginning the public comment period on it. During the comment period, DOE and BLM received over 4,800 comment submissions in the form of mass e-mails and facsimiles, letters, and oral statements at public hearings. In preparing the Final EIS, DOE and BLM considered and responded to all of the comments received. EPA announced the availability of the Final EIS on December 17, 2004 (69 FR 75535).

The Proposed Projects

Intergen's transmission line would connect SDG&E's IV substation with the La Rosita Power Complex (LRPC), which consists of two separate generating units: the EBC unit and the EAX unit. The EBC unit consists of one 160-megawatt (MW) gas turbine operated in combined-cycle mode with one 150-MW steam turbine, for a total electrical capacity of 310 MW. To reduce air emissions of nitrogen oxides (NO_X), Intergen designed and built the EBC gas turbine with low-NO_X burners and Selective Catalytic Reduction (SCR) technology. This unit was built to export its full electrical output to the U.S. and, as presently configured, could export only over Intergen's proposed international transmission line.

The second unit at LRPC, the EAX unit, consists of three 160–MW gas turbines (EAX–A, EAX–B, and EAX–C) operating in combined-cycle mode with one 270–MW steam turbine, for a total electrical capacity of 750 MW. Intergen originally equipped these turbines with low-NO_X burners and later decided to add SCR to further reduce NO_X emissions. SCR was added to the EAX–C turbine in March 2004. Installation of SCR on the EAX–B turbine has been completed and the turbine was placed back in operation on March 31, 2005. Installation of SCR on the EAX–A turbine also has been completed and the turbine returned to operation on or about April 10, 2005.

The electrical output of the EAX–C gas turbine (160 MW) is designated for export to the U.S. but could be connected either to the proposed new international transmission line or to the existing (previously permitted) SDG&E transmission line. One-third (90 MW) of the electrical output of the EAX steam turbine can be exported to the U.S. only over SDG&E's existing transmission line. The remaining electrical output of the EAX unit (EAX–A, EAX–B, and two-thirds [180 MW] of the EAX steam turbine, for a total capacity of 500 MW) is designated to the Mexico market and is connected directly to the Mexican electrical grid. However, at times, there may be as much as 40 to 50 MW of the capacity of the EAX unit designated to the Mexico market that would be available for export to the U.S. over the existing SDG&E transmission line.

Sempra's transmission line would connect SDG&E's IV substation with the Termoeléctrica de Mexicali (TDM) power plant, which consists of two 170–MW gas turbines operated in a combined-cycle mode with one 310–MW steam turbine, for a total electrical capacity of 650 MW. To limit emissions of NO_X, the gas turbines are equipped with low-NO_X burners and SCR. The TDM power plant is not connected to any other transmission line and, therefore, could export all of its electrical output to the U.S. only over the proposed transmission line.

Alternatives

DOE and BLM analyzed the following four alternatives in the EIS:

No Action: Deny both permit and corresponding ROW applications. This presents the environmental impacts in the U.S. as if the lines had never been constructed and provides a baseline against which the impacts in the U.S. of the action alternatives can be measured in the absence of Presidential permits and corresponding ROWs.

Proposed Action: Grant one or both permits and corresponding ROWs. This sets forth the impacts in the U.S. of constructing and operating the line(s) from the Mexico power plants, as those plants are presently designed.

Alternative Technologies: Grant one or both permits and corresponding ROWs to authorize transmission lines that connect to power plants that would employ more efficient emission controls and alternative cooling technologies.

Mitigation Measures: Grant one or both permits and corresponding ROWs to authorize transmission lines whose developers would employ off-site mitigation measures to minimize environmental impacts in the U.S.

DOE's preferred alternative in the EIS was to grant a Presidential permit to both Sempra and Intergen as their projects are presently designed.

In addition to the applicants' proposed transmission line routes, DOE and BLM analyzed two alternatives, eastern and western, both of which would be located on BLM land.

Analysis of Environmental Impacts

The EIS analyzes impacts in the U.S. from the four alternatives and the three alternative transmission line routes for each of the following resource areas: Geology, soils and seismicity; water resources; air quality; biological resources; cultural resources; land use; transportation; visual resources; noise; socioeconomics; human health; and minority and low-income populations, plus cumulative impacts. The analysis includes issues that the court found insufficiently developed in the EA: impacts from water consumption by the power plants, particularly on the Salton Sea; impacts on air quality from power plant emissions of ammonia; impacts on global warming from carbon dioxide emitted from the power plants in Mexico; and cumulative impacts from the operation of the power plants in combination with existing and potential future power plants. DOE and BLM made conservative assumptions in the EIS. Thus, the actual impacts likely would be less than those estimated in the EIS.

For geology, soils and seismicity, land use, transportation, visual resources, noise, socioeconomics, and minority and low-income populations estimated impacts were generally low and very similar for all alternatives, including the No Action alternative. Several resource areas have been the subject of significant public concern, and while the impacts to these areas are also low and very similar, they merit additional explanation here.

Water Resources and Associated Biological Resources: The proposed projects would cause impacts to two major water resources: the New River and the Salton Sea. The New River originates in Mexico and flows north to the Salton Sea in California. The Sea, which has no outlets, is much saltier than the ocean and is increasing in salinity because evaporation concentrates the dissolved salts that enter the Sea, primarily in runoff from irrigated farmland. The fish that live in the Sea are species that tolerate high salinity.

Water use by the power plants for cooling and steam generation reduces flow in the New River and inflow to the Salton Sea, thus increasing the salinity of these water bodies, a key environmental issue for both. Most of the water withdrawn from the nearby sewage lagoons (Zaragoza Oxidation Lagoons) for use in the power plants is lost to evaporation, but about 20% of that withdrawn is discharged to the New River. (If it were not withdrawn for use in the power plants, the water lost to evaporation would enter the New River.) The water treatment plants at the two power plants purify the untreated, withdrawn water before use, and thus reduce the amount of pollutants, including dissolved solids that contribute to salinity, entering the New River. The resulting lower level of pollution in the river, indicated by lower chemical oxygen demand, would improve the survival of fish and invertebrates under all alternatives. However, because water is used by the power plants and stream flow is reduced, the salinity of the river is increased.

All alternatives would cause increases in New River salinity. Under the No Action alternative, the estimated salinity increase in the New River at the international boundary (where the river enters the U.S.) would be less than 3.7%, due to operation of the EAX unit (three gas turbines and a steam turbine), which is not associated with the proposed transmission line. The Proposed Action alternative, with all turbines at both power plants operating, would result in the greatest salinity increase in the New River, 5.6%. The use of a parallel wet-dry cooling system under the Alternative Technologies alternative would reduce the amount of water used by the power plants by as much as 56% and produce the smallest impact on salinity (an increase of about 2%) in the river. These estimated salinity increases would not adversely affect biological resources in the river or the adjacent constructed wetlands that draw water from the river because salinity would remain below the 4,000-milligrams per liter (mg/L) water quality objective for the Colorado River Basin and would not exceed the salinity tolerances of wetland plants.

The current salinity of the Salton Sea is about 44,000 mg/L. Salinity is increasing by about 1% per year under baseline conditions. Operation of both power plants under the Proposed Action alternative would reduce inflow of water to the Salton Sea by about 0.8%, thus reducing its volume by about 0.1%, lowering its elevation by an estimated 0.6 inches (1.5 cm), and decreasing its surface area by about 97 acres. Other alternatives, including No Action, would cause smaller reductions in the Sea's volume, elevation, and surface area. Under all alternatives, the reduced surface area would reduce evaporation from the Sea, offsetting water losses from the power plants, so the Sea would stabilize at its slightly lower volume, elevation, and surface area. The decrease in volume would increase the salinity of the Sea. The Proposed Action would increase salinity by about 63 mg/L (0.14%); other alternatives would cause smaller salinity increases.

After these initial changes, the Proposed Action alternative would add 0.19 mg/L (0.04%) to the Sea's annual salinity increase. Lower power plant water use due to fewer units operating under the No Action alternative and use of wet-dry cooling under the Alternative Technologies alternative would result in slightly smaller salinity increases than under the Proposed Action alternative. Under the Mitigation Measures alternative, water conservation measures in the region (for example, lining irrigation canals, reducing evaporative losses, or fallowing farmland) could offset water use by the power plants and offset these salinity impacts by allowing more water to flow into the Salton Sea.

The U.S. Department of the Interior's Bureau of Reclamation considers a salinity level of 60,000 mg/L to be a value that would be detrimental to Salton Sea fishery resources. Under baseline conditions (with no power plants operating) DOE and BLM estimated that the Salton Sea would reach this critical level of salinity in approximately 36 years. Under the Proposed Action alternative, the alternative that would yield the greatest rate of increase in salinity, the Salton Sea would reach this critical level approximately 4 days sooner.

Air Quality and Human Health: Under all of the alternatives, emissions from three possible sources would have an impact on the air quality in Imperial County: Power plant emissions blown into the U.S. by the prevailing winds, emissions from the increase in the exposed lakebed of the Salton Sea caused by reduced depth, and emissions caused by the construction of the proposed transmission lines. It is important to note that emissions from the power plants and from the exposed lakebed are not subject to regulation under any portion of the Clean Air Act. Only the direct emissions associated with construction of the transmission lines are subject to the conformity provisions of the Clean Air Act. The foregoing notwithstanding, DOE and BLM have used parameters contained in Clean Air Act regulations as benchmarks against which to measure the magnitude of the impacts. However, use of these benchmarks is not intended to imply any regulatory applicability.

The public has shown more concern about impacts from the power plants than from the transmission lines. The agencies' assessment, as discussed below, indicates that both the power plants and the transmission lines would have very small impacts on air quality and human health in Imperial County.

California's Imperial Valley, the region in which the proposed transmission lines would be built, is included within the Salton Sea Air Basin, a California air management district. Air quality in the Salton Sea Air Basin is generally poor due, in part, to windblown dust from the natural features of the region (*e.g.,* desert soils) combined with human activities, such as construction, extensive agricultural activities, and traffic on paved and unpaved roads. Imperial Valley is in the same geographic air basin as the power plants in Mexico.

The Salton Sea Air Basin is designated as a non-attainment area for ozone, a non-attainment area for particulate matter of less than or equal to 2.5 micrometers in diameter ($PM_{2.5}$), and a serious non-attainment area for particulate matter less than or equal to 10 micrometers in diameter (PM_{10}). At the international border, the City of Calexico is designated a non-attainment area for carbon monoxide (CO). The area near the border crossing also shows increased levels of NO_X attributed to vehicles.

In addition to the pollutants listed above (*i.e.,* ozone, $PM_{2.5}$, PM_{10}, CO, and NO_X), the agencies considered potential impacts from the alternatives due to emissions of other substances, including carbon dioxide (CO_2), volatile organic compounds (VOC), and ammonia. Where appropriate, DOE and BLM compared modeled maximum concentrations to EPA's Significant Impact Levels (SLs), using the SLs as a benchmark. Levels that fall below SLs can be regarded as having negligible impacts on air quality and human health.

Particulate matter: Construction and maintenance of the transmission lines, which would occur under all the action alternatives, would be a source of dust (PM_{10}). Over the course of several months, traffic and other activities related to construction along the proposed routes would result in the emission of approximately 11.4 tons of PM_{10} that would be localized mainly at the construction site. This emission rate

is less than the 70 tons/yr emission threshold below which activities are exempt from review of conformity to the state implementation plan for the Clean Air Act that applies in serious PM_{10} nonattainment areas. Long-term impacts associated with the lines would be limited to generation of dust during periodic maintenance; these impacts are expected to be negligible. The No Action alternative would, of course, have no such impacts.

Under all alternatives the natural gas-fired power plants in Mexico would emit PM_{10} from their stacks and cooling towers. Under the Proposed Action alternative, direct emissions of PM_{10} are estimated to be 732 tons/yr, resulting in a concentration increase at a maximum receptor point in the U.S. of less than half of the SL value of 5 micrograms per cubic meter ($\mu g/m^3$) as a 24-hour average. Under the Mitigation Measures alternative, of several measures that DOE and BLM identified, road paving would have the greatest potential for reductions in PM_{10} that could offset power plant emissions. For example, paving 50 identified road segments in Imperial County totaling 23 miles (37 km) is estimated to reduce fugitive dust (PM_{10}) emissions by about 650 tons/yr. Under the Alternative Technologies alternative, use of a parallel wet-dry cooling system would reduce power plant efficiency, requiring additional fuel consumption for a given electrical output. This would result in an increase in most emissions but a reduction in emissions of PM_{10} from the wet cooling towers.

PM_{10} would also be formed under all alternatives when NO_X released by the power plants combines with ammonia (either already in the ambient air or released in small amounts by the power plants) under appropriate conditions to form ammonium nitrate particles, but the increased concentration of PM_{10} is expected to be small, less than 1 $\mu g/m^3$ as a 24-hour average. (Health impacts from ammonia emissions are discussed below under Hazardous Air Pollutants and Ammonia.)

Another source of PM_{10} under all alternatives would be wind-blown dust from lakebed exposed by a lower water level in the Salton Sea. The agencies estimated that dust emissions from an increase in exposed lakebed of the Salton Sea would be less than 10 tons/yr for the Proposed Action alternative.

DOE and BLM assessed potential impacts of PM_{10} related to the power plants on asthma rates in the U.S. in the Final EIS, after public comments on the Draft EIS expressed concern that the project would result in a large increase in the number of cases of asthma, many of which would require hospitalization. The agencies' analysis showed that the expected increase in asthma hospitalizations in Imperial County from increases in PM_{10} attributable to power plant emissions is conservatively estimated to be less than one case per year.

Ozone, VOC, and NO_X: Asthma and other upper respiratory diseases are associated with high levels of ozone in areas such as Imperial County. Ozone could be formed from combination of NO_X and VOC emitted by the gas-fired power plants in Mexico. DOE and BLM determined that NO_X and VOC emitted during operation of the power plants under all alternatives would result in minimal increases in ozone levels under typical meteorological conditions. The maximum estimated increase in concentrations of ozone would be generated by the Proposed Action alternative (0.8 parts per billion (ppb) averaged over a one-hour period, or 0.9% of the 1-hour California Standard of 90 ppb). Therefore, DOE and BLM expect no adverse health impacts from additional ozone under any alternative.

Hazardous Air Pollutants and Ammonia: Analysis of the potential cancer and non-cancer impacts in the U.S. from hazardous air pollutants emitted by the power plants in Mexico showed that emission levels would not be large enough to produce adverse human health impacts when compared to California cancer and non-cancer impact thresholds. DOE and BLM estimated that the increase in ammonia concentrations in the U.S. from the SCRs installed at the power plants would be a maximum of 4.05 $\mu g/m^3$ for any one-hour period and a maximum of 0.06 $\mu g/m^3$ annually under the Proposed Action alternative. This increased level of exposure would be less than 0.16% of the significance threshold based on California risk assessment procedures for acute exposure and less than 0.028% of the significance threshold for chronic exposure, *i.e.,* far below the levels that could result in health impacts.

Carbon monoxide: The highest CO emissions from the power plants would be under the Proposed Action alternative and would yield a maximum estimated increased concentration of CO at any location in the U.S. over an 8-hr period of 3.92 $\mu g/m^3$. This is only 0.8% of the SL of 500 $\mu g/m^3$, so no adverse impacts to human health would be expected. Under the Alternative Technologies alternative, the agencies analyzed the effect of adding an oxidation catalyst on the LRPC gas turbines that would connect to Intergen's proposed transmission line. (The turbines at the TDM power plant that would connect to Sempra's transmission line are already so equipped.) Installation of an oxidizing catalyst to the two LRPC export turbines would reduce the maximum estimated increased concentration of CO at any location in the U.S. over an 8-hr period to 0.647 $\mu g/m^3$, or 0.13% of the SL.

Carbon dioxide: CO_2, a greenhouse gas, has been linked to global warming. Emissions of CO_2 would be produced by the Mexico power plants under all alternatives. Under the Proposed Action alternative, the export turbines at the power plants would produce an estimated 5,186,000 tons of CO_2 per year, which would be a very small fraction of total U.S. (0.088%) and global emissions (0.023%). The lowest amount of CO_2 emissions would occur under the No Action alternative, which would produce 3,889,500 tons per year of CO_2, or 0.066% of total U.S. and 0.017% of global emissions. Expected impacts to global climate change from all alternatives is expected to be negligible.

Alternative Transmission Line Routes: The agencies analyzed two alternatives, western and eastern, to the proposed routes for the transmission lines. The assessment showed that the choice of route location would make small differences in PM_{10} emissions and in impacts to biological and cultural resources. The assessment found no potential adverse health effects from exposure of residents to electric and magnetic fields under any of the action alternatives on any route because the nearest residents would live outside the influence of the lines.

PM_{10} emissions from transmission line construction would be about 11.4 tons for the proposed routes, 14.4 tons for the western alternative routes, and 12.3 tons for the eastern alternative routes. Periodic maintenance activities would generate a maximum of 0.08 ton/yr for the proposed route and slightly more for the longer alternative routes.

No plant or animal species listed as proposed, threatened, or endangered by the U.S. Fish and Wildlife Service or California Department of Fish and Game were observed during surveys for this project. No BLM-sensitive plant species were observed within the survey corridor. Three BLM-sensitive animal species were observed within the corridor: flat-tailed horned lizard, western burrowing owl, and prairie falcon. The prairie falcon is not expected to nest on site. Potential adverse impacts to plants and animals from the construction of the transmission lines on BLM land would be similar but larger for the alternative

transmission line routes than for the proposed routes. These impacts would be small and short-term, lasting about five months, and in most cases would be mitigated during construction. For example, the applicants would be required to construct the proposed transmission lines as much as possible during the flat-tailed horned lizard's dormant period, November 15 to February 15.

Impacts to cultural resources from line construction under any route would be small due to the relatively small footprint of the transmission towers and the short length of the routes. Use of the western or eastern alternative routes would be expected to have a lower potential for impacts to cultural resources, because these routes are not located along the shoreline of an ancient lake (Lake Cahuilla) where there is a higher potential to encounter cultural resources. Any potential impacts to cultural resources would be mitigated during construction by following the treatment plan developed and approved by the California State Historic Preservation Officer.

Cumulative Impacts: Cumulative impacts analysis in an EIS places the effects of the proposed action into a broader context that includes impacts from other past, present, and reasonably foreseeable future actions potentially affecting the same environmental resources. The principal ongoing projects that would affect the Salton Sea, reducing its volume, elevation, and surface area and increasing its salinity, are the Imperial Irrigation District Water Conservation and Transfer Project and the Mexicali II Wastewater Treatment Project.

A recent study by the U.S. Bureau of Reclamation indicates that the Water Conservation and Transfer Project alone is projected to cause the salinity of the Salton Sea to reach the critical level of 60,000 mg/L four years sooner than under baseline conditions. The Mexicali II Wastewater Treatment Project extracts waste water from the New River and returns the water to a canal that does not flow back to the river.

Various projects, however, are contributing or are planned to contribute positive changes to the New River and the Salton Sea. For example, the U.S. Bureau of Reclamation has constructed a wetland adjacent to the New River that is the first of 40 or more wetlands proposed for construction. The wetlands, together with the Mexicali II Wastewater Treatment Project and all alternatives, would reduce pollutant loads and thus improve biological habitat in the New River. Looking to the future, sponsors of the Salton Sea Restoration Project hope to stabilize the Sea's elevation, reduce salinity levels, and improve wildlife habitat, but restoration activities have not been specified in sufficient detail to be assessed.

Concern has been expressed that numerous additional power plant projects have been or will be planned for the border region. DOE and BLM thoroughly researched this issue consulting with the California Energy Commission, the Comisión Federal de Electricidad in Mexico, and other agencies and organizations in California and Mexico to identify all existing and proposed power plant projects, and to identify trends that could contribute to this kind of development. DOE and BLM found no existing, planned or proposed plants in Mexico that would contribute impacts to the Imperial Valley or the Salton Sea Air Basin. DOE and BLM did identify and analyze the combined air quality impacts of three Californian power plant projects: The CalEnergy Geothermal Project, a project under development in the Salton Sea Air Basin, and two proposed natural gas-fired power plants, Blythe Energy, located just north of the Basin, and Wellton-Mohawk located 50 miles east of the Basin.

DOE and BLM also examined other planned and ongoing activities in the region as well as population and industrial trends that could contribute impacts to air quality in the Basin. Taken as a whole, the Salton Sea Air Basin is projected to experience increases in PM_{10}, NO_X, CO, and ammonia from sources other than the TDM and LRPC power plants. As the total amount of these pollutants from other sources increases, the small percentage contribution of pollutants from the Proposed Action alternative will become even smaller.

Environmentally Preferable Alternative

DOE has identified the Mitigation Measures alternative as the environmentally preferable alternative with the caveat that the effectiveness of this alternative would depend on the extent to which it is in fact possible to implement such measures. Implementation of mitigation measures such as the paving of roads, expanding the use of compressed natural gas in motorized vehicles, retrofitting emission controls to Imperial Irrigation District power plants, and updating the diesel engines of agricultural vehicles have the potential of mitigating many of the potential impacts to air quality. Other mitigation measures such as lining irrigation canals, fallowing farmland, and transferring ground water into the New River and Salton Sea have the potential of mitigating the potential impacts to the Salton Sea.

Implementation of these and other measures described in the EIS could result in the lowest overall impacts of all evaluated alternatives. Whether, and the extent to which, these measures can in fact be implemented, however, can depend in part on factors outside the applicants' control. Most of the mitigation measures would require some degree of approval and cooperation from local and state agencies for their implementation. Also, existing local agreements could diminish the positive effect of some of the measures.

DOE believes that the No Action alternative is less environmentally preferable than the Mitigation Measures alternative. The No Action alternative would not completely avoid the environmental impacts from operation of the power plants in Mexico because it would not reduce any impacts from the EAX turbines, which would operate even in the absence of the proposed international transmission lines. Also, under the No Action alternative, if Sempra and Intergen connected the export turbines at their Mexico power plants only to the Mexican power grid, Sempra and Intergen would not need Presidential permits and thus they would not be subject to any permit conditions that could potentially reduce environmental impacts.

Comments Received on the Final EIS

DOE received four comment documents on the Final EIS. EPA Region IX commented that DOE and BLM had addressed EPA's earlier comments with respect to water and air quality impacts: ''EPA is pleased that most of the issues identified in the [Draft EIS] have been addressed in the [Final EIS]. In response to comments from the EPA, DOE provided additional discussion on water mitigation measures, and the cumulative impacts of increased water usage and discharge by the increasing population of Mexicali. The document also clarifies the limitation and uncertainties of the ozone modeling analysis.''

EPA also noted that: ''* * * off-site mitigation measures to reduce basin-wide air emissions remain as a separate alternative in the FEIS and are not incorporated into the proposed action.'' EPA suggested that one way to address the limitations in ozone modeling and to ensure that there would be no net increase of air pollution in the Imperial County Region would be for this ROD to include a commitment to continue to work with stakeholders to support and

encourage off-site mitigation measures. DOE appreciates EPA's recognition that the agencies have addressed EPA's earlier concerns and has considered these new comments in decision making.

The Imperial County Air Pollution Control District again raised issues that it had raised on the Draft EIS concerning air quality, health, and mitigation. DOE and BLM specifically addressed these issues in the responses to comments section of the Final EIS and also added descriptions and explanations throughout the main text of the EIS.

A third commenter stated that the EIS was hard to read and comprehend. DOE and BLM attempted to make a highly technical project as understandable as was reasonable. A fourth commenter expressed concern that the companies had overstated the cost of the SCR and wet-dry cooling systems. DOE does not agree that costs are overstated and notes that SCR systems have been installed regardless of cost.

Decision

DOE has decided to implement the Proposed Action alternative, which was identified as DOE's preferred alternative in the EIS. Accordingly, DOE will grant a Presidential permit to both Sempra and Intergen that allows each applicant to construct, operate, maintain, and connect a separate double-circuit, 230-kV electric transmission line that extends south from SDG&E's existing Imperial Valley substation, crosses the U.S. international border in the vicinity of Calexico, California, and connects to their respective natural gas-fired power plants, as those plants are currently designed, located in Mexicali, Mexico. The permits will specify that the permitted electric transmission lines must be connected to power plants that are designed, constructed, and operated in accordance with the specifications upon which DOE and BLM based the analyses contained in the EIS. These specifications include the use of wet cooling systems, water treatment plants, and all air pollution control systems that already exist or are scheduled for installation. Any permit issued may be modified or revoked by the President of the United States without notice, and by DOE after public notice, and may also be amended by DOE after proper application to DOE.

Before granting a Presidential permit, DOE also considers whether a proposed international electric transmission line would have an adverse impact on the reliability of the U.S. electric power supply system. In reaching this determination, DOE considers the operation of the electrical grid with a specified maximum amount of power transmitted over the proposed line. In this instance, DOE is in receipt of technical studies that demonstrate that the southern California electrical grid would remain reliable with the existing capacity of the TDM and LRPC export units connected to it. Therefore, each permit will also contain an electric reliability condition that limits the instantaneous rate of transmission (*i.e.*, electric power) over the permitted transmission lines to the existing generating capacity of the respective power plants. Any change in the authorized operation or connection of the permitted facilities requires prior approval by DOE. Therefore, connection of additional generating capacity to either of the permitted international transmission lines would require the owner of the permitted facilities to notify DOE and to seek an amendment of its Presidential permit. Amendment of a Presidential permit requires an additional proceeding in which DOE would need to determine that the proposed modification to the permitted facility or its operation or connection is in the public interest. This determination would include another review of the impact on electric reliability and on the environment, and any other factors that DOE may also consider relevant to the public interest.

Basis for Decision

In arriving at its decision, DOE has considered the continuing need for additional electrical supplies in the region, the low potential environmental impacts, the lack of adverse impacts to the reliability of the U.S. electric power supply system, the practicality or the availability of the alternatives, and public comments provided during the preparation of the EIS

DOE did not select the No Action alternative because it would not address the need for power in the region. The need for electric power supplies in the southern California area has been well documented in various ways over the past several years. Most recently, on January 19, 2005, the California Independent System Operator (Cal–ISO) issued a report entitled, ''2004 Cal–ISO Controlled Grid Study,'' in which it notes that, ''In years 2006 and 2009, at the import levels modeled, and with all generators (new and old) on-line there is barely enough generation available in order to bring the system back within normal operation after all single and double contingencies'' (that is, for example, outage of one or more critical transmission lines, transformers, or generating units).

DOE has determined that the potential impacts in the United States from the Proposed Action alternative are expected to be small, as discussed above.

Under the Alternative Technologies alternative, the only additional technology identified that could reduce air emissions was the addition of an oxidizing catalyst on the LRPC gas turbines. (The TDM power plant already has an oxidizing catalyst installed.) The effect of this additional technology would be to reduce maximum increases in concentrations of CO in Imperial County. However, because the increase in CO concentrations for the Proposed Action alternative is so far below the SL for this pollutant, the addition of this technology to the LRPC plant would not appreciably alter the potential for human health impacts.

Incorporation of parallel wet-dry cooling systems under the Alternative Technologies alternative would reduce consumption of water by the Mexico power plants. However, this reduction of water use would produce negligible improvements in the already small impacts associated with the Proposed Action. Moreover, use of this technology would reduce the efficiency of the Mexico power plants, requiring greater fuel input for the same electrical output and increasing most emissions except for PM_{10}.

While the Mitigation Measures alternative presents a slate of activities that might offset some of the impacts of the power plants, it is not clear which, if any of them will be implementable in fact. In the case of water mitigation measures, any water that may be conserved if these measures could be implemented would likely be diverted to other water uses in the region, and would not be used to offset the reduced inflow of water to the Salton Sea attributable to the Proposed Action. Given the low impacts to air and water expected from the power plants, DOE does not believe that the expense of such measures, when viewed in the light of the uncertainty of their results, warrants their imposition.

For the foregoing reasons, DOE has decided to implement the Proposed Action alternative as defined in the EIS, but with the conditions noted in the Decision section above.

Floodplain Statement of Findings

In the EIS, DOE and BLM assessed the impacts of the proposed action on floodplains. The proposed and alternative routes for the proposed transmission line would cross Pinto Wash and its 100-year floodplain. A map of this floodplain is provided in the

EIS. See **ADDRESSES** for information on obtaining a copy of the EIS. A maximum of two lattice tower footings for each transmission line would be in the Pinto Wash 100-year floodplain for the proposed or alternative routes. Construction of footings for the support structures would introduce temporary disturbance into this 100-year floodplain. Cylindrical sections of the footings 3 to 4 ft (0.9 to 1.2 m) in diameter would permanently protrude above the ground surface. There is no practicable alternative to placement of structures in the floodplain, but the floodplain assessment found that neither the temporary disturbance during placement of these footings nor their permanence would result in change to conditions in the floodplain, flooding, or floodplain function.

With respect to the floodplain of the New River, the assessment found that changes in water flow and depth produced by power plant operations would lie well within the variability of the flows for the New River. All alternatives, including No Action, could result in a small reduction in maximum flood elevation, but this change would have no practical effect on the incidence or extent of floods or floodplain function.

Dated: April 18, 2005.

Kevin Kolevar,

Director, Office of Electricity and Energy Assurance.

[FR Doc. 05–8200 Filed 4–22–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting and retreat.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Friday, May 20, 2005, 8 a.m.–5 p.m.; Saturday, May 21, 2005, 9 a.m.–12 p.m.

ADDRESSES: Sagebrush Inn and Conference Center, 1508 Paseo Del Pueblo Sur, Taos, New Mexico 87571.

FOR FURTHER INFORMATION CONTACT: Menice Manzanares, Northern New Mexico Citizens' Advisory Board, 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; Fax (505) 989–1752 or e-mail: *mmanzanares@doeal.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda for Retreat

Friday, May 20, 2005

8 a.m.—Background and History of the Los Alamos National Laboratory and View *The Manhattan Project*.
10 a.m.—Break.
10:15 a.m.—Round Robin—Board Member Ice Breaker.
11 a.m.—Interaction with Ex-Officio Agencies—Issues for Consideration in FY 2006.
12 p.m.—Lunch.
1:30 p.m.—Break-out Sessions by Committee.
A. Review FY 2005 Work Plan Accomplishments.
B. Begin FY 2006 Work Plan.
3 p.m.—Break.
3:15 p.m.—Complete FY 2006 Work Plans and present to full Board.
5 p.m.—Adjourn.

Tentative Agenda for Open Meeting

Saturday, May 21, 2005

9 a.m.—Call to Order by Ted Taylor, Deputy Designated Federal Officer (DDFO).
Establishment of a Quorum.
Welcome and Introductions by Chairman, Tim DeLong.
Approval of Agenda.
Approval of Minutes of March 30, 2005 Meeting.
9:15 a.m.—Board Business.
A. Report from Chairman, Tim DeLong.
- Site-Specific Advisory Board (SSAB) Chairs' Meeting at Savannah River Site.

B. Report from Department of Energy, Ted Taylor, DDFO.
C. Report from Executive Director, Menice S. Manzanares.
D. New Business.
10 a.m.—Public Comment.
10:15 a.m.—Reports.
A. Waste Management Committee, Jim Brannon.
- Report on Area G Forum.

B. Environmental Monitoring, Surveillance and Remediation Committee, Chris Timm.
C. Community Involvement Committee, Grace Perez.
D. Comments from Ex-Officio Members.
11 a.m.—Break.
11:15 a.m.—Consideration and Action on Recommendation 2005–5, EPA National Air and Radiation Environmental Laboratory Plans for a National Monitoring System, Chris Timm.
Consideration and Action on Recommendation 2005–6, Regarding the Los Alamos National Laboratory's Environmental Surveillance Report (Executive Summary), Grace Perez.
11:45 a.m.—''Thank You'' to Retiring Board Members.
11:50 a.m.—Comments from Board Members and Ex-Officio Members.
11:55 a.m.—Recap of Meeting: Issuance of Press Releases, Editorials, etc.
12 p.m.—Adjourn

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Manzanares at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.–4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Menice Manzanares at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org*.

Issued at Washington, DC on April 19, 2005.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–8199 Filed 4–22–05; 8:45 am]

BILLING CODE 6405–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7903–2]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Susan Auby (202) 566–1672, or e-mail at *auby.susan@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1663.04; Compliance Assurance Monitoring Program; in 40 CFR part 54; was approved 03/24/2005; OMB Number 2060–0376; expires 03/31/2007.

EPA ICR No. 1695.08; Emissions Certification and Compliance Requirements for Nonroad Spark-ignition Engines; in 40 CFR part 90, subparts B, F, H, and M; 40 CFR 90.711; 40 CFR 90.709 (e)(9); 40 CFR 704; 40 CFR 90.113; 40 CFR 90.1203; 40 CFR 90.1204; 40 CFR part 1048; 40 CFR part 1051; 40 CFR part 1065; 40 CFR part 1068; was approved 03/08/2005; OMB Number 2060–0338; expires 03/31/2008.

EPA ICR No. 1284.07; NSPS for Polymeric Coating of Supporting Substrates Facilities; in 40 CFR part 60, subpart VVV; was approved 03/18/2005; OMB Number 2060–0181; expires 03/31/2008.

EPA ICR No. 1823.03; Reporting and Recordkeeping Requirements Under the Perfluorocompound (PFC) Reduction/Climate Partnership for the Semiconductor Industry; was approved 03/18/2005; OMB Number 2060–0382; expires 03/31/2008.

EPA ICR No. 1684.06; Emissions Certification and Compliance Requirements for Nonroad Compression-ignition Engines and On-highway Heavy Duty Engines; in 40 CFR part 90, subpart B; 40 CFR part 1048, subpart C; 40 CFR part 1051, subpart C; was approved 03/08/2005; OMB Number 2060–0287; expires 03/31/2008.

EPA ICR No. 2159.01; Background Checks for Contractor Employees; was approved 04/04/2005; OMB number 2030–0043; expires 09/30/2005.

EPA ICR No. 2183.01; Drug Testing for Contractor Employees; was approved 04/04/2005; OMB Number 2030–0044; expires 09/30/2005.

EPA ICR No. 1860.03; Assessment of Compliance Assistance Projects (Renewal); was approved 03/29/2005; OMB Number 2020–0015; expires 03/31/2008.

EPA ICR No. 1741.04; Correction of Misreported Chemical Substances on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory; in 40 CFR part 710; was approved 02/14/2005; OMB Number 2070–0145; expires 02/29/2008.

Dated: April 13, 2005.

Oscar Morales,

Director Collection Strategies Division.

[FR Doc. 05–8191 Filed 4–22–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7903–1]

Public Water System Supervision Program Revision for the State of South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the provisions of section 1413 of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300g–2, and 40 CFR 142.13, public notice is hereby given that the State of South Dakota has revised its Public Water System Supervision (PWSS) Primacy Program by adopting federal regulations for the Arsenic Rule, Filter Backwash Recycling Rule, Long Term 1 Enhanced Surface Water Treatment Rule, and Radionuclides Rule, which correspond to 40 CFR parts 141 and 142. The EPA has completed its review of these revisions in accordance with SDWA, and proposes to approve South Dakota's primacy revisions for the above stated Rules.

Today's approval action does not extend to public water systems in Indian country, as defined in 18 U.S.C. 1151. Please *see* **SUPPLEMENTARY INFORMATION**, Item B.

DATES: Any member of the public is invited to request a public hearing on this determination by May 25, 2005. Please *see* **SUPPLEMENTARY INFORMATION,** Item C, for details. Should no timely and appropriate request for a hearing be received, and the Regional Administrator (RA) does not elect to hold a hearing on his own motion, this determination shall become effective May 25, 2005. If a hearing is granted, then this determination shall not become effective until such time following the hearing, as the RA issues an order affirming or rescinding this action.

ADDRESSES: Requests for a public hearing shall be addressed to: Robert E. Roberts, Regional Administrator, c/o Bruce Suchomel (8P–W–MS), U.S. EPA, Region 8, 999 18th St., Suite 300, Denver, CO 80202–2466.

All documents relating to this determination are available for inspection at the following locations: (1) U.S. EPA, Region 8, Municipal Systems Unit, 999 18th St. (4th Floor), Denver, CO 80202–2466; (2) Department of Environment and Natural Resources, Drinking Water Program, 523 E. Capitol Ave., Pierre, SD 57501–3181.

FOR FURTHER INFORMATION CONTACT: Bruce Suchomel at 303–312–6001.

SUPPLEMENTARY INFORMATION: EPA approved South Dakota's application for assuming primary enforcement authority for the PWSS program, pursuant to section 1413 of SDWA, 42 U.S.C. 300g–2, and 40 CFR part 142. DENR administers South Dakota's PWSS program.

A. Why Are Revisions to State Programs Necessary?

States with primary PWSS enforcement authority must comply with the requirements of 40 CFR part 142 for maintaining primacy. They must adopt regulations that are at least as stringent as the NPDWRs at 40 CFR parts 141 and 142, as well as adopt all new and revised NPDWRs in order to retain primacy (40 CFR 142.12(a)).

B. How Does Today's Action Affect Indian Country in South Dakota?

South Dakota is not authorized to carry out its PWSS program in ''Indian country.'' This includes lands within the exterior boundaries of the Cheyenne River, Crow Creek, Flandreau, Lower

Brule, Pine Ridge, Rosebud, Standing Rock and Yankton Indian Reservations; any land held in trust by the United States for an Indian tribe, and any other areas which are ''Indian country'' within the meaning of 18 U.S.C. 1151.

C. Requesting a Hearing

Any request for a public hearing shall include: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requester's interest in the RA's determination and of information that he/she intends to submit at such hearing; and (3) the signature of the requester or responsible official, if made on behalf of an organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing, and will be made by the RA in the **Federal Register** and newspapers of general circulation in the State. A notice will also be sent to both the person(s) requesting the hearing and the State. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The RA will issue a final determination upon review of the hearing record.

Frivolous or insubstantial requests for a hearing may be denied by the RA. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: April 15, 2005.

Kerrigan G. Clough,

Deputy Regional Administrator, Region 8.

[FR Doc. 05–8192 Filed 4–22–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 20, 2005.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Square 1 Financial, Inc., Pinehurst, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Square 1 Bank, Durham, North Carolina, in organization.

B. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. FirstFed Bancorp, Inc. Employee Stock Ownership Pan, Bessemer, Alabama; to become a bank holding company by acquiring 32 percent of the voting shares of FirstFed Bancorp, Inc., Bessemer, Alabama, and thereby indirectly acquire voting shares of First Financial Bank, Bessemer, Alabama.

2. Habersham Bancorp, Cornelia, Georgia; to acquire 100 percent of the voting shares of Liberty Bank & Trust, Toccoa, Georgia.

C. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Mercantile Bancorp, Inc., Quincy, Illinois; to acquire an additional 7.25 percent, for a total of 21 percent, of the voting shares of Northstar Bancshares, Inc., Kansas City, Missouri, and thereby indirectly acquire additional voting shares of Northstar Bank, National Association, Kansas City, Missouri.

Board of Governors of the Federal Reserve System, April 19, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–8153 Filed 4–22–05; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–287, CMS–1771, CMS–R–71, CMS–222]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Request:* Revision of a currently approved collection; *Title of Information Collection:* Home Office Cost Statement and Supporting Regulations in 42 CFR 413.17 and 413.20; *Use:* The Home Office Cost Statement is filed annually by Chain Home Offices to report the information necessary for the determination of Medicare reimbursement to components of chain organizations. Many providers of service participating in Medicare are reimbursed, at least partially, on the basis of the lesser of reasonable cost or customary services for services furnished to eligible beneficiaries. When providers obtain services, supplies or facilities from an organization related to the provider by common ownership or control, 42 CFR 413.17 requires that the provider include in its costs, the costs incurred by the related organization in

furnishing such services, supplies or facilities. Revisions to this form include the addition of columns for more detailed reporting and the elimination of other columns that were deemed unnecessary; *Form Number:* CMS–287 (OMB # 0938–0202); *Frequency:* Annually; *Affected Public:* Not-for-profit institutions and Business or other for-profit; *Number of Respondents:* 1,231; *Total Annual Responses:* 1,231; *Total Annual Hours:* 573,646.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Attending Physicians Statement and Documentation of a Medicare Emergency and Supporting Regulations in 42 CFR 424.103; *Use:* 42 CFR 424.103(b) requires that before a nonparticipating hospital may be paid for emergency services rendered to a Medicare beneficiary, a statement must be submitted that is sufficiently comprehensive to support that an emergency existed. Form CMS–1771 contains a series of questions relating to the medical necessity of the emergency. The attending physician must attest that the hospitalization was required under the regulatory emergency definition (42 CFR 424.101 attached) and give clinical documentation to support the claim; *Form Number:* CMS–1771 (OMB #: 0938–0023); *Frequency:* Reporting—On occasion; *Affected Public:* Business or other for-profit; *Number of Respondents:* 200; *Total Annual Responses:* 200; *Total Annual Hours:* 50.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Quality Improvement Organization (QIO) Assumption of Responsibilities and Supporting Regulations in 42 CFR 412.44, 412.46, 431.630, 476.71, 476.73, 476.74, and 476.78; *Use:* The Peer Review Improvement Act of 1982 amended Title XI of the Social Security Act to create the Utilization and Quality Control Peer Review Organization (PRO) program which replaces the Professional Standards Review Organization (PSRO) program and streamlines peer review activities. The term PRO has been renamed Quality Improvement Organization (QIO). This collection describes the review functions to be performed by the QIO. It outlines relationships among QIOs, providers, practitioners, beneficiaries, intermediaries, and carriers; *Form Numbers:* CMS–R–71 (OMB # 0938–0445); *Frequency:* Recordkeeping and Third Party Disclosure, as needed; *Affected Public:* Business or other for-profit; *Number of Respondents:* 6,036; *Total Annual Responses:* 6,036; *Total Annual Hours:* 81,818.

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Independent Rural Health Center/Freestanding Federally Qualified Health Center Cost Report and Supporting Regulations in 42 CFR 413.20 and 413.24; *Use:* CMS is requesting re-approval of a currently approved form, CMS 222 (OMB No. 0938–0107). The current form implements various provisions of the Social Security Act including Section 1861(aa) which provides coverage under Part B of the Medicare program for certain services furnished by Rural Health Clinics (RHCs) and Freestanding Federally Qualified Health Clinics (FQHCs), including physician assistant and nurse practitioner services. The Medicare regulations provide for payment to clinics which are not part of a hospital (freestanding clinics) under an all-inclusive rate method designed to pay Medicare's share of the clinics' incurred reasonable costs for the services provided. Clinics which are part of a hospital are paid in accordance with the program's hospital reimbursement methods and principles.; *Form Numbers:* CMS–222 (OMB # 0938–0107); *Frequency:* Reporting—Annually; *Affected Public:* Not-for-profit institutions, Business or other for-profit, and State, local or tribal government; *Number of Respondents:* 3000; *Total Annual Responses:* 3000; *Total Annual Hours:* 150,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/regulations/pra/,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer:

OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 15, 2005.

Michelle Short,

Acting Director, CMS Office of Strategic Operations and Regulatory Affairs, Regulations Development Group.

[FR Doc. 05–8162 Filed 4–22–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–1856 & 1893, CMS–R–273]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Certification in the Medicare and/or Medicaid Program to Provide Outpatient Physical Therapy (OPT) and/or Speech Pathology Services, OPT Speech Pathology Survey Report and Supporting Regulations in 42 CFR 485.701–485.729.; *Form No.:* CMS–1856, CMS–1893 (OMB # 0938–0065); *Use:* The Medicare Program requires OPT providers to meet certain health and safety requirements. The request for certification form is used by State agency surveyors to determine if minimum Medicare eligibility requirements are met. The survey report form records the result of the on-site survey; *Frequency:* On occasion and Other—every 6 years; *Affected Public:* Business or other for-profit; *Number of*

Respondents: 2,968; *Total Annual Responses:* 495; *Total Annual Hours:* 866.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Community Mental Health Center Site Visit Assessment Tool and Supporting Regulations in 42 CFR 410.2; *Form No.:* CMS–R–273 (OMB # 0938–0770); *Use:* This collection instrument aids CMS in its efforts to ensure that new and existing Community Mental Health Centers (CMHC) are compliant with Medicare provider requirements, and all applicable Federal and State requirements. The collection pertains to CMHC's provision of pre-admission screening to State mental health facilities and to expanding the collection tool's use into other program areas as a means to screen applicants, enrollees, and existing providers/suppliers to ensure their legitimacy to participate in the Medicare Program; *Frequency:* Reporting-Other, upon initial application or re-enrollment into the Medicare program; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, local or tribal government; *Number of Respondents:* 4,731; *Total Annual Responses:* 4,731; *Total Annual Hours:* 20,372.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra/,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Reduction Act Reports Clearance Office designated at the address below: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Melissa Musotto, PRA Analyst, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 15, 2005.

Michelle Shortt,

Acting Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–8163 Filed 4–22–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of Child Support Enforcement

Privacy Act of 1974; Amended System of Records

AGENCY: Office of Child Support Enforcement, ACF, HHS.

ACTION: Notice of amended system of records.

SUMMARY: In accordance with the requirement of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of Child Support Enforcement (OCSE) is publishing notice of its amendment of its systems of records entitled ''The Location and Collection System'', No. 09–90–0074.

DATES: HHS invites interested parties to submit comments on the proposed notice before May 25, 2005. As required by the Privacy Act (5 U.S.C. 552a(r)), HHS on April 18, 2005 sent a report of an Amended System to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget. The amendments described in this notice are effective upon publication unless HHS receives comments that would result in a contrary determination.

ADDRESSES: Please address comments to: Donna Bonar, Associate Commissioner, Office of Automation and Program Operations, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 2nd Floor West, Washington, DC 20447, (202) 401–9271.

Comments received will be available for inspection at the address above from 9 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Donna Bonar, Director, Division of Program Operations, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 2nd Floor West, Washington, DC 20447, (202) 401–9271.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Office of Child Support Enforcement (OCSE) is amending one of its Systems of Records, ''The Location and Collection System of Records'' (LCS), No. 09–90–0074, last published at 69 FR 31392 on June 6, 2004.

Consistent with section 453(j)(9) of the Social Security Act (the Act) as amended by Pub. L. 108–147, the National Directory of New Hires (NDNH) will be used by the Department of the Treasury, for the purpose of locating persons who owe delinquent nontax debt to the United States and whose debt has been referred to the Secretary of the Treasury in accordance with 31 U.S.C. 3711(g).

Dated: April 18, 2005.

David H. Siegel,

Acting Commissioner, Office of Child Support Enforcement.

09–90–0074

SYSTEM NAME:

Location and Collection System of Records, HHS, OCSE.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Child Support Enforcement, 370 L'Enfant Promenade, SW., 2nd Floor West, Washington, DC 20447; Social Security Administration, 6200 Security Boulevard, Baltimore, Maryland 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained to locate individuals for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or enforcing child custody or visitation orders, and may include (1) information on, or facilitate the discovery of, or the location of any individuals: (A) who are under an obligation to pay child support or provide child custody or visitation rights; (B) against whom such an obligation is sought; (C) to whom such an obligation is owed including the individual's Social Security number (or numbers) (SSN), most recent address, and the name, address, and employer identification number of the individual's employer; and (D) who have or may have parental rights with respect to a child; (2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to enrollment in group health care coverage); (3) information on the type, status, and amount of any assets or debts owed to or by such an individual; and (4) information on certain Federal disbursements payable to a delinquent obligor which may be offset for the purpose of collecting past-due child support.

CATEGORIES OF RECORDS IN THE SYSTEM:

Specific records retained in the LCS system are: the name of noncustodial or custodial parent or child, Social Security number (when available), date of birth, place of birth, sex code, State case identification number, local

identification number (State use only), State or locality originating request, date of origination, type of case (Temporary Aid to Needy Families (TANF), non-TANF full-service, non-TANF locate only, parental kidnapping); home address, mailing address, type of employment, work location, annual salary, pay rate, quarterly wages, medical coverage, benefit amounts, type of military service (Army, Navy, Marines, Air Force, not in service), retired military (yes or no), Federal employee (yes or no), recent employer's address, known alias (last name only), date requests sent to State and Federal agencies or departments (SSA, Treasury, DoD/OPM, VA, USPS, FBI, and SESAs), dates of Federal agencies' or departments' responses, date of death, record identifier, employee's SSN, SSN verification indicator and any corrected SSN, employee first name, middle name, last name, employee address(es), date of birth (optional), employee date of hire (optional), employee State of hire, wage amount, quarter paid, reporting period; employer name, Federal Employer Identification Number or Federal Information Processing System (FIPS) Code, State Employee Identification Number of FIPS Code, employer address, employer foreign address, employer optional address, and employer optional foreign address; multistate employer name, address and Federal Identification Number; employee SSN, employee first name, middle name, last name, employee address(es), date of birth (optional), date of hire (optional), State of hire (optional), employee wage amount, quarter paid, reporting period; unemployment insurance record identifier, claimant SSN, SSN verification indicator and any corrected SSN; claimant first name, middle name, claimant address, SSA/VA benefit amount, unemployment insurance benefits amount, reporting period, quarter paid, payer State, date report processed; State code, local code, case number, arrearage amount, collection amount, adjustment amount, return indicator, transfer State, street address, city and State, zip code, zip code 4, total debt, number of adjustments, number of collections, net amount, adjustment year, tax period for offset, type of offset, offset amount, submitting State FIPS, locate code, case ID number, case type, and court/administrative order indicator. Records used to aid State Child Support Enforcement agencies in obtaining information from multistate financial institutions may include institution name(s), name control, Taxpayer Identification Number(s), year, month, service bureau indicator, transfer agent indicator, foreign corporation indicator, reporting agent/transmitter, address(es), file indicator, record type, payee last name control, SSN(s), payee account number, account full legal title (optional), payee foreign country indicator (optional), payee names, addresses, account balances (optional), trust fund indicator, account balance indicator (optional), account update indicator, account type, date of birth. Individuals will be fully informed of the uses and disclosures of their records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Legal authority for maintenance of the system is contained in sections 452 and 453 of the Social Security Act that require the Secretary of the Department of Health and Human Services to establish and conduct the Federal Parent Locator Service, a computerized national location network which provides location and asset information, including addresses and social security numbers to authorized persons, primarily for the purposes of establishing and collecting child support obligations.

PURPOSES:

The primary purpose of the Location and Collection System is to improve States' abilities to locate parents and collect child support.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses of records maintained in the LCS are as follows: (1) Request the most recent home and employment addresses and SSN of the noncustodial or custodial parents from any State or Federal government department, agency or instrumentality which might have such information in its records; (2) provide the most recent home and employment addresses and SSN to State Child Support Enforcement (CSE) agencies under agreements covered by section 463 of the Act (42 U.S.C. 663) for the purpose of locating noncustodial parents or children in connection with activities by State courts and Federal attorneys and agents charged with making or enforcing child custody determinations or conducting investigations, enforcement proceedings or prosecutions concerning the unlawful taking or restraint of children; (3) provide the most recent home and employment addresses and SSN to agents and attorneys of the United States, involved in activities in States which do not have agreements under section 463 of the Act for purposes of locating noncustodial parents or children in connection with Federal investigations, enforcement proceedings or prosecutions involving the unlawful taking or restraint of children; (4) provide to the State Department the name and SSN of noncustodial parents in international child support cases, and in cases involving the Hague Convention on the Civil Aspects of International Child Abduction; (5) provide to State agencies data in the NDNH portion of this system for the purpose of administering the Child Support Enforcement program and the Temporary Assistance for Needy Families (TANF) program; (6) provide to the Commissioner of Social Security information for the purposes of verifying reported SSNs, verifying eligibility and/or payment amounts under the Supplemental Security Income (SSI) program, and for other purposes; (7) provide to the Secretary of the Treasury information in the NDNH portion of this system for purposes of administering advance payments of the earned income tax credit and verifying a claim with respect to employment in a tax return; (8) provide to researchers new hire data for research efforts that would contribute to the TANF and CSE programs. Information disclosed may not contain personal identifiers; (9) provide to State CSE agencies, or any agent of an agency that is under contract with the State CSE agency, information which will assist in locating individuals for the purposes of establishing paternity and for establishing, modifying, and enforcing child support obligations; (10) disclose to authorized persons as defined in section 463(d)(2) of the Act (42 U.S.C. 663(d)(2)) records for the purpose of locating individuals and enforcing child custody and visitation orders; (11) disclose to the State agency administering the Medicaid, Unemployment Compensation, Food Stamp, Supplemental Security Income (SSI) and territorial cash assistance programs new hire information for income eligibility verification; (12) disclose to State agencies administering unemployment and worker's compensation programs new hire information to assist in determining the allowability of claims; (13) disclose information to the Treasury Department in order to collect past due child support obligation via offset tax refunds and certain Federal payments such as: Federal salary, wage and retirement payments; vendor payments; expense reimbursement payments, and travel payments; (14) disclose to the Secretary of State information necessary to revoke,

restrict, or deny a passport to any person certified by State CSE agencies as owing a child support arrearage in an amount specified in section 452(k) of the Act; and (15) disclose to States information pertaining to multistate financial institutions which has been provided by such institutions in order to aid State CSE agencies; (16) disclose to the Department of Education information in the NDNH portion of this system for purposes of enforcing obligations on loans under title IV of the Higher Education Act of 1965 that are in default or for collecting overpayments of grants awarded under this Act; (17) disclose to the Department of Housing and Urban Development information in the NDNH portion of this system for purposes of verifying employment and income of individuals participating in specified programs and, after removal of personal identifiers, to conduct analyses of the employment and income reporting of these individuals; (18) disclose information to private individuals or companies under contract with OCSE for the purpose of maintaining the LCS; and (19) disclose to the Department of the Treasury information in the NDNH portion of this system for purposes of locating persons who owe delinquent nontax debt to the United States and whose debt has been referred to the Secretary of the Treasury in accordance with 31 U.S.C. 3711(g).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Location and Collection System records are maintained on disc and computer tape, and hard copy.

RETRIEVABILITY:

System records can be accessed by either State assigned case identification number or Social Security Number.

SAFEGUARDS:

1. Authorized Users: All requests from the State IV–D Agency must certify that: (1) They are being made to locate noncustodial and custodial parents for the purpose of establishing paternity or securing child support, or in cases involving parental kidnapping or child custody and visitation determinations and for no other purposes; (2) the State IV–D agency has in effect protective measures to safeguard the personal information being transferred and received from the Federal Parent Locator Service; and (3) the State IV–D Agency will use or disclose this information for the purposes prescribed in 45 CFR 303.70.

2. Physical Safeguards: For computerized records electronically transmitted between Central Office and field office locations (including organizations administering HHS programs under contractual agreements), safeguards include a lock/unlock password system. All input documents will be inventoried and accounted for. All inputs and outputs will be stored in a locked receptacle in a locked room. All outputs will be labeled ''For Official Use Only'' and treated accordingly.

3. Procedural and Technical Safeguards: All Federal and State personnel and contractors are required to take a nondisclosure oath. A password is required to access the terminal. All microfilm and paper files are accessible only by authorized personnel who have a need for the information in the performance of their official duties. These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, ''Safeguarding Records Contained in Systems of Records,'' and the Department's Automated Information System Security Program Handbook.

RETENTION AND DISPOSAL:

Quarterly wage data and unemployment data supplied to the LCS which, within 12 months, has not produced a match as a result of any information comparison will not thereafter be used for child support enforcement purposes. Quarterly wages and unemployment data and new hire information will be deleted from the database 24 months after the date of entry. An information comparison will be retained for 24 months. Sample data will be retained only long enough to complete research authorized under section 453(j)(5) of the Act. Tax refund and administrative offset information will be maintained for six years in an active master file for purposes of collection and adjustment. After this time, records of cases for which there was no collection will be destroyed. Records of cases with a collection will be stored on-line in an inactive master file. Records pertaining to passport denial will be updated and/or deleted as obligors meet satisfactory restitution or other State approved arrangements. Records of information provided to authorized users will be maintained only long enough to communicate the information to the appropriate State or Federal agent. Thereafter, the information provided will be destroyed. However, records pertaining to the disclosures, which include information provided by States, Federal agencies contacted, and an indication of the type(s) of information returned, will be stored on a history tape and in hard copy for five years and then destroyed. Records of information provided by financial institutions for the purpose of facilitating matches will be maintained only long enough to communicate the information to the appropriate State agent. Thereafter, the information provided will be destroyed. However, records pertaining to the disclosures, which include information provided by States, Federal agencies contacted, and an indication of the type(s) of information returned, will be stored on a history tape and in hard copy for five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner for Automation and Program Operations, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 2nd Floor West, Washington, DC 20447.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the Systems Manager at the address listed above. The Privacy Act provides that, except under certain conditions specified in the law, only the subject of the records may have access to them. All requests must be submitted in the following manner: Identify the system of records you wish to have searched, have your request notarized to verify your identify, indicate that you are aware that the knowing and willful request for or acquisition of a Privacy Act record under false pretenses is a criminal offense subject to a $10,000 fine. Your letter must also provide sufficient particulars to enable OCSE to distinguish between records on subject individuals with the same name.

RECORD ACCESS PROCEDURES:

Write to the Systems Manager specified above to attain access to records. Requesters should provide a detailed description of the record contents they are seeking.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under System Manager above, and identify the record and specify the information to be contested and corrective action sought with supporting justification to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Information is obtained from departments, agencies, or instrumentalities of the United States or any State and from multi-state financial institutions.

ITEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 05–8214 Filed 4–22–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Statewide Automated Child Welfare Information System (SACWIS) Assessment Review Guide (SARGE).

OMB No.: 0970–0159.

Description: The Department of Health and Human Services cannot fulfill its obligation to effectively serve the nation's adoption and foster care populations, nor report meaningful and reliable information to Congress about the extent of problems facing these children or the effectiveness of assistance provided to this population, without access to timely and accurate information. Currently, SACWIS supports State efforts to meet the following Federal reporting requirements: the Adoption and Foster Care Analysis and Reporting System (AFCARS) required by section 479(b)(2) of the Social Security Act; the National Child Abuse and Neglect Data System (NCANDS); Child Abuse Prevention and Treatment Act (CAPTA); and the Chafee Independent Living Program. These systems also support State efforts to provide the information to conduct the Child and Family Services Reviews. Currently, forty-five States and the District of Columbia have developed, or are developing, a SACWIS with Federal financial participation. The purpose of these reviews is to ensure that all aspects of the project, as described in the approved Advance Planning Document, have been adequately completed, and conform to applicable regulations and policies.

To initiate a review, States will submit the completed SACWIS Assessment Review Guide (SARGE) and other documentation at the point that they have completed system development and the system is operational statewide. The additional documents submitted as part of this process should all be readily available to the State as a result of good project management practices.

The information collected in the SACWIS Assessment Review Guide will allow State and Federal officials to determine if the State's SACWIS meets the requirements for title IV–E Federal Financial Participation (FFP) defined at 45 CFR 1355.50. Additionally, other States will be able to use the documentation provided as part of this review process in their own system development efforts.

Respondents: State Title IV–E Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Review	3	1	250	750

Estimated Total Annual Burden Hours: 750.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *rsargis@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF, E-mail address: *Katherine_T._Astrich@omb.eop.gov.*

Dated: April 18, 2005.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 05–8139 Filed 4–22–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Family Violence Prevention and Services/Grants for Battered Women's Shelters: Grants to Tribes and Tribal Organizations; and Grants to State Domestic Violence Coalitions.

OMB No.: New Collection.

Description: This information collection is authorized under Title III of the Child Abuse Amendments of 1984, Public Law 98–457, as amended. In response to the program announcement, the respondents submit information about their service program and their eligibility. Information that is collected is used to award grants for shelter programs on Tribal reservations and in Alaska Villages, and to non-profit state domestic violence coalitions for service programs, technical assistance and training.

Respondents: Tribes and Tribal Organizations (including Alaska Native Villages) and State Domestic Violence Coalitions administering the Family Violence Prevention and Services programs.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Tribes, Tribal Organizations, and Alaska Native Villages	180	1	6	1,080
State Domestic Violence Coalitions	53	1	6	318

Estimated Total Annual Burden Hours: 1,398.

Additional Information: ACF is requesting that OMB grant a 180 day approval for this information collection under procedures for emergency processing by May 20, 2005. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Arnold Jacobson, (202) 401–6888. In addition, a request may be made by sending an e-mail request to: *arjacobson@acf.hhs.gov.*

Comments and questions about the information collection described above should be directed to the following address by May 20, 2005: Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paper Reduction Project, Attn: OMB Desk Officer for ACF. E-mail address: *Katherine_T._Astrich@omb.eop.gov.*

Dated: April 20, 2005.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 05–8215 Filed 4–22–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Planning, Research and Evaluation (OPRE); Notice

Funding Opportunity Title: Head Start Graduate Student Research Grants.

Announcement Type: Initial.

Funding Opportunity Number: HHS–2005–ACF–OPRE–YD–0068.

CFDA Number: 93.600.

Due Date for Letter of Intent or Preapplications: June 3, 2005.

Due Date for Applications: Application is due June 24, 2005.

Executive Summary: Funds are provided for Graduate Student Research Grants to Support field-initiated research activities.

This grant program is part of a larger set of Head Start research announcements. Three other grant funding mechanisms are being offered concurrently with the one described in this announcement. They include: (1) Head Start Graduate Student Research Partnership Development Grants, (2) Head Start-University Partnership Research Grants: Curriculum Development and Enhancement for Head Start and Early Head Start Programs, and (3) American Indian-Alaska Native Head Start-University Partnerships. For more information, please see these other Head Start Research announcements listed in the **Federal Register** or listed on *http://www.Grants.Gov*, or send an inquiry to the e-mail address listed above.

Funding for this grant program is shared with the Head Start Graduate Student Research Partnership Development Grants. Relative funding for the two sets of Head Start Graduate Student Research Grants is contingent upon the results of the review process.

I. Funding Opportunity Description

A. Purpose

The purpose of this announcement is to report the availability of funds for Head Start Graduate Student Research Grants to support field-initiated research activities in partnership with Head Start programs.

B. Statutory Authority

Section 649 of the Head Start Act, as amended by the Coats Human Services Reauthorization Act of 1998 (Pub. L. 105–285), codified at 42 U.S.C. 9844.

C. Background

Since 1991, ACF has explicitly supported the relationship between established Head Start researchers and their graduate students by awarding research grants, on behalf of specific graduate students, to conduct research in Head Start communities. As many previously funded Head Start graduate students have continued to make significant contributions to the early childhood research field as they have pursued their careers, this funding mechanism is an important research capacity-building effort.

To ensure that future research is responsive to the changing needs of low-income families, graduate students need strong and positive role models. Therefore, Head Start's support of the partnership between students and their mentors is essential. The unique partnership that is forged between mentor and student within the Head Start research context serves as a model for the establishment of other partnerships within the community (*e.g.*, researcher-Head Start staff, researcher-family, etc.). This foundation helps foster the skills necessary to build a graduate student's trajectory of successful partnership-building and contributions to the scientific community. Within this nurturing and supportive relationship, young researchers are empowered to become autonomous researchers, learning theory, as well as the process of interacting with the various members and relevant organizations within their communities.

Thus, the goals of the Head Start Graduate Student Research Grant program can be summarized as follows:

1. Provide direct support for graduate students as a way of encouraging the conduct of research with Head Start populations, thus contributing to the knowledge base about the best approaches for delivering services to diverse, low-income families and their children;

2. Promote mentor-student relationships that support students' graduate training and professional development as young researchers engaged in policy-relevant, applied research;

3. Emphasize the importance of developing true working research partnerships with Head Start programs and other relevant entities within the community, thereby fostering skills necessary to build a student's trajectory of successful partnership-building and contributions to the scientific community; and

4. Support the active communication, networking and collaboration among graduate students, their mentors and other prominent researchers in the field, both during their graduate training, as well as into the early stages of their research careers.

While the specific topics addressed under these Graduate Student Research Grants are intended to be field-initiated,

applicants who address issues of both local and national significance will be most likely to succeed. Some illustrative examples of such topics include, but are not limited to, the areas of school readiness, children's mental health, serving an increasingly culturally and linguistically diverse population of children and families, and promoting child well-being by strengthening responsible fatherhood and healthy marriages in Head Start families.

Priority Area 1:

Head Start Graduate Student Research Grants

1. Description: The purpose of this announcement is to report the availability of funds for Head Start Graduate Student Research Grants to support field-initiated research activities in partnership with Head Start programs.

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II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Priority Area Funding: $200,000.

Anticipated Number of Awards: 4 to 8.

Ceiling on Amount of Individual Awards Per Budget Period: $25,000.

An application that exceeds the upper value of the dollar range specified will be considered non-responsive and will not be eligible for funding under this announcement.

Average Projected Award Amount: $25,000.

Length of Project Periods: 24-month project with two 12-month budget periods.

III. Eligibility Information

1. Eligible Applicants

State controlled institutions of higher education; Private institutions of higher education, including faith based institutions of higher education.

Additional Information on Eligibility: 1. Eligible applicants are institutions of higher education on behalf of *doctoral-level graduate students*. Doctoral students must have completed their Master's Degree or equivalent in the field of doctoral study and submitted formal notification to ACF by *August 1, 2005*.

To be eligible to administer the grant on behalf of the student, the institution must be fully accredited by one of the regional accrediting commissions recognized by the Department of Education and the Council on Post-Secondary Accreditation.

2. Cost Sharing/Matching

None.

3. Other

Additional Information on Eligibility

1. Although the faculty mentor is listed as the Principal Investigator and must be committed to taking a central role in maintaining an ongoing research partnership with a Head Start program, this grant is intended for dissertation research for an individual student. Information about both the graduate student and the student's faculty mentor is required as part of this application.

2. The graduate student applicant must agree to attend two meetings each year of the grant. The budget should reflect travel funds for such purposes. The first meeting consists of the annual meeting for all Head Start Graduate Student grantees. This annual grantee meeting is typically scheduled during the summer or fall of each year and is held in Washington, DC. It is anticipated that the fall 2005 meeting will be held in mid to late October. During this meeting, each student typically presents a brief overview of his or her study (*e.g.*, the study design, participants, measures, challenges and successes during implementation, and/or findings, as they become available). The intended goal of the meeting is to stimulate potentially useful and constructive feedback from other students and mentors, as well as to facilitate collaboration, networking and mentoring activities.

The second meeting each year alternates between the biennial Head Start National Research Conference in Washington, DC (June or July, 2006) and the biennial meeting of the Society for Research in Child Development—SRCD (April, 2007). At a minimum, students usually are provided the opportunity to present information on their respective studies in a poster session format, although both meetings also provide other networking and mentoring

activities. The grant budget should reflect travel and housing funds for the graduate student for all four of these meetings (or two if only applying for one year of funding).

3. Given the strong emphasis that is placed on supporting the mentor-student relationship, it is crucial that the faculty mentors attend and actively participate in the activities of the annual grantee meeting for all Head Start Graduate Students. The budget should reflect travel funds for such purposes, as appropriate. However, if the faculty mentor does plan to attend the annual Graduate Student grantee meeting, but will utilize another source of travel funds, such arrangements are encouraged and should be clearly noted in the application.

4. Dun and Bradstreet Numbers

All applicants must have Dun & Bradstreet numbers. On June 27, 2003 the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.Grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement, and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number online at *http://www.dnb.com*.

5. Private, non-profit institutions of higher education (including faith based institutions of higher education) are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-profit Grant Applicants,'' titled ''Survey on Ensuring Equal Opportunity for Applicants'' at *http://www.acf.hhs.gov/programs/ofs/forms.htm*.

6. Any non-profit institution of higher education submitting an application must submit proof of its non-profit status at the time of submission. Any of the following constitutes proof of nonprofit status:

—A copy of the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code.
—A copy of a currently valid IRS tax exemption certificate.
—A written statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a nonprofit status and that none of the net earning accrue to any private shareholders or individuals.
—A certified copy of the organization's certificate of incorporation or similar document that clearly establishes nonprofit status.
—Any of the items above for a State or national parent organization *and* a statement signed by the parent organization that the applicant organization is a local nonprofit affiliate.

7. A university faculty member must serve as a mentor to the graduate student; this faculty member is listed as the ''Principal Investigator.'' The application must include a letter from this faculty member stating that s/he has reviewed and approved the application, affirming the status of the project as dissertation research and the student's status in the doctoral program, and describing how the faculty member will regularly monitor the student's work.

8. The Principal Investigator must have a doctorate or equivalent degree in the respective field, conduct research as a primary professional responsibility, and have published or have been accepted for publication in the major peer-reviewed research journals in the field as a first author or second author.

9. An important element of this announcement is the requirement that researchers demonstrate a partnership or partnerships with Head Start or Early Head Start programs as part of the development, piloting, refinement, training, and implementation of research activities. The application must contain a letter from the Head Start or Early Head Start program certifying that they have entered into a partnership with the applicant and the application has been reviewed and approved by the Head Start or Early Head Start Policy Council (see section IV–3 for further details about these letters).

10. The research project must be an independent study conducted by the individual graduate student or well-defined portion(s) of a larger study currently being conducted by a faculty member. If the project is part of a larger research effort, the proposal must clearly distinguish between the student's portion of the research activities and those of the larger project. The graduate student must have primary responsibility for the proposed study described in the application.

11. If the graduate student, on whose behalf the university is applying, expects to receive his/her degree by the end of the first one-year budget period, the applicant should request a one-year project period only. A second year budget-period will not be granted if the student has graduated by the end of the first year.

12. The graduate student must write the application in its entirety, consistent with the format and style guidelines of the Publication Manual of the American Psychological Association, 5th ed. and (APA 2001) the general principles and guidelines of the Ethical Principles of Psychologists and Code of Conduct 2002 (APA 2002).

The aforementioned twelve items will not be used as screen out criteria on applications submitted in response to this program announcement.

It is unlikely that any individual mentor will be funded for more than one graduate student research grant if there are at least 10 applications from different mentors/institutions that qualify for support.

Disqualification Factors

Applications that exceed the ceiling amount will be considered non-responsive and will not be eligible for funding under this announcement.

Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

IV. Application and Submission Information

IV.1 Address To Request Application Package

Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182, Phone: 877–663–0250, E-mail: *opre@xtria.com.*

IV.2 Content and Form of Application Submission

An original and two copies of the complete application are required. The original copy must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound. The two additional copies of the complete application must include all required forms, certifications, assurances, and appendices and must also be submitted unbound. Applicants have the option of omitting from the application copies

(not the original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Format and Organization: Applicants are strongly encouraged to limit their application to 100 pages, double-spaced, with standard one-inch margins and 12 point fonts. This page limit applies to both narrative text and supporting materials but not the Standard Federal Forms (see list below). Applicants must number the pages of their application beginning with the Table of Contents.

Applicants are advised to include all required forms and materials and to organize these materials according to the format, and in the order, presented below:

a. Cover Letter.

b. Contact information sheet (see details below).

c. Standard Federal Forms.

Standard Application for Federal Assistance (form 424).

Budget Information—Non-construction Programs (424A).

Certifications Regarding Lobbying.

Disclosures of Lobbying Activities (if necessary).

Certification Regarding Environmental Tobacco Smoke.

Assurance Regarding Non-construction Programs (form 424B).

Assurance Regarding Protection of Human Subjects.

d. Table of Contents.

e. Project Abstract (not to exceed one page).

f. Project Narrative Statement (see details below).

g. Appendix.

Proof of Non-profit Status (see section V.1.F).

Curriculum Vitae for Student and Faculty Advisor.

Letter of Support from Advisor.

Letter(s) of agreement with Head Start program(s) (see details below).

Letter(s) of agreement with Head Start Policy Council(s) (see details below).

Official Transcript of Student Reflecting Graduate Courses.

Content of Contact Information Sheet: The contact information sheet should include complete contact information, including addresses, phone and fax numbers, and e-mail addresses, for the graduate student applicant, the Principal Investigator(s), and the institution's grants/financial officer (person who signs the SF–424).

Content of Project Narrative Statement: The project narrative should be carefully developed in accordance with ACF's research goals and agenda as described in the Purpose, Background, and Priorities sections of this funding opportunity, and the structure requirements listed in Section V. Application Review Information. Please see Section V.1. Criteria for instructions on preparing the project summary/abstract and the full project description.

Content of Letters of Agreement: For research conducted with Head Start, the application must contain (A) an original copy of a letter from the Head Start or Early Head Start program certifying that they have entered into a research partnership with the applicant (graduate student) and (B) a separate letter certifying that the application has been reviewed and approved by the local Head Start Program Policy Council. This certification of approval or pending approval by the Policy Council must be an original letter from the official representative of the Policy Council itself.

You may submit your application to us in either electronic or paper format. To submit an application electronically, please use the *http://www.Grants.gov/Apply* site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. ACF will not accept grant applications via e-mail or facsimile transmission.

Please note the following if you plan to submit your application electronically via Grants.gov:

- Electronic submission is voluntary, but strongly encouraged.
- 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. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on *www.Grants.gov.*
- You must search for the downloadable application package by the CFDA number.

An original and two copies of the complete application are required. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound.

Private, non-profit institution of higher education are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Standard Forms and Certifications

The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under section V Application Review Information. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement.

Applicants seeking financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Applicants must sign and return the standard forms with their application.

Applicants must furnish prior to award an executed copy of the Standard Form LLL, Certification Regarding Lobbying, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications (approved by the Office of Management and Budget under control number 0348–0046 which expires 07/

2006). Applicants must sign and return the certification with their application.

Applicants must also understand they will be held accountable for the smoking prohibition included within P.L. 103–227, Title XII Environmental Tobacco Smoke (also known as the PRO–KIDS Act of 1994). A copy of the **Federal Register** notice which implements the smoking prohibition is included with forms. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Institutions submitting applications or proposals for support of research activities involving human subjects must submit certification of appropriate Institutional Review Board (IRB) review and approval to the Department or Agency in accordance with the Common Rule (56FR28003, June 18, 1991). Institutions must have an assurance of compliance that applies to the research to be conducted and should submit certification of IRB review and approval with each application or proposal unless otherwise advised by the Department or Agency. The appropriate forms may be found at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification form. Complete the standard forms and the associated certifications and assurances based on the instructions on the forms. The forms and certifications may be found at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Please see section V.1. Criteria, for instructions on preparing the full project description.

IV.3 Submission Dates and Times

a. Notice of Intent To Submit an Application

If you plan to submit an application, you must notify us by fax or e-mail at least three weeks prior to the submission deadline date. This information will be used only to determine the number of expert reviewers needed to review the applications. Include only the following information in this fax or email: the number and title of this announcement; the names, addresses, telephone and fax numbers, e-mail addresses of the principal investigator (mentor), the graduate student, and the fiscal agent (if known); and the name of the university, non-profit institution of higher education or other eligible organization. Do not include a description of your proposed project. Sent this information to: ''Head Start Research Support Technical Assistance Team'' at: Fax: 1–703–356–0472; Email: *opre@xtria.com.*

b. Applications

Due Dates for Applications: June 24, 2005.

Explanation of Due Dates: The closing time and date for receipt of applications is referenced above. Applications received after 4:30 p.m. eastern time on the closing date will be classified as late.

Deadline: Applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date referenced in Section IV.6. Applicants are responsible for ensuring applications are mailed or submitted electronically well in advance of the application due date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., eastern time, at the address referenced in Section IV.6., between Monday and Friday (excluding Federal holidays).

ACF cannot accommodate transmission of applications by facsimile. Therefore, applications transmitted to ACF by fax will not be accepted regardless of date or time of submission and time of receipt.

Receipt acknowledgement for application packages will not be provided to applicants who submit their package via mail, courier services, or by hand delivery. Applicants will receive an electronic acknowledgement for applications that are submitted via Grants.gov.

Late Applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

Applicants using express/overnight mail services should allow two working days prior to the deadline date for receipt of applications. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, *etc.*) occur, or when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

Checklist: You may use the checklist below as a guide when preparing your application package.

What to submit	Required content	Required form or format	When to submit
SF424	See section IV	*http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
Assurances and Certifications	See section IV	*http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
Assurance Regarding Protection of Human Subjects.	See section IV	*http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.

Additional Forms: Private, non-profit institutions of higher education are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

What to submit	Required content	Location	When to submit
Survey for Private, Non-Profit Grant Applicants	See form	May be found on *www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.

IV.4 Intergovernmental Review

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 1, 2004, the following jurisdictions have elected to participate in the Executive Order process: Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, American Samoa, Guam, North Mariana Islands, Puerto Rico, and Virgin Islands. As these jurisdictions have elected to participate in the Executive Order process, they have established SPOCs. Applicants from participating jurisdictions should contact their SPOC, as soon as possible, to alert them of prospective applications and receive instructions. Applicants must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2).

A SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 4th floor, Washington, DC 20447.

Although the remaining jurisdictions have chosen not to participate in the process, entities that meet the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, *etc.* does not have a SPOC. Therefore, applicants from these jurisdictions, or for projects administered by federally-recognized Indian Tribes, need take no action in regard to E.O. 12372.

The official list, including addresses, of the jurisdictions that have elected to participate in E.O. 12372 can be found on the following URL: http://www.whitehouse.gov/omb/grants/spoc.html.

IV.5 Funding Restrictions

Grant awards will not allow reimbursement of pre-award costs.

Transferability. Grants awarded as a result of this competition are not transferable to another student or to another institution.

Sharing of Awards. Awards cannot be divided among two or more students.

IV.6 Other Submission Requirements

Submission by Mail: An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications should be mailed to: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182, Phone: 877–663–0250, E-mail: *opre@xtria.com.*

Hand Delivery: An applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m. eastern time, Monday through Friday. Applications should be delivered to: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182, Phone: 877–663–0250.

Electronic Submission: http://www.Grants.gov. Please see section IV. 2 Content and Form of Application Submission, for guidelines and requirements when submitting applications electronically.

V. Application Review Information

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 25 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 which expires 4/30/2007.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Criteria

Purpose. The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, information responsive to each of the requested evaluation criteria must be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

General Instructions

ACF is particularly interested in specific project descriptions that focus on outcomes and convey strategies for achieving intended performance. Project descriptions are evaluated on the basis of substance and measurable outcomes, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix. Pages should be numbered

and a table of contents should be included for easy reference.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived. For example, explain how your proposed project will achieve the specific goals and objectives you have set; specify the number of children and families to be served, and how the services to be provided will be funded consistent with the local needs assessment. Or, explain how the expected results will benefit the population to be served in meeting its needs for early learning services and activities. What benefits will families derive from these services? How will the services help them? What lessons will be learned which might help other agencies and organizations that are addressing the needs of a similar client population?

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished.

When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.''

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Evaluation

Provide a narrative addressing how the conduct of the project and the results of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

Additional Information

Following are requests for additional information that need to be included in the application:

Staff and Position Data

Provide a biographical sketch and job description for each key person appointed. Job descriptions for each vacant key position should be included as well. As new key staff is appointed, biographical sketches will also be required.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners, such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. If the applicant is a non-profit organization, submit proof of non-profit status in its application.

The non-profit institution of higher education can accomplish this by providing: (a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; (b) a copy of a currently valid IRS tax exemption certificate; (c) a statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals; (d) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; (e) any of the items immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application OR by application deadline.

Budget and Budget Justification

Provide a budget with line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. Also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), and annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Other

Description: Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, upon notification that an award will be made, it should immediately develop a tentative indirect cost rate proposal based on its most recently completed fiscal year, in accordance with the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. When an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Non-Federal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application so the applicant is given credit in the review process. A detailed budget must be prepared for each funding source.

Evaluation Criteria: The following evaluation criteria appear in weighted descending order. The corresponding score values indicate the relative importance that ACF places on each evaluation criterion; however, applicants need not develop their applications precisely according to the order presented. Application components may be organized such that a reviewer will be able to follow a seamless and logical flow of information (*e.g.,* from a broad overview of the project to more detailed information about how it will be conducted).

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Approach 40 Points

- The extent to which there is a discrete project designed by the graduate student. If the proposed project is part of a larger study designed by others, the approach section should clearly delineate the research component to be carried out by the student and how it is distinguished from the larger research project.
- The extent to which the research design is clearly described, as well as appropriate and sufficient for addressing the questions of the study.
- The extent to which the planned research specifies the measures to be used, their psychometric properties, and contains an adequately detailed description of the proposed analyses to be conducted.
- The extent to which the planned measures have been shown to be appropriate and sufficient for the questions of the study, and the population to be studied.
- The extent to which the planned measures and analyses are consistent with one another, and reflect knowledge and use of state-of-the-art measures and analytic techniques, or advance the state-of-the art, as appropriate.
- The extent to which the data analytic plan is adequately described and that the proposed data analytic techniques are appropriate for the specific research question(s) under consideration.
- The extent to which the proposed sample size is sufficient to answer the

range of proposed research questions for the study, especially for longitudinal studies and studies involving a priori subgroups of interest.

• The extent to which the scope of the project is reasonable for the funds available and feasible for the time frame specified.

• The extent to which the planned approach reflects sufficient written input from, and partnership with, the Head Start program (including the separate required review and written approval from the Head Start program and the Head Start Program Policy Council).

• The extent to which the budget and budget justification are appropriate for carrying out the proposed project.

• The extent to which the researchers assure adequate protection of human subjects, confidentiality of data, and consent procedures, as appropriate.

Staff and Position Data 35 Points

• The extent to which the faculty mentor and graduate student possess the research expertise necessary to conduct the study as demonstrated in the application and information contained in their vitae.

• The Principal Investigator/faculty mentor has earned a doctorate or equivalent in the relevant field and has first or second author publications in major research journals.

• The extent to which the faculty mentor and graduate student reflect an understanding of and sensitivity to the issues of working in a community setting and in partnership with Head Start program staff and parents.

• The adequacy of the time devoted to this project by the faculty mentor for mentoring the graduate student. The proposal should include evidence of the faculty mentor's commitment to mentoring the individual graduate student, and as appropriate, willingness to serve as a resource to the broader group of Head Start Graduate Students funded under this award.

Results or Benefits Expected 25 Points

• The research questions are clearly stated.

• The presentation reflects original work done by the student (consistent with the general principles and guidelines of the Ethical Principles of Psychologists and Code of Conduct 2002 (APA 2002).

• The extent to which the questions are of importance and relevance for low-income children's development and welfare.

• The extent to which the research study makes a significant contribution to the knowledge base.

• The extent to which the literature review is current, comprehensive, and supports the need for the study.

• The extent to which the literature review has a complete set of reference citations and is written consistent with the guidelines of the Publication Manual of the American Psychological Association, 5th ed. (APA 2001).

• The extent to which the questions that will be addressed or the hypotheses that will be tested are adequately described and sufficient for meeting the stated objectives.

• The extent to which the proposed project is appropriate to the student's level of ability and the stated time frame for completing the project.

2. Review and Selection Process

No grant award will be made under this announcement on the basis of an incomplete application.

Each application will undergo an eligibility and conformance review by Federal staff. Applications that pass the eligibility and conformance review will be evaluated on a competitive basis according to the specified evaluation criteria.

The competitive review will be conducted in the Washington, DC, metropolitan area by panels of Federal and non-Federal experts knowledgeable in the areas of early childhood education and intervention research, early learning, child care, and other relevant program areas.

Application review panels will assign a score to each application and identify its strengths and weaknesses.

OPRE will conduct an administrative review of the applications and results of the competitive review panels and make recommendations for funding to the Director of OPRE.

The Director of OPRE, in consultation with the Commissioner of the Administration on Children, Youth, and Families (ACYF), will make the final selection of the applications to be funded. Applications may be funded in whole or in part depending on: (1) The ranked order of applicants resulting from the competitive review; (2) staff review and consultations; (3) the combination of projects that best meets the Bureau's objectives; (4) the funds available; and (5) other relevant considerations. The Director may also elect not to fund any applicants with known management, fiscal, reporting, program, or other problems, which make it unlikely that they would be able to provide effective services.

Approved but Unfunded Applications: Applications that are approved but unfunded may be held over for funding in the next funding cycle, pending the availability of funds, for a period not to exceed one year.

VI. Award Administration Information

1. Award Notices

The successful applicants will be notified through the issuance of a Financial Assistance Award document which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided (if applicable), and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements

45 CFR Part 74; 45 CFR Part 92.

3. Reporting Requirements

Programmatic Reports: Semi-Annually.

Financial Reports: Semi-Annually.

Programmatic Reports: Semi-annually and a final report is due 90 days after the end of the grant period.

Financial Reports: (SF–269 long form) Semi-annually and a final report is due 90 days after the end of the grant period.

Original reports and one copy should be mailed to: Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447.

VII. Agency Contacts

Program Office Contact: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182. Phone: 877–663–0250. E-mail: *opre@xtria.com.*

Grants Management Office Contact: Tim Chappelle, 370 L'Enfant Promenade, Washington, DC 20447, Phone: 202–401–4855. E-mail: *tichappelle@acf.hhs.gov.*

VIII. Other Information

Notice: Beginning with FY 2006, The Administration for Children and Families (ACF) will no longer publish grant announcements in the **Federal Register**. Beginning October 1, 2005 applicants will be able to find a synopsis of all ACF grant opportunities and apply electronically for opportunities via: *www.Grants.gov*. Applicants will also be able to find the complete text of all ACF grant announcements on the ACF Web site

located at: *http://www.acf.hhs.gov/grants/index.html.*

Direct Federal grants, subaward funds, or contracts under the Head Start Program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this Program. Regulations pertaining to the prohibition of Federal funds for inherently religious activities can be found on the HHS Web site at *http://www.os.dhhs.gov/fbci/waisgate21.pdf.*

Applicants will be sent acknowledgements of received applications.

Dated: April 20, 2005.

Naomi Goldstein,

Director, Office of Planning, Research, and Evaluation.

[FR Doc. 05–8219 Filed 4–22–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Planning, Research and Evaluation (OPRE); Notice

Funding Opportunity Title: Head Start Graduate Student Research, Partnership Development Grants.

Announcement Type: Initial.

Funding Opportunity Number: HHS–2005–ACF–OPRE–YD–0069.

CFDA Number: 93.600.

Due Date for Letter of Intent or Preapplications: June 3, 2005.

Due Date for Applications: Application is due June 24, 2005.

Executive Summary: Funds are provided for Graduate Student Research Partnership Development Grants to develop or enhance Head Start Research Partnerships.

This grant program is part of a larger set of Head Start research announcements. Three other grant funding mechanisms are being offered concurrently with the one described in this announcement. They include: (1) Head Start Graduate Student Research Grants, (2) Head Start-University Partnerships: Curriculum Development and Enhancement for Head Start and Early Head Start Programs, and (3) American Indian-Alaska Native Head Start-University Partnerships. For more information, please see these other Head Start Research announcements listed in the **Federal Register** or listed on *http://www.Grants.Gov.*

Funding for this grant program is shared with the Head Start Graduate Student Research Grants. Relative funding for the two sets of Head Start Graduate Student Research Grants is contingent upon the results of the review process.

I. Funding Opportunity Description

Head Start Graduate Student Research Partnership Development Grants

A. Purpose

This is to announce the availability of Head Start Graduate Student Research Partnership Development Grant funds to support graduate students' efforts to create, develop, and/or enhance ongoing research partnerships with Head Start programs in good standing. The primary goal of this priority area is to support the development of critical research partnerships with Head Start programs that will lead to a truly collaborative set of research activities.

B. Statutory Authority

Section 649 of the Head Start Act, as amended by the Coats Human Services Reauthorization Act of 1998 (Pub. L. 105–285), codified at 42 U.S.C. 9844.

C. Background

Starting in 1991, ACF began explicitly supporting the relationship between established Head Start researchers and their graduate students by awarding research grants, on behalf of specific graduate students, to conduct research in Head Start communities.

The unique partnership that is forged between mentor and student within the Head Start research context serves as a model for the establishment of other partnerships within the community (*e.g.*, researcher-Head Start staff, researcher-family, *etc.*). This foundation helps foster the skills necessary to build a graduate student's trajectory of successful partnership-building and contributions to the scientific community. Within this nurturing and supportive relationship, young researchers are empowered to become autonomous researchers, learning theory as well as the process of interacting with the various members and relevant organizations within their communities.

However, effectively developing new research partnerships between researchers and Head Start communities also requires considerable planning, effort, and commitment. Without resources to support this work, students in graduate programs that do not already have a research partnership with a Head Start program are discouraged from conducting research in this arena. Additionally, in places where partnerships between researchers and Head Start communities already exist, the benefit of the partnerships for the Head Start partners could be strengthened by focused, on-going efforts that specifically target enhancing the collaborative relationship. One example of such an effort might be to help a Head Start partner interpret and implement research findings in a program.

In recognition of these facts, ACF recently established a new funding mechanism designed to facilitate the entry of more mentor/student teams to the field of Head Start research by encouraging the development of such new research partnerships. It is also intended to support students dedicated to strengthening existing research partnerships. As noted above, the primary goal of this priority area is to support the development of critical research partnerships with Head Start programs that will lead to a truly collaborative set of research activities.

The broad goals of this priority area are similar to those of the Head Start Graduate Student Research Grant program, and can be summarized as follows:

- Provide direct support for graduate students engaging in the development of research partnerships with Head Start programs, thus strengthening the links between Head Start and the research community, and increasing the research that contributes to the knowledge base about the best approaches for delivering services to diverse, low-income families and their children;
- Promote mentor-student relationships which support students' graduate training and professional development as young community-based researchers engaged in policy-relevant, applied research;
- Emphasize the importance of developing true working research partnerships with Head Start programs and other relevant entities within the community, thereby fostering skills necessary to build a student's trajectory of successful partnership-building and contributions to the scientific community; and
- Support the active communication, networking and collaboration among graduate students, their mentors and other prominent researchers in the field, both during their graduate training, as well as into the early stages of their research careers.

Priority Area 1: Head Start Graduate Student Research Partnership Development Grants

1. Description: This is to announce the availability of Head Start Graduate Student Research Partnership Development Grant funds to support graduate students' efforts to create, develop, and/or enhance ongoing research partnerships with Head Start programs in good standing. The primary goal of this priority area is to support the development of critical research partnerships with Head Start programs that will lead to a truly collaborative set of research activities.

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Priority Area Funding: $80,000.

Anticipated Number of Awards: 4 to 8.

Ceiling on Amount of Individual Awards Per Budget Period: $10,000.

An application that exceeds the upper value of the dollar range specified will be considered non-responsive and will not be eligible for funding under this announcement.

Average Projected Award Amount: $10,000.

Length of Project Periods: 12 month project and budget period.

III. Eligibility Information

1. Eligible Applicants

State controlled institutions of higher education and private institutions of higher education, including faith-based and community-based institutions of higher education.

Additional Information on Eligibility:

1. Eligible applicants are institutions of higher education on behalf of *doctoral-level graduate students*. Doctoral students must have completed their Master's Degree or equivalent in the field of doctoral study and submitted formal notification to ACF by *August 1, 2005.*

2. To be eligible to administer the grant on behalf of the student, the institution must be fully accredited by one of the regional accrediting commissions recognized by the Department of Education and the Council on Postsecondary Accreditation.

2. Cost Sharing/Matching

None.

3. Other

1. Although the faculty mentor is listed as the Principal Investigator and must be committed to taking a central role in maintaining an on-going research partnership with a Head Start program, this grant is intended for dissertation research for an individual student. Information about both the graduate student and the student's faculty mentor is required as part of this application.

2. The graduate student applicant must agree to attend *two* meetings each year of the grant. The budget should reflect travel funds for such purposes. The first meeting consists of the annual meeting for all Head Start Graduate Student grantees. This annual grantee meeting is typically scheduled during the summer or fall of each year and is held in Washington, DC. It is anticipated that the fall 2005 meeting will be held in mid to late October. During this meeting, each student typically presents a brief overview of his or her study (*e.g.*, the study design, participants, measures, challenges and successes during implementation, and/or findings, as they become available). The intended goal of the meeting is to stimulate potentially useful and constructive feedback from other students and mentors, as well as to facilitate collaboration, networking and mentoring activities.

The second meeting each year alternates between the biennial Head Start National Research Conference in Washington, DC (June or July, 2006) and the biennial meeting of the Society for Research in Child Development (SRCD) (April, 2007). At a minimum, students usually are provided the opportunity to present information on their respective studies in a poster session format, although both meetings also provide other networking and mentoring activities. The grant budget should reflect travel and housing funds for the graduate student for these two required meetings.

3. Given the strong emphasis that is placed on supporting the mentor-student relationship, it is crucial that the faculty mentors attend and actively participate in the activities of the annual grantee meeting for all Head Start Graduate Students. The budget should reflect travel funds for such purposes, as appropriate. However, if the faculty mentor does plan to attend the annual Graduate Student grantee meeting, but will utilize another source of travel funds, such arrangements are encouraged and should be clearly noted in the application.

4. Dun and Bradstreet Numbers: All applicants must have Dun & Bradstreet numbers. On June 27, 2003 the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.Grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement, and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number online at *http://www.dnb.com.*

5. Private, Non-Profit institutions of higher education, including faith-based and community-based institutions of higher education, are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants'' titled, ''Survey on Ensuring Equal Opportunity for Applicants'' at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

6. Any Non-Profit institution of higher education, including faith-based and community-based institutions of higher education, submitting an application must submit proof of its Non-profit status at the time of submission. Any of the following constitutes proof of Non-Profit status:

—A copy of the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code.

—A copy of a currently valid IRS tax exemption certificate.

—A written statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a Non-Profit status and that none of the net earning accrue to any private shareholders or individuals.

—A certified copy of the organization's certificate of incorporation or similar document that clearly establishes Non-Profit status.

—Any of the items above for a State or national parent organization *and* a statement signed by the parent organization that the applicant organization is a local Non-Profit affiliate.

7. A university faculty member must serve as a mentor to the graduate student; this faculty member is listed as the ''Principal Investigator.'' The application must include a letter from

this faculty member stating that s/he has reviewed and approved the application, affirming the status of the project as dissertation research and the student's status in the doctoral program, and describing how the faculty member will regularly monitor the student's work.

8. The Principal Investigator must have a doctorate or equivalent degree in the respective field, conduct research as a primary professional responsibility, and have published or have been accepted for publication in the major peer-reviewed research journals in the field as a first author or second author.

9. An important element of this announcement is the requirement that researchers demonstrate a partnership or partnerships with Head Start or Early Head Start programs as part of the development, piloting, refinement, training, and implementation of research activities. The application must contain a letter from the Head Start or Early Head Start program certifying that they have entered into a partnership with the applicant and the application has been reviewed and approved by the Head Start or Early Head Start Policy Council (see section IV.2. for further details about these letters).

10. The partnership development project must be an independent project conducted by the individual graduate student or well-defined portion(s) of a larger study currently being conducted by a faculty member. If the project is part of a larger research effort, the proposal must clearly distinguish between the student's portion of the partnership development activities and those of the larger project. The graduate student must have primary responsibility for the proposed activities described in the application.

11. The graduate student must write the application in its entirety, consistent with the format and style guidelines of the Publication Manual of the American Psychological Association, 5th ed. (American Psychological Association, 2001) and the general principles and guidelines of the Ethical Principles of Psychologists and Code of Conduct 2002 (APA, 2002).

The aforementioned eleven items will not be used as criteria to screen out applications.

Disqualification Factors

- Applications that exceed the ceiling amount will be considered non-responsive and will not be eligible for funding under this announcement.
- Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

IV. Application and Submission Information

IV.1 Address to Request Application Package

Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182. Phone: 877–663–0250. E-mail: *opre@xtria.com.*

IV.2 Content and Form of Application Submission

An original and two copies of the complete application are required. The original copy must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound. The two additional copies of the complete application must include all required forms, certifications, assurances, and appendices and must also be submitted unbound. Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Format and Organization: Applicants are strongly encouraged to limit their application to 100 pages, double-spaced, with standard one-inch margins and 12-point fonts. This page limit applies to both narrative text and supporting materials but not the Standard Federal Forms (*see* list below). Applicants must number the pages of their application beginning with the Table of Contents.

Applicants are advised to include all required forms and materials and to organize these materials according to the format, and in the order, presented below:

a. Cover Letter.

b. Contact information sheet (*see* details below).

c. Standard Federal Forms.

Standard Application For Federal Assistance (Form 424).

Budget Information—Non-Construction Programs (Form 424A).

Certifications Regarding Lobbying.

Disclosures of Lobbying Activities (if necessary).

Certification Regarding Environmental Tobacco Smoke.

Assurance Regarding Non-Construction Programs (Form 424B).

Assurance Regarding Protection of Human Subjects

d. Table of Contents.

e. Project Abstract (not to exceed one page).

f. Project Narrative Statement (*see* details below).

g. Appendix.

Proof of Non-Profit Status (*see* section V.1.F).

Curriculum Vitae for Student and Faculty Advisor.

Letter of Support from Advisor.

Letter(s) of agreement with Head Start program(s) (*see* details below).

Letter(s) of agreement with Head Start Policy Council(s) (*see* details below).

Official Transcript of Student Reflecting Graduate Courses.

Content of Contact Information Sheet: The contact information sheet should include complete contact information, including addresses, phone and fax numbers, and e-mail addresses, for the graduate student applicant, the Principal Investigator(s), and the institution's grants/financial officer (person who signs the SF–424).

Content of Project Narrative Statement: The project narrative should be carefully developed in accordance with ACF's research goals and agenda as described in the Purpose, Background, and Priorities of this funding opportunity, and the structure requirements listed in the section V. Application Review Information. Please *see* section V.1. Criteria for instructions on preparing the project summary/abstract and the full project description.

Content of Letters of Agreement: For research conducted with Head Start, the application must contain (A) an original copy of a letter from the Head Start or Early Head Start program certifying that they have entered into a research partnership with the applicant (graduate student) and (B) a separate letter certifying that the application has been reviewed and approved by the local Head Start Program Policy Council. This certification of approval or pending approval by the Policy Council must be an original letter from the official representative of the Policy Council itself.

You may submit your application to us in either electronic or paper format.

To submit an application electronically, please use the *http://www.Grants.gov/Apply* site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. ACF will not accept grant applications via e-mail or facsimile transmission.

Please note the following if you plan to submit your application electronically via Grants.gov

- Electronic submission is voluntary, but strongly encouraged.
- 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. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.

- To use Grants.gov, you, as the applicant, must have a DUNS number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including all information typically included on the SF–424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on *http://www.Grants.gov*.
- You must search for the downloadable application package by the CFDA number.

An original and two copies of the complete application are required. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound.

Private, Non-Profit institutions of higher education are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm*.

Standard Forms and Certifications: The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under section V Application Review Information. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement.

Applicants seeking financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Applicants must sign and return the standard forms with their application.

Applicants must furnish prior to award an executed copy of the Standard Form LLL, Certification Regarding Lobbying, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications (approved by the Office of Management and Budget under control number 0348–0046 which expires 07/2006). Applicants must sign and return the certification with their application.

Applicants must also understand they will be held accountable for the smoking prohibition included within P.L. 103–227, title XII Environmental Tobacco Smoke (also known as the PRO–KIDS Act of 1994). A copy of the **Federal Register** notice which implements the smoking prohibition is included with forms. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Institutions submitting applications or proposals for support of research activities involving human subjects must submit certification of appropriate Institutional Review Board (IRB) review and approval to the Department or Agency in accordance with the Common Rule (56FR28003, June 18, 1991). Institutions must have an assurance of compliance that applies to the research to be conducted and should submit certification of IRB review and approval with each application or proposal unless otherwise advised by the Department or Agency. The appropriate forms may be found at *http://www.acf.hhs.gov/programs/ofs/forms.htm*.

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification form. Complete the standard forms and the associated certifications and assurances based on the instructions on the forms. The forms and certifications may be found at: *http://www.acf.hhs.gov/programs/ofs/forms.htm*.

Please see section V.1. Criteria, for instructions on preparing the full project description.

IV.3 Submission Dates and Times

a. Notice of Intent

If you plan to submit an application, you must notify us by fax or e-mail at least three weeks prior to the submission deadline date. This information will be used only to determine the number of expert reviewers needed to review the applications. Include only the following information in this fax or e-mail: the number and title of this announcement; the names, addresses, telephone and fax numbers, e-mail addresses of the principal investigator (mentor), the graduate student, and the fiscal agent (if known); and the name of the university, non-profit institution of higher education or other eligible organization. Do not include a description of your proposed project. Sent this information to: ''Head Start Research Support Technical Assistance Team'' at: Fax: 1–703–356–0472. E-mail: *opre@xtria.com*.

b. Applications

Application Due Date: June 24, 2005.

Explanation of Due Dates: The closing time and date for receipt of applications is referenced above. Applications received after 4:30 p.m. eastern time on the closing date will be classified as late.

Deadline: Applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date referenced in section IV.6. Applicants are responsible for ensuring applications are mailed or submitted electronically well in advance of the application due date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., eastern time, at the address referenced in section IV.6., between Monday and Friday (excluding Federal holidays).

ACF cannot accommodate transmission of applications by facsimile. Therefore, applications transmitted to ACF by fax will not be accepted regardless of date or time of submission and time of receipt.

Receipt acknowledgement for application packages will not be

provided to applicants who submit their package via mail, courier services, or by hand delivery. Applicants will receive an electronic acknowledgement for applications that are submitted via Grants.gov.

Late Applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

Applicants using express/overnight mail services should allow two working days prior to the deadline date for receipt of applications. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, *etc.*) occur, or when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

Checklist: You may use the checklist below as a guide when preparing your application package.

What to submit	Required content	Required form or format	When to submit
SF–424	See Section IV.	*http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
Assurances and Certifications	See Section IV.	*http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
Assurance Regarding Protection of Human Subjects..	See Section IV.	Assurance Regarding Protection of Human Subjects..	By application due date.

Additional Forms: Private, Non-Profit institutions of higher education are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

What to submit	Required content	Location	When to submit
Survey for Private, Non-Profit Grant Applicants.	See form	May be found on *www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.

IV.4 Intergovernmental Review:

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 1, 2004, the following jurisdictions have elected to participate in the Executive Order process: Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, American Samoa, Guam, North Mariana Islands, Puerto Rico, and Virgin Islands. As these jurisdictions have elected to participate in the Executive Order process, they have established SPOCs. Applicants from participating jurisdictions should contact their SPOC, as soon as possible, to alert them of prospective applications and receive instructions. Applicants must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2).

A SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 4th floor, Washington, DC 20447.

Although the remaining jurisdictions have chosen not to participate in the process, entities that meet the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. Therefore, applicants from these jurisdictions, or for projects administered by Federally-recognized Indian Tribes, need take no action in regard to E.O. 12372.

The official list, including addresses, of the jurisdictions that have elected to participate in E.O. 12372 can be found on the following URL: *http://www.whitehouse.gov/omb/grants/spoc.html.*

IV.5 Funding Restrictions

Grant awards will not allow reimbursement of pre-award costs.

Sharing of Awards: Awards can not be divided among two or more students.

IV.6 Other Submission Requirements

Submission by Mail: An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications should be mailed to: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182. Phone: 877–663–0250. E-mail: *opre@xtria.com.*

Hand Delivery: An applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time

on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m. eastern time, Monday through Friday. Applications should be delivered to: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182, Phone: 877–663–0250. *E-mail: opre@xtria.com.*

Electronic Submission: http://www.Grants.gov Please see section IV. 2 Content and Form of Application Submission, for guidelines and requirements when submitting applications electronically.

V. Application Review Information

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 25 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 which expires 4/30/2007.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Criteria

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, information responsive to each of the requested evaluation criteria must be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

General Instructions

ACF is particularly interested in specific project descriptions that focus on outcomes and convey strategies for achieving intended performance. Project descriptions are evaluated on the basis of substance and measurable outcomes, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix. Pages should be numbered and a table of contents should be included for easy reference.

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions while being aware of the specified evaluation criteria. The text options give a broad overview of what your project description should include while the evaluation criteria identifies the measures that will be used to evaluate applications.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance. Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived. For example, explain how your proposed project will achieve the specific goals and objectives you have set; specify the number of children and families to be served, and how the services to be provided will be funded consistent with the local needs assessment. Or, explain how the expected results will benefit the population to be served in meeting its needs for early learning services and activities. What benefits will families derive from these services? How will the services help them? What lessons will be learned which might help other agencies and organizations that are addressing the needs of a similar client population?

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished.

When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.''

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Evaluation

Provide a narrative addressing how the conduct of the project and the results of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

Additional Information

Following are requests for additional information that need to be included in the application:

Staff and Position Data

Provide a biographical sketch and job description for each key person appointed. Job descriptions for each vacant key position should be included as well. As new key staff is appointed, biographical sketches will also be required.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners, such as organizational charts, financial statements, audit reports or statements from Certified Public Accountants/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/state/local government standards, documentation of experience in the program area, and other pertinent information. If the applicant is a Non-Profit organization, submit proof of Non-Profit status in its application.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application OR by application deadline.

Budget and Budget Justification

Provide a budget with line-item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. Also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), and annual salary, grant salary, wage rates, *etc.* Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits. *Description:* Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, Federal Insurance Contributions Act (FICA), retirement insurance, taxes, *etc.*

Travel. *Description:* Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Supplies. *Description:* Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Other. Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges. *Description:* Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, upon notification that an award will be made, it should immediately develop a tentative indirect cost rate proposal based on its most recently completed fiscal year, in accordance with the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. When an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Non-Federal Resources. *Description:* Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application so the applicant is given credit in the review process. A detailed budget must be prepared for each funding source.

Evaluation Criteria: The following evaluation criteria appear in weighted descending order. The corresponding score values indicate the relative importance that ACF places on each evaluation criterion; however, applicants need not develop their applications precisely according to the order presented. Application components may be organized such that a reviewer will be able to follow a seamless and logical flow of information (*e.g.*, from a broad overview of the project to more detailed information about how it will be conducted).

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Approach 40 Points

- The extent to which the approach is based in community/ecological/empowerment models, in which research needs are considered in the larger context of program needs, as well as mutually beneficial and empowering relationships.
- The extent to which the proposal demonstrates an approach to the planning, effort, and commitment to development and/or enhancement of Head Start-research partnership(s) consistent with the descriptions in this announcement (see III.A.11 for further details).
- The extent to which there is a discrete project designed by the graduate student. If the proposed project is part of a larger project designed by others, the approach section should clearly delineate the research

partnership development component to be carried out by the student and how it is distinguished from the larger project (see III.A.12 for further details).

• The extent to which the goals and objectives of the proposed activities, the set of benchmarks for guiding and assessing progress, and the set of products to be generated are clearly articulated and reflect an appropriate understanding of how these activities will fit within the context and complexities of the Head Start program's operations (see III.A.13 for further details).

• The extent to which the description of the proposed project articulates a set of partnership development activities that are consistent with the activities described in this announcement, as opposed to a set of activities associated with the implementation of an already formulated research study. As noted earlier, the primary goal of this priority area is targeted towards the partnership development activities and not the conduct of an actual research study.

• The scope of the project is reasonable for the funds available and feasible for the time frame specified.

• The extent to which the planned approach or proposed research partnership activities reflect sufficient opportunities for written input from and an active partnership with the Head Start program (including the separate required review and written approval of the proposed partnership activities from the Head Start program and the Head Start Program Policy Council).

• The extent to which the budget and budget justification are appropriate for carrying out the proposed research project development activities.

• The extent to which proposed products reflect concrete and measurable steps toward design of a future dissertation project.

• As applicable, the extent to which the researchers assure adequate protection of human subjects, confidentiality of data, and consent procedures, as appropriate.

Staff and Position Data 35 Points

• The extent to which the faculty mentor and graduate student possess the expertise necessary to successfully form a research partnership with a Head Start program as demonstrated in the application and information contained in their vitae.

• The Principal Investigator/faculty mentor has earned a doctorate or equivalent in the relevant field and has first or second author publications in major research journals.

• The extent to which the faculty mentor and graduate student reflect an understanding of and sensitivity to the issues of working in a community setting and in a reciprocal partnership with Head Start program staff and parents.

• The adequacy of the time devoted to this project by the faculty mentor for mentoring the graduate student. The proposal should include evidence of the faculty mentor's commitment to mentoring the individual graduate student, and as appropriate, willingness to serve as a resource to the broader group of Head Start Graduate Students funded under this award.

• The extent to which the mentor-mentee relationship is clearly described and has the potential to continue throughout the student's dissertation process.

Results or Benefits Expected 25 Points

• The presentation reflects original work done by the student consistent with the general principles and guidelines of the Ethical Principles of Psychologists and Code of Conduct 2002 (APA 2002).

• The extent to which the literature review, as well as a description of the needs of the local community if appropriate, is current, comprehensive, and adequately supports the need for developing this or similar research partnerships.

• The extent to which proposed goals and objectives for the year address the needs identified.

• The extent to which the specific products to be generated through the grant, as well as the benchmarks for assessing progress toward these goals and objectives, are clearly described and will potentially benefit the Head Start and/or research communities.

• The extent to which the literature review has a complete set of reference citations and is written consistent with the guidelines of the Publication Manual of the American Psychological Association, 5th ed. (APA 2001).

• The extent to which the proposed project is appropriate to the student's level of ability and the stated time frame for completing the project.

• The extent to which potential research questions are clearly stated and are of importance and relevance for low-income children's development and welfare.

2. Review and Selection Process

No grant award will be made under this announcement on the basis of an incomplete application.

Each application will undergo an eligibility and conformance review by Federal staff. Applications that pass the eligibility and conformance review will be evaluated on a competitive basis according to the specified evaluation criteria.

The competitive review will be conducted in the Washington, DC metropolitan area by panels of Federal and non-Federal experts knowledgeable in the areas of early childhood education and intervention research, early learning, child care, and other relevant program areas.

Application review panels will assign a score to each application and identify its strengths and weaknesses.

OPRE will conduct an administrative review of the applications and results of the competitive review panels, and make recommendations for funding to the Director of OPRE.

The Director of OPRE, in consultation with the Commissioner of the Administration on Children, Youth, and Families (ACYF), will make the final selection of the applications to be funded. Applications may be funded in whole or in part depending on: (1) The ranked order of applicants resulting from the competitive review; (2) staff review and consultations; (3) the combination of projects that best meets the Bureau's objectives; (4) the funds available; and (5) other relevant considerations. The Director may also elect not to fund any applicants with known management, fiscal, reporting, program, or other problems, which make it unlikely that they would be able to provide effective services.

Approved but Unfunded Applications: In cases where more applications are approved for funding than ACF can fund with the money available, the Grants Officer shall fund applications in their order of approval until funds run out. In this case, ACF has the option of carrying over the approved applications up to a year for funding consideration in a later competition of the same program. These applications need not be reviewed and scored again if the program's evaluation criteria have not changed. However, they must then be placed in rank order along with other applications in later competition.

VI. Award Administration Information

1. Award Notices

The successful applicants will be notified through the issuance of a Financial Assistance Award document which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided, and the total project period for which support is contemplated. The

Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements

45 CFR Part 74; 45 CFR Part 92

3. Reporting Requirements

Programmatic Reports: Semi-Annually.

Financial Reports: Semi-Annually.

Financial Reports: (SF–269 long form) Semi-annually and a final report is due 90 days after the end of the grant period. Original reports and one copy should be mailed to: Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447.

VII. Agency Contacts

Program Office Contact: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182. Phone: 877–663–0250. E-mail: *opre@xtria.com*.

Grants Management Office Contact: Tim Chappelle, 370 L'Enfant Promenade, Washington, DC 20447. Phone: 202–401–4855. E-mail: *tichappelle@acf.hhs.gov*.

VIII. Other Information

Notice: Beginning with FY 2006, The Administration for Children and Families (ACF) will no longer publish grant announcements in the **Federal Register**. Beginning October 1, 2005, applicants will be able to find a synopsis of all ACF grant opportunities and apply electronically for opportunities via: *http://www.Grants.gov*. Applicants will also be able to find the complete text of all ACF grant announcements on the ACF Web site located at: *http://www.acf.hhs.gov/grants/index.html*.

Direct Federal grants, sub-award funds, or contracts under the Head Start Program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this Program. Regulations pertaining to the prohibition of Federal funds for inherently religious activities can be found on the HHS Web site at *http://www.os.dhhs.gov/fbci/waisgate21.pdf*.

Applicants will be sent acknowledgements of received applications.

Dated: April 20, 2005.

Naomi Goldstein,

Director, Office of Planning, Research, and Evaluation.

[FR Doc. 05–8220 Filed 4–22–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Financial Services, Division of Financial Integrity

Funding Opportunity Title: Public Assistance Reporting Information System (PARIS) State Partnership Grants.

Announcement Type: Initial.

Funding Opportunity Number: HHS–2005–ACF–OA–TA–0017.

CFDA Number: 93.647.

Due Date for Applications: Application is due June 24, 2005.

Executive Summary: The Consolidated Appropriations Act, 2005 (House of Representatives H.R. 4818—November 19, 2004) as a part of the Departments of Labor, Health and Human Services (HHS), and Education and Related Agencies Appropriations Act, 2005, pursuant to Public Law 108–447 has appropriated funds to support a wide range of activities intended to encourage additional states to join the PARIS Project and to evaluate its effectiveness. Activities funded under this appropriation will be carried out under Section 1110 of the Social Security Act.

To implement the program and to expand the number of participating jurisdictions, the Administration for Children and Families is issuing this grant announcement. Its purpose is to increase states' participation in the PARIS Project through Partnerships between Member states and Partner states (See Section III.1. Additional Information on Eligibility) resulting in increased matches and a reduction in improper payments.

I. Funding Opportunity Description

PARIS is a voluntary project for those states willing to share public assistance data among a like-minded group of states that wish to maintain program integrity and detect and deter improper payments. The PARIS Project has been operational and matches have been performed every quarter since August 1999. Using the Social Security Number as the key, the match process compares payouts made by states under various benefit programs (for example, Temporary Assistance for Needy Families (TANF), Medicaid and Food Stamps) against various data bases. There are three parts of the PARIS match process: (1) The Veterans Administration (VA) database match which determines if a client is collecting VA benefits; (2) the Interstate match where participating states during a particular quarter match against each other (which determines if a client is collecting benefits in more than one state) and (3) the Federal match, which determines whether anyone receiving public assistance benefits is also collecting a payment as a U.S. Federal or military employee in the form of a retirement pension or as a current member of the military or civilian workforce. The PARIS computer facility performs the PARIS match and provides any hits to the appropriate state, where state staff can verify the data and follow pertinent procedures for notice and opportunity to contest. No permanent database is created for PARIS and all electronic data submissions from all sources are destroyed after each quarterly match run. Participating states are not charged for any costs associated with the matching process. The number of states with signed PARIS agreements is twenty-six (26).

The purpose of this grant announcement is (1) to encourage new states to join PARIS (e.g., sign a PARIS agreement and participate in the PARIS matches) and (2) to provide financial assistance to support a partnership between a Member state currently participating in PARIS and a Partner state, a state currently not participating in the PARIS Project. Either a Member state or a Partner state may initiate the development of an application. By expanding the population of the current PARIS base, more matches may result in greater dollar savings for participant states. This partnership between the two states shall facilitate the establishment of Information Technology (IT) policies and procedures for PARIS implementation in the Partner state. Further, it is intended to enhance the Partner state's capacity to participate in the PARIS Project on a regular basis after the Grant is completed (at least once a year, but preferably more). During the course of the grant period, the Member and Partner states must participate in the PARIS Project at least during the quarterly match in November 2005 and February 2006 in order to allow enough time for the states to follow-up on the match data identifying

potential improper payments and allow an evaluation contractor adequate time to assess the effectiveness of PARIS.

After evaluation of all grant applications, and if chosen for an award, the Member state will be awarded a grant under which it will act as a fiduciary agent to the Partner state. The Member state will be responsible for all funding that is provided to its Partner state and will reimburse funding provided hereunder, as costs are incurred, for specific items delineated in its approved grant application budget and in accordance with HHS fiscal and grants management requirements.

The financial assistance will be available to aid Partner states in defraying costs of establishing a new IT capacity to produce PARIS input data in accordance with prescribed parameters, hiring additional staff with PARIS-related duties, cooperating with the evaluation contractor who will be evaluating the cost-effectiveness of the PARIS Project, and working in a professional manner with its Member state and the other selected awardees.

A number of parameters must be considered by the applicants to participate in the competition and to be considered for an award:

(1) The Partnership agreement must be signed by both states. Generally, this is accomplished by an authorized state official (Secretary of Department, Director of Fraud Office, etc., depending where the PARIS Project will be based in the state).

(2) The two states must agree to provide PARIS match results and data on resulting benefits, savings and/or cost effectiveness to the Federal PARIS Project Manager as well as to a separate ACF contractor who will be evaluating PARIS. The states must take care not to release any information considered non-releasable under any relevant Federal statutes such as the Privacy Act or terms and conditions of the PARIS agreement, or in violation of any state laws within the applicable jurisdictions.

(3) The Member state must provide a proposed budget that includes the resources and associated costs it believes are necessary to have its Partner state participate in the match process. This proposed budget will be evaluated for adequacy, reasonableness and to ensure that implementation of the partnership will be both operationally effective and successful. ACF anticipates that the Partner state will have a greater need for financial assistance than the Member state. Examples of the type of activities Partner and Member states may consider under these grants include: Development of data with respect to cost efficiency in cooperation with the evaluation contractor; Partner state coding issues; Staff time and consultations between Member states and Partner states; Travel to support grant activities; Follow-up on ''red flags'' identified through the Match Process; and Partner state systems development analysis and IT-related changes to accommodate the PARIS Project. This list should not be considered limiting or all-inclusive but merely illustrative. Proposed budgets should include the cost of any travel-related expenses between the Member and Partner states. A two-day PARIS conference followed by a one-day workshop is planned. The purpose of the workshop is to assemble all the selected grant award applicants in one venue to share expectations, address any issues/questions about the process and ensure that expected results are attained. This meeting will focus on orientation to the PARIS Project and related challenges, similarities and differences of states selected under this grant announcement. Funding for this conference and workshop shall be provided separately under an ACF logistics contract. However, applicants selected for award under this announcement should plan on attending both the conference and workshop.

(4) The location of the Partner state selected by the Member state will be examined to determine the appropriateness of the selection. It is recommended that Member states look to their borders (contiguous states) for those states that are NOT members of the PARIS community.

(5) For Member states to be eligible for this funding opportunity they must have participated in at least two of the last six PARIS matches (from November 2003 through February 2005).

(6) Applicants are cautioned that the ceiling for each grant award is $150,000. Applications exceeding the $150,000 threshold will be considered non-responsive and will not be eligible for funding under this announcement.

(7) One application must be submitted for each partnership grant. Member states may submit up to two applications under this grant announcement.

(8) The Partner state must enroll in the PARIS Project and provide a copy of the PARIS agreement with the grant application to document Partner state consent by the closing date of the grants announcement. See the following link for a copy of the PARIS agreement: *http://www.acf.hhs.gov/nhsitrc/Aurl.jsp?pageID=sampleparismoa.*

(9) When participating in the matches, the Partner state must submit its data electronically through Connect-Direct to the Defense Manpower Data Center in Monterey, California, the official PARIS computer facility.

(10) At a minimum, an award recipient, the Member and Partner states must participate in the Veterans and Interstate Match. States are encouraged to participate in any additional matches available. The Member and Partner states must submit Medicaid data (at a minimum) when submitting their quarterly match input. States are encouraged to submit Food Stamp and Temporary Assistance to Needy Families (TANF) data also.

(11) If one is scheduled, representatives from both Member and Partner states must participate in a Public Forum and present results obtained.

Member states should have a thorough knowledge of the PARIS Project, its procedures and intricacies of both submitting data and analyzing the resulting output. Expected outcomes from the partnership must include:

(1) Facilitating the development, support and maintenance of the PARIS Project in the Partner state to ensure that a process is firmly established to strengthen and support the viability of the matching process and the potential to save funding;

(2) Conducting a needs assessment of required services, and if necessary, recommending alternatives for how they might be achieved;

(3) Developing internal operating controls and procedures related to the PARIS program in the Partner state;

(4) Facilitating networks, IT hardware, software and available resources employing best practices needed to implement PARIS in the Partner state;

(5) Coordinating the analysis of matching data to ensure that the cost benefits of the investment will be attained;

(6) Promoting the meaningful participation of the Partner state in providing the necessary input to ensure that the appropriate data has been gathered to match in accordance with the PARIS website's specific directives;

(7) Enhancing the capacity of the Partner state to become an active participant in the PARIS Project not only for the quarterly matches during the course of the grant's project period but thereafter;

(8) The Member state is expected to train, assist and monitor the Partner state's input into the quarterly matches.

This list is meant to be illustrative, not exhaustive of the type of issues the Member state should address when preparing the application.

Additional information concerning the PARIS Project and its operation is available from the website (*www.acf.hhs.gov/paris*) or by calling the Federal contacts listed in this grants announcement.

Background Information

The Office of Financial Services (OFS), Office of Administration, Administration for Children and Families (ACF), is responsible for the operational aspects of the PARIS Project, a national program. OFS has ultimate responsibility for developing, interpreting and disseminating ACF's grant management policies. OFS fulfills this mission by providing financial management leadership and conducting activities to ensure the most effective use of ACF funding. OFS intends to closely monitor the progress of all grant activities.

PARIS assists states in formulating methodologies for identifying and decreasing improper payments. PARIS helps states validate that the individuals/families receiving benefits under the public assistance programs administered by ACF, the Centers for Medicare & Medicaid Services and the Food and Nutrition Service are eligible and provides data that assists in case determinations. Approved applicants must be willing to work closely with Federal and contractor staff to coordinate, assist or evaluate the activities of this venture in providing technical assistance.

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Priority Area Funding per Project Period: $1,200,000.

Anticipated Number of Awards: 1 to 8.

Ceiling on Amount of Individual Awards per Project Period: $150,000.

Floor on Amount of Individual Awards per Project Period: None.

Average Projected Award Amount per Project Period: $150,000.

Length of Project Periods: 12-month project and budget period.

III. Eligibility Information

1. Eligible Applicants

State governments.

Additional Information on Eligibility:

In the context of this grant announcement, a member state of PARIS must have participated in at least two of the last six quarterly matches from November 2003 through February 2005. The following States meet this eligibility factor: CT, DC, DE, FL, IL, KS, KY, MA, MD, MO, MS, NC, NE, NJ, NY, PA, PR, RI, TN, UT, VA and WA., and only these Member states may submit applications under this grant announcement. Any state not defined as a Member state may be considered a Partner state. The application must include the Partnership agreement as well as the appropriate signed PARIS agreement for the Partner state. A state is defined as any state within the United States of America, its territories and the District of Columbia. Eligible applicable agencies are encouraged to apply. (Please reference Section III.3 Other).

2. Cost Sharing/Matching

None.

3. Other

Any Member state may submit no more than two Partnership grant applications. All applications will be reviewed to ensure that accessible transportation exists between the capitols of the Member state and the proposed Partner state and to the amount of funding requested for the Member state versus the Partner state.

All applicants must have a Dun & Bradstreet number. On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires Federal grant applicants to provide a Dun & Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the governmentwide electronic portal (*www.Grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Disqualification Factors

Applications that exceed the ceiling amount will be considered non-responsive and not be considered for funding under this announcement.

Applications that fail to satisfy the deadline requirements referenced in Section IV.3 will be considered non-responsive and not be considered for funding under this announcement.

The following additional factors will cause an application to be considered non-responsive and not be considered for funding under this announcement:

Applications that are not submitted by a Member state.

Applications that fail to include a written Partnership agreement between the Member state and Partner state.

Applications that fail to provide a signed PARIS agreement by the Partner state.

Applications that fail to specify at least two of the last six quarterly PARIS matches from November 2003 through February 2005 in which the Member state has participated.

Applications received by any applicant exceeding the two application limit per applicant.

Please reference Section III.1 Additional Information on Eligibility.

IV. Application and Submission Information

1. Address To Request Application Package

Administration for Children and Families, Office of Financial Services/ Division of Financial Integrity, Mark Graboyes, 370 L'Enfant Promenade, SW., 6th Floor East, Washington, DC 20047. Phone: 202–401–7237. Email: *mgraboyes@acf.hhs.gov*.

2. Content and Form of Application Submission

Applications must contain a partnership agreement from the Partner state indicating its agreement to team with the Member state for purposes of this grant.

You may submit your application to ACF in either electronic or paper format.

To submit an application electronically, please use the *http://www.Grants.gov/Apply* site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. ACF will not accept grant applications via email or facsimile transmission.

Please note the following if you plan to submit your application electronically via Grants.gov:

- Electronic submission is voluntary, but strongly encouraged.
- 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. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- We recommend you visit Grants.gov at least 30 days prior to filing your

application to fully understand the process and requirements. We encourage applicants who submit electronically to submit well before the closing date and time so that if difficulties are encountered an applicant can still send in a hard copy overnight. If you encounter difficulties, please contact the Grants.gov Help Desk at 1–800–518–4276 to report the problem and obtain assistance with the system.

- To use Grants.gov, you, as the applicant, must have a DUNS number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on *www.Grants.gov*.
- You must search for the downloadable application package by the CFDA number.

Note that this application requires proof of an agreement between the PARIS Member state and its Partner state as well as a signed PARIS agreement (available on the PARIS website). If submitting electronically, these agreements should be scanned and attached as an ''Other'' document in Grants.gov.

Applicants that are submitting their application in paper format should submit an original and two copies of the complete application. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures and be submitted unbound.

Standard Forms and Certifications

The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Section V Application Review Information. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement.

Applicants seeking financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Applicants must sign and return the standard forms with their application.

Applicants must furnish prior to award an executed copy of the Standard Form LLL, Certification Regarding Lobbying, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must also understand they will be held accountable for the smoking prohibition included within Public Law 103–227, Title XII Environmental Tobacco Smoke (also known as the PRO–KIDS Act of 1994). A copy of the **Federal Register** notice which implements the smoking prohibition is included with forms. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification form. Complete the standard forms and the associated certifications and assurances based on the instructions on the forms. The forms and certifications may be found at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Please see Section V.1, for instructions on preparing the full project description.

3. Submission Dates and Times

Due Date for Applications: June 24, 2005.

Explanation of Due Dates

The closing time and date for receipt of applications is referenced above. Applications received after 4:30 p.m. eastern time on the closing date will be classified as late.

Deadline: Applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date referenced in Section IV.6. Applicants are responsible for ensuring applications are mailed or submitted electronically well in advance of the application due date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., eastern time, at the address referenced in Section IV.6., between Monday and Friday (excluding Federal holidays).

ACF cannot accommodate transmission of applications by facsimile. Therefore, applications transmitted to ACF by fax will not be accepted regardless of date or time of submission and time of receipt.

Receipt acknowledgement for application packages will not be provided to applicants who submit their package via mail, courier services, or by hand delivery. However, applicants will receive an electronic acknowledgement for applications that are submitted via *http://www.Grants.gov*.

Late Applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

Applicants using express/overnight mail services should allow two working days prior to the deadline date for receipt of applications. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

Checklist

You may use the checklist below as a guide when preparing your application package.

What to submit	Required content	Required form or format	When to submit
Project Abstract	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.
Project Description	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.
Budget Narrative/Justification	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.
SF424	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
SF–LLL Certification Regarding Lobbying.	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By date of award.
Certification Regarding Environmental Tobacco Smoke.	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By date of award.
Assurances	See Section IV.2	See *http://www.acf/hhs/gov/programs/ofs/forms.htm.*	By date of award.
Table of Contents	See Section IV.2	Found in Section IV.2	By application due date.
SF424A	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
PARIS Agreement	See Sections I and III.3	Agreement between state and PARIS Project.	By application due date.
Partnership Agreement	See Sections I and III.3	Agreement between Member and Partner states.	By application due date.
SF424B	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.

4. Intergovernmental Review

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, states may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 1, 2004, the following jurisdictions have elected to participate in the Executive Order process: Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, American Samoa, Guam, North Mariana Islands, Puerto Rico and Virgin Islands. As these jurisdictions have elected to participate in the Executive Order process, they have established SPOCs. Applicants from participating jurisdictions should contact their SPOC, as soon as possible, to alert them of prospective applications and receive instructions. Applicants must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2).

A SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official state process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 4th floor, Washington, DC 20447.

Although the remaining jurisdictions have chosen not to participate in the process, entities that meet the eligibility requirements of the program are still eligible to apply for a grant even if a state, Territory, Commonwealth, etc. does not have a SPOC. Therefore, applicants from these jurisdictions, or for projects administered by Federally-recognized Indian Tribes, need take no action in regard to E.O. 12372.

The official list, including addresses, of the jurisdictions that have elected to participate in E.O. 12372 can be found on the following URL: *http://www.whitehouse.gov/omb/grants/spoc.html.*

5. Funding Restrictions

Grant awards will not allow reimbursement of pre-award costs.

There is no construction allowed on this project. Foreign travel is prohibited. Equipment purchases are not allowed, although software, if necessary to support PARIS data development and analysis, may be acquired by the Partner state.

6. Other Submission Requirements

Submission by Mail: An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. Please see Section IV.3 for an explanation of due dates. Applications should be mailed to: Administration for Children and Families, Office of Grants Management, Attn: Daphne Weeden, 370 L'Enfant Promenade, SW., 4th Floor East, Aerospace Center, Washington, DC 20447.

Hand Delivery: An applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m. eastern time, Monday through Friday. Applications should be delivered to: Administration for Children and Families, Office of Grants Management, Attn: Daphne Weeden, 370 L'Enfant Promenade, SW., 4th Floor East, Aerospace Center, Washington, DC 20447.

Electronic Submission: *http://www.Grants.gov.* Please see Section IV.2 for guidelines and requirements when submitting applications electronically.

V. Application Review Information

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 15 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 which expires 4/30/2007.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Criteria

The following are instructions and guidelines on how to prepare the ''project summary/abstract'' and ''full project description'' sections of the application. Under the evaluation criteria section, note that each criterion is preceded by the generic evaluation requirement under the ACF Uniform Project Description (UPD).

Part I—The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, information responsive to each of the requested evaluation criteria must be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

General Instructions

ACF is particularly interested in specific project descriptions that focus on outcomes and convey strategies for achieving intended performance. Project descriptions are evaluated on the basis of substance and measurable outcomes, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix. Pages should be numbered and a table of contents should be included for easy reference.

Introduction

Applicants are required to submit a full project description shall prepare the project description statement in accordance with the following instructions while being aware of the specified evaluation criteria. The text options give a broad overview of what your project description should include while the evaluation criteria identifies the measures that will be used to evaluate applications.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived.

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished.

Evaluation

Provide a narrative addressing how the conduct of the project and the results of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

Additional Information

Following are requests for additional information that need to be included in the application:

Staff and Position Data

Provide a biographical sketch and job description for each key person appointed. Job descriptions for each vacant key position should be included as well. As new key staff is appointed, biographical sketches will also be required.

Plan for Project Continuance Beyond Grant Support

Provide a plan for securing resources and continuing project activities after Federal assistance has ended.

Business Plan

When Federal grant funds will be used to make an equity investment, provide a business plan. The business plan shall include:

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners, such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. If the applicant is a non-profit organization,

submit proof of non-profit status in its application.

The non-profit agency can accomplish this by providing: (a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; (b) a copy of a currently valid IRS tax exemption certificate, (c) a statement from a state taxing body, state attorney general, or other appropriate state official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals; (d) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status, (e) any of the items immediately above for a state or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Dissemination Plan

Provide a plan for distributing reports and other project outputs to colleagues and the public. Applicants must provide a description of the kind, volume and timing of distribution.

Third-Party Agreements

Provide written and signed agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application or by application deadline.

Budget and Budget Justification

Provide a budget with line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. Also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

Use the following guidelines for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. ''Federal resources'' refers only to the ACF grant for which you are applying. ''Non-Federal resources'' are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: First column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Include third party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant.

Justification: Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than states that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000).

Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing

or renegotiating a rate, upon notification that an award will be made, it should immediately develop a tentative indirect cost rate proposal based on its most recently completed fiscal year, in accordance with the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. When an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Total Direct Charges, Total Indirect Charges, Total Project Costs

Evaluation Criteria:

The following evaluation criteria appear in weighted descending order. The corresponding score values indicate the relative importance that ACF places on each evaluation criterion; however, applicants need not develop their applications precisely according to the order presented. Application components may be organized such that a reviewer will be able to follow a seamless and logical flow of information (*i.e.*, from a broad overview of the project to more detailed information about how it will be conducted).

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Results or Benefits Expected 25 Points

The application will be evaluated in terms of the extent to which it identifies results and benefits to be derived and the anticipated contributions to the advancement of the PARIS Project. The application will be evaluated on the extent to which it clearly describes project benefits and results as they relate to the objectives of the project and provide a basis as to what extent the project will build on current practice and best practices to contribute to the continuing success of the PARIS Project.

Objectives and Need for Assistance 25 Points

The application will be evaluated in terms of the extent to which it describes the context of the proposed demonstration project, including the environment and magnitude of the Member-Partner state relationship and what will be resolved and the needs to be addressed. Applications requesting funds should include a summary/abstract of the project goals and projected accomplishments during the grant's period of performance.

Approach 25 Points

Applications will be evaluated in terms of the extent to which they include a plan that (1) reflects an understanding of the characteristics, needs and services that are available from the PARIS Project and the potential for helping its Partner state achieve provision of services that directly address the fulfillment of the PARIS Project; (2) is appropriate and feasible; (3) can be reliably evaluated; (4) if successfully implemented, can be sustained after Federal funding has ceased.

Budget and Budget Justification 10 Points

Adequacy and reasonableness of proposed budget for accomplishing all program objectives.

Geographic Location 10 Points

Proximity of PARIS Member state and its Partner state. Member states are encouraged to look to their contiguous states (which might reduce travel and per-diem expenses depending on the location of their state capitols) or other states where accessible transportation exists to help ensure that the majority of grant funds are utilized for costs other than travel.

Third-Party Agreements 5 Points

Application includes signed written agreement between PARIS Member state and its Partner state that fully describes roles and responsibilities of each and evidences their agreement to support the PARIS Evaluation contractor during the project period.

2. Review and Selection Process

No grant award will be made under this announcement on the basis of an incomplete application.

If an insufficient number of acceptable applications, as determined by ACF, are received under this program announcement ACF has the option of negotiating and awarding grant amounts higher than the $150,000 award ceiling set forth in this announcement among those applicants who have submitted acceptable applications.

Initial Screening: Each application submitted will be screened to determine whether it was received by the closing date and time.

Applications received by the closing date and time will be reviewed for completeness and conformity with the requirements listed in this announcement. Late applications or those exceeding the funding limit will be returned to the applicants with a notation that they were unacceptable and will not be reviewed.

Evaluation of Applications: Applications that pass the initial screening will be reviewed and rated by a panel based on the program elements and review criteria presented in relevant sections of this program announcement.

The review criteria are designed to enable the review panel to assess the quality of a proposed project and determine the likelihood of its success. The criteria are closely related to each other and are considered as a whole in judging the overall quality of an application. The review panel awards points only to applications that are responsive to the program elements and relevant review criteria within the context of this program announcement.

ACF will use the reviewer scores when considering competing applications. Reviewer scores will weigh heavily in funding decisions, but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by the review panel. Because other important factors are taken into consideration, highly ranked applications are not guaranteed funding. These other considerations include, for example: Comments of reviewers and government officials; staff evaluation and input; amount and duration of the grant requested and the proposed project's consistency and harmony with the goals of the PARIS Project; geographic distribution of applications; previous program performance of applicants; compliance with grant terms under previous HHS grants; previous audit findings; and applicant's progress in resolving any final audit disallowance on previous ACF or other Federal agency grants.

Applications that are approved but unfunded may be held over for funding in the next funding cycle, pending the availability of funds, for a period not to exceed one year.

3. Anticipated Announcement and Award Dates

It is anticipated that the grant awards will be awarded in the fourth quarter of FY2005.

VI. Award Administration Information

1. Award Notices

The successful applicants will be notified through the issuance of a

Financial Assistance Award document which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided, and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements

Grantees are subject to the requirements in 45 CFR Part 92 (governmental).

Direct Federal grants, subaward funds, or contracts under this Program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this Program. Regulations pertaining to the prohibition of Federal funds for inherently religious activities can be found on the HHS web site at: *http://www.os.dhhs.gov/fbci/waisgate21.pdf*

3. Reporting Requirements

Program Progress Reports: Quarterly
Financial Reports: Quarterly

Grantees will be required to submit program progress and financial reports (SF 269) throughout the project period. Program progress and financial reports are due 30 days after the reporting period. In addition, final programmatic and financial reports are due 90 days after the close of the project period.

VII. Agency Contacts

Program Office Contact: Administration for Children and Families, Office of Financial Services/Division of Financial Integrity, Attn: Mark Graboyes, 370 L' Enfant Promenade, SW., 6th Floor East, Aerospace Center, Washington, DC 20447. Phone: 202–401–7237. Email: *mgraboyes@acf.hhs.gov.*

Grants Management Office Contact: Administration for Children and Families, Office of Grants Management, Attn: Daphne Weeden, 370 L' Enfant Promenade, SW., 4th Floor East, Aerospace Center, Washington, DC 20447. Phone: 202–401–4575. Email: *dweeden@acf.hhs.gov.*

VIII. Other Information

Notice: Beginning with FY2006, ACF will no longer publish grant announcements in the **Federal Register**. Beginning October 1, 2005, applicants will be able to find a synopsis of all ACF grant opportunities and apply electronically for opportunities via: *www.Grants.gov*. Applicants will also be able to find the complete text of all ACF grant announcements on the ACF web site located at: *http://www.acf.hhs.gov/grants/index.html*.

Please reference Section IV.3 for details about acknowledgement of received applications.

Dated: April 19, 2005.

Curtis L. Coy,

Director, Office of Administration, Administration for Children and Families.

[FR Doc. 05–8218 Filed 4–22–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Community Services

Funding Opportunity Title: Community Services Block Grant—Rural Community Development Activities Program

Announcement Type: Initial.
Funding Opportunity Number: HHS–2005–ACF–OCS–EF–0030.
CFDA Number: 93.570.
Due Date for Applications: June 24, 2005.

Summary

The Administration for Children and Families (ACF), Office of Community Services (OCS), announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority. The Community Services Block Grant (CSBG) Act of 1981; as amended (Section 680(a)(3)(B) of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998), authorizes the Secretary of the U.S. Department of Health and Human Services (HHS) to provide assistance for rural community development activities, which shall include providing grants to multi-state, regional, private, non-profit organizations to enable the organizations to provide training and technical assistance to small, rural communities concerning meeting their community facilities needs.

Awards will be contingent on the outcome of the competition and the availability of funds. This announcement is inviting applications for a 12-month budget period and a 60-month project period. Applications for continuation grants funded under these awards beyond the one-year budget period but within the five-year project period will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding will be in the best interest of the Government.

I. Funding Opportunity Description

The Community Services Block Grant (CSBG) Act of 1981, as amended (Section 680(a)(3)(B) of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998), authorizes the Secretary of the U.S. Department of Health and Human Services (HHS) to provide assistance for rural community development activities, which shall include providing grants to multi-state, regional, private, non-profit organizations to enable the organizations to provide training and technical assistance to small, rural communities concerning meeting their community facility needs. Pursuant to this announcement, the Office of Community Services (OCS) will award grants to private non-profits to provide training and technical assistance on water and waste water management systems for small, rural low-income communities. The low-income beneficiaries to this program are those who are determined to be living in poverty as determined by the HHS Guidelines on Poverty (*See* Appendix A).

Program Evaluation

Pursuant to the requirement of Section 680(b) of the COATES Act, OCS will provide funds to an independent third party research organization to evaluate the effectiveness of the programs and services carried out by the grantees funded pursuant to this announcement, individually and as an overall strategy for improving the quality of life and economic well-being of residents in small, rural communities, particularly as they affect low-income residents of those communities and contribute to developing and sustaining healthy rural communities.

Pursuant to that requirement, approximately $200,000 in FY 2005 funds will be made available for developing an evaluation design.

Project Goals

The ultimate goals of the projects to be funded under this program are:

1. To provide training and technical assistance in developing and managing community facilities in rural areas that will help low-income rural communities

develop the capacity and expertise to establish and/or maintain needed community facilities, which include: (a) Affordable, adequate and safe water and waste water treatment facilities; (b) increasing the community capacity building skills; and (c) assisting the communities with developing community leadership skills.

2. To improve the coordination of Federal, State and local agencies' funding resources to assist with: (a) Water and waste water management systems; (b) community capacity building; and (c) developing community leadership skills.

3. To provide data and information needed for the evaluation of the projects to demonstrate the effectiveness of these activities and interventions and of the project designs through which they were implemented; and to cooperate with the third-party entity carrying out evaluation of the programs; and

4. To distribute information to low-income rural communities on available Federal assistance to support these activities and contribute to developing and sustaining healthy rural communities.

Program Priority Areas

There is only one program priority area in this announcement.

Definition of Terms

For the purposes of this announcement:

1. *Budget Period:* The time intervals into which a project period is divided for budgetary and funding purposes.

2. *Cash Contributions:* The cash outlay including the money contributed to the project or program by the recipient and third parties.

3. *Community Economic Development (CED):* A process by which a community uses resources to attract capital and increase physical, commercial, and business development and job opportunities for its residents.

4. *Distressed Community:* An urban neighborhood or rural community of high unemployment and pervasive poverty.

5. *Eligible Applicant:* A multi-state, regional, private non-profit organization that can provide training and technical assistance to small, rural communities concerning their community facility needs. Faith-based organizations that meet the above requirements are eligible to apply.

6. *Empowerment Zones and Enterprise Communities (EZ/EC):* Those communities designated as such by the Secretaries of Agriculture or Housing and Urban Development.

7. *Faith-based Organizations:* Faith-based organizations that are exempt from taxation under 501(c)(3) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of Section 501(c) of such Code and private non-profit corporations or organizations are also eligible to apply for funds under this program announcement.

8. *Indian Tribe:* An Indian tribe or a private, non-profit corporation or organization.

9. *Job Creation:* Jobs that were not in existence before the start of the project.

10. *Job Placement:* Placing a person in an existing vacant job of a business, service, or commercial activity not related to new development or expansion activity.

11. *Poverty Income Guidelines:* Guidelines published annually by the U.S. Department of Health and Human Services that establish the level of poverty defined as low-income for individuals and their families.

12. *Program Income:* Gross income earned by the grant recipient that is directly generated by an activity supported with grant funds.

13. *Project Period:* The total time for which a project is approved for OCS support, including any approved extensions.

14. *Rural Community:* A community or defined rural area with a population under 10,000, although most activities of the Rural Community Assistance Program are carried out in rural areas with populations of 2,000 or less.

15. *Secretary:* The Secretary of Health and Human Services, acting through the Director of the Office of Community Services.

16. *Self-Sufficiency:* A condition where an individual or family neither needs nor is eligible for public assistance.

17. *Technical Assistance:* A problem-solving event or intervention utilizing the services of an expert. Such services may be provided on-site, by telephone, or by other communications. These services address specific problems and are intended to assist in immediately resolving a given problem or set of problems.

18. *Temporary Assistance for Needy Families (TANF):* Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193) created the TANF program that transformed welfare into a system that requires work in exchange for time-limited assistance.

19. *Third Party:* Any individual organization, or business entity that is not the direct recipient of grant funds.

20. *Third Party In-kind Contributions:* The value of non-cash contributions provided by non-federal third parties in the form of real property, equipment, supplies, and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or programs.

Awards will be contingent on the outcome of the competition and the availability of funds.

Priority Area: Rural Community Development Activities Program

1. *Description:*

The project description provides the major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise, complete, and address the activity for which Federal funds are being requested. Supporting documents should present information clearly and succinctly. Applicants are required to provide information on their organizational structure, staff, related experience, and other relevant information. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, to include this information in the application. However, in the narrative, the applicant must distinguish resources directly related to the proposed project from those that will not be used specifically to support the project for which funds are requested.

The Community Services Block Grant (CSBG) Act of 1981, as amended (Section 680(a)(3)(B) of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998), authorizes the Secretary of the U.S. Department of Health and Human Services (HHS) to provide assistance for rural community development activities, which shall include providing grants to multi-state, regional, private, non-profit organizations to enable the organizations to provide training and technical assistance to small, rural communities concerning meeting their community facility needs. Pursuant to this announcement, the Office of Community Services (OCS) will award grants to multi-state, regional, private, non-profit organizations to provide training and technical assistance to rural low-income communities in the development of community facilities. The low-income community beneficiaries to this program are those who are determined to be living in poverty as determined by the HHS Guidelines on Poverty (See Appendix A).

Project Goals

The ultimate goals of the projects to be funded under this program are:

1. To provide training and technical assistance in developing and managing community facilities in rural areas that will help low-income communities develop the capability and expertise to establish and/or maintain needed community facilities, which may include: (a) Affordable, adequate, and safe water and waste water treatment facilities; (b) increasing the community capacity building skills; and (c) developing leadership skills.

2. To improve the coordination of Federal, State and local agencies' funding resources to assist with: (a) water and waste water management systems; (b) community capacity building; and (c) developing community leadership skills.

3. To provide data and information needed for the evaluation of the projects to demonstrate the effectiveness of these activities and interventions and of the project designs through which they were implemented; and to cooperate with the third-party entity carrying out evaluation of the programs;and

4. To distribute information to low-income rural communities on available Federal assistance to support these activities and contribute to developing and sustaining healthy rural communities.

Attendance of Technical Assistance and Evaluation Workshops/Conferences.

OCS will sponsor at least one national evaluation workshop in Washington, DC or in other locations, if necessary, during the course of the project period. Project Directors will be expected to attend such workshops and should include the expenses of attending as a part of their original budget request.

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Priority Area Funding: $6,719,000.

Anticipated Number of Awards: 6 to 7.

Ceiling on Amount of Individual Awards: $1,000,000 per budget period.

Floor on Amount of Individual Awards: $719,000 per budget period.

Average Projected Award Amount: $1,000,000 per budget period.

Length of Project Periods: 5 year project period with 12 month budget periods

This announcement invites applications for project periods up to five years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for five years. Applications for continuation grants funded under these awards beyond the one-year budget period but within the five-year project period will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding will be in the best interest of the Government.

An application that exceeds the upper value of the dollar range specified will be considered non-responsive and will not be eligible for funding under this announcement.

III. Eligibility Information

1. *Eligible Applicants:* Non-profits having a 501(c)(3) status with the IRS, other than institutions of higher education.

Private, non-profit organizations are encouraged to submit with their applications the optional survey located under ''Grant Manuals & Forms Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants'' at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Additional Information on Eligibility

1. Multi-state, regional, private, non-profit organizations that can provide training and technical assistance to small, rural communities concerning their community facility needs.

2. Faith-based organizations that meet the program requirements.

2. *Cost Sharing/Matching:* None.

Please refer to Section IV. for any pre-award requirements.

3. *Other:*

1. Must be multi-state, regional, private, nonprofit organizations that can provide training and technical assistance to small, rural communities concerning their community facility needs.

2. Faith-based organizations that meet the program requirements.

All Applicants must have a Dun & Bradstreet Number. On June 27, 2003 the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires Federal grant applicants to provide a Dun & Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.Grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Non-profit organizations applying for funding are required to submit proof of their non-profit status.

Proof of non-profit status is any one of the following:

- A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code.
- A copy of a currently valid IRS tax exemption certificate.
- A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earning accrue to any private shareholders or individuals.
- A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.
- Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

(The only applicable methods for the rural facilities program are the first and second items. The applicant should disregard the other areas listed).

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Disqualification Factors

Applications that exceed the ceiling amount will be considered non-responsive and will not be eligible for funding under this announcement.

Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

No award will be made under this announcement on the basis of an incomplete application.

IV. Application and Submission Information

1. Address to Request Application Package: Veronica Terrell, Administration for Children and Families, Office of Community Services' Operation Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209; Phone: 1–800–281–9519; E-mail: *OCS@lcgnet.com.*

2. *Content and Form of Application Submission:* Application pages should be numbered sequentially throughout the application package, beginning with a Summary/Abstract of the proposed project as page number one; and each application must include all of the following:

1. Project Summary/Abstract-brief, not to exceed one page on the applicant's letterhead (that will not be counted as part of the Project Narrative/Description) and that includes the following information;
2. Table of Contents;
3. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally;
4. A completed Budget Information-Non-Construction Programs (SF–424A);
5. A Budget Justification, including narrative budget justification for each object class category;
6. Proof of current non-profit status of applicant;
7. A Project Narrative, limited to 30 pages;
8. Appendices, which should include the following: (a) All the Assurances—Non-Construction; (b) resumes and/or position descriptions; (e) any letters and/or supporting documents from collaborating or partnering agencies in the target communities; (f) single point of contact comments.

List of Attachments

A. Income Poverty Guidelines
B. Application for Federal Assistance (SF 424)
C. Budget Information—Non Construction Programs (SF 424A)
D. Assurances—Non Construction Programs (SF 424B)
E. Certification Regarding Lobbying
F. Disclosure of Lobbying Activities
G. Certification Regarding Environmental Tobacco Smoke

You may submit your application to us in either electronic or paper format. To submit an application electronically, please use the *http://www.Grants.gov/Apply* site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. ACF will not accept grant applications via e-mail or facsimile transmission.

Please note the following if you plan to submit your application electronically via Grants.gov

- Electronic submission is voluntary, but strongly encouraged.
- 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. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on *http://www.Grants.gov*.
- You must search for the downloadable application package by the CFDA number.

An original and two copies of the complete application are required. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Standard Forms and Certifications

The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Section V Application Review Information. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement.

Applicants seeking financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Applicants must sign and return the standard forms with their application.

Applicants must furnish prior to award an executed copy of the Standard Form LLL, Certification Regarding Lobbying, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must also understand they will be held accountable for the smoking prohibition included within Public Law 103–227, Title XII Environmental Tobacco Smoke (also known as the PRO–KIDS Act of 1994). A copy of the **Federal Register** notice which implements the smoking prohibition is included with forms. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification form. Complete the standard forms and the associated certifications and assurances based on the instructions on the forms. The forms and certifications may be found at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Please see Section V.1. Criteria, for instructions on preparing the full project description.

Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget.

3. *Submission Dates and Times: Explanation of Due Dates:* The closing date for submission of applications is referenced above. Applications received after 4:30 eastern time on the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline time and date referenced in Section IV.6. Applicants are responsible for ensuring applications are mailed or submitted electronically well in advance of the application due date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., eastern time, at the address referenced in Section IV.6., between Monday and Friday (excluding Federal holidays).

ACF cannot accommodate transmission of applications by facsimile. Therefore, applications transmitted to ACF by fax will not be accepted regardless of date or time of submission and time of receipt.

Receipt acknowledgement for application packages will not be provided to applicants who submit their package via mail, courier services, or by hand delivery. Applicants will receive an electronic acknowledgement for applications that are submitted via Grants.gov.

Late Applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

Applicants using express/overnight mail services should allow two working days prior to the deadline date for receipt of applications. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

Checklist: You may use the checklist below as a guide when preparing your application package.

What to submit	Required content	Required form or format	When to submit
Table of Contents	See Section IV.2	Format described in IV.2	By application due date.
Project Abstract	See Section IV.2	Format described in V	By application due date.
Project Narrative	See Section IV.2	Format described in V	By application due date.
SF424	See Section IV.2	Format described in V	By application due date.
Assurances and Certifications	See Section IV.2	Format described in IV.2	By application due date.
Non-Federal Commitment Letters	See Section V	Format described in V	By application due date.

Additional Forms: Private, nonprofit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants'' at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form	May be found on *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.

4. Intergovernmental Review:

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 1, 2004, the following jurisdictions have elected to participate in the Executive Order process: Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, American Samoa, Guam, North Mariana Islands, Puerto Rico, and Virgin Islands. As these jurisdictions have elected to participate in the Executive Order process, they have established SPOCs. Applicants from participating jurisdictions should contact their SPOC, as soon as possible, to alert them of prospective applications and receive instructions. Applicants must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2).

A SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 4th floor, Washington, DC 20447.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447.

Although the remaining jurisdictions have chosen not to participate in the process, entities that meet the eligibility

requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. Therefore, applicants from these jurisdictions, or for projects administered by federally-recognized Indian Tribes, need take no action in regard to E.O. 12372.

The official list, including addresses, of the jurisdictions elected to participate in E.O. 12372 can be found on the following URL: *http://www.whitehouse.gov/omb/grants/spoc.html*.

5. *Funding Restrictions:* Grant awards will not allow reimbursement of pre-award costs.

An application that is received after the deadline date or exceeds the upper value of the dollar range specified will not be considered non-responsive and will not be eligible for funding under this announcement.

6. *Other Submission Requirements: Submission by Mail:* An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications should be mailed to: Administration for Children and Families, Office of Community Services' Operation Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209, Attention: Veronica Terrell.

Hand Delivery: An applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m. eastern time, Monday through Friday. Applications should be delivered to: Administration for Children and Families, Office of Community Services' Operation Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209, Attention: Veronica Terrell.

Electronic Submission: http://www.Grants.gov. Please see section IV. 2 Content and Form of Application Submission, for guidelines and requirements when submitting applications electronically.

V. Application Review Information

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 which expires 4/30/2007.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Criteria:*

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, information responsive to each of the requested evaluation criteria must be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

General Instructions

ACF is particularly interested in specific project descriptions that focus on outcomes and convey strategies for achieving intended performance. Project descriptions are evaluated on the basis of substance and measurable outcomes, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix. Pages should be numbered and a table of contents should be included for easy reference.

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions while being aware of the specified evaluation criteria. The text options give a broad overview of what your project description should include while the evaluation criteria identifies the measures that will be used to evaluate applications.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived.

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement. Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished.

When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates. If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.'' List organizations, cooperating entities, consultants, or other key individuals who will work on

the project along with a short description of the nature of their effort or contribution.

Evaluation

Provide a narrative addressing how the conduct of the project and the results of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

Staff and Position Data

Provide a biographical sketch and job description for each key person appointed. Job descriptions for each vacant key position should be included as well. As new key staff is appointed, biographical sketches will also be required.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners, such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. If the applicant is a non-profit organization, submit proof of non-profit status in its application. The non-profit agency can accomplish this by providing: (a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; (b) a copy of a currently valid IRS tax exemption certificate, (c) a statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals; (d) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; and (e) any of the items immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Dissemination Plan

Provide a plan for distributing reports and other project outputs to colleagues and the public. Applicants must provide a description of the kind, volume and timing of distribution.

Third-Party Agreements

Provide written and signed agreements between grantees and sub-grantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application OR by application deadline.

Budget and Budget Justification

Provide a budget with line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. Also include a breakout by the funding sources identified in Block 15 of the SF–424. Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General Personnel

Description: Costs of employee salaries and wages. Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate. Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel). Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.) Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that

included under the Equipment category. Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Include third party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant. Justification: Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc. **Note:** Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the same supporting information referred to in these instructions.

Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs. Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency. Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, upon notification that an award will be made, it should immediately develop a tentative indirect cost rate proposal based on its most recently completed fiscal year, in accordance with the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. When an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project. Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

Nonfederal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424. Justification: The firm commitment of these resources must be documented and submitted with the application so the applicant is given credit in the review process. A detailed budget must be prepared for each funding source. Grantees will be held accountable for any non-federal resources represented in their applications as committed to the project.

Evaluation Criteria

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Approach 30 Points

Element I—Approach 1—Project Implementation—(Maximum: 20 Points)

The Work Plan is both sound and feasible. The project responds to the needs identified in the Analysis of Need. It sets forth realistic quarterly time targets for task completion. Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be reasonably attained despite such potential problems.

Element II—Approach 2—Public Private Partnerships (Maximum: 10 Points)

The application documents that the applicant will mobilize from public and/or private sources cash and/or in-kind contributions. Applicants documenting that the fair value of such contributions will at least equal the OCS funds requested will receive the maximum number of points for this element. Applications proposing to mobilize contributions that are valued less than the total amount of Federal grant funds requested will receive prorated points in this element.

Staff and Position Data 15 Points

Element III—Staff Skills, Resources and Responsibilities (Sub-Rating 0–15 Points)

The application describes in brief resume form the experience and skills of the Project Director who is not only well qualified, but possesses professional capabilities relevant to successfully implementing the project. If the key staff person has not yet been identified, the application must contain a comprehensive position description indicating the relevance of the responsibilities to be assigned to the Project Director who will be successfully implementing the project. The applicant has adequate facilities and resources (*i.e.*, space and equipment) to successfully carry out the work plan. The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost-effective management of the project.

Organizational Profiles 15 Points

Element IV—Organizational Experience of Program Area and Staff Responsibilities (Maximum: 15 Points)

- Documentation provided indicates that previous projects were relevant and effective and provided permanent benefits to the low-income population.

• Organizations that propose providing training and technical assistance have detailed competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants also should address related achievements and competence of each cooperating or sponsoring organization.

Results or Benefits Expected 15 Points

Element V—Results or Benefits Expected—Significant and Beneficial Impact (Maximum: 15 Points)

The application contains a full and accurate description of the proposed use of the requested financial assistance. The proposed project will produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted and significantly enhance the health of the communities served and the well-being of their residents. Results are quantifiable in terms of program area expectations, for example, number of water systems or waste water treatment facilities begun, in construction, or completed; measurable improvement in water quality and health of watershed; amount of resources successfully mobilized for facilities improvement; and number of communities provided assistance with community capacity building and development of leadership skills. The OCS grant funds, in combination with private and/or other public resources, are targeted into rural low-income and/or designated empowerment zones and enterprise communities.

Objectives and Need for Assistance 15 Points

Element VI—Analysis of Need (Maximum: 15 Points)

The application must precisely identify the target population(s) and/or communities to be served. The geographic area to be impacted should then be briefly described, citing the percentage of low-income residents and/or communities that will be impacted and providing any other data relevant to the project design. The applicant should describe the needs of the communities and how they plan to address these needs in each relevant area of activity-training and technical assistance on water and waste water management systems, community capacity building and developing leadership.

Budget and Budget Justification 5 Points

Element VII—Budget Appropriateness and Reasonableness (Maximum: 5 Points)

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The application includes a narrative detailed budget break-down for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost. The estimated cost to the government of the project also is reasonable in relation to the anticipated results.

Evaluation 5 Points

Element VIII—Cooperation With Project Evaluation (Maximum: 5 Points)

The applicant should provide a well thought through outline of a plan for collecting, validating and reporting or providing data concerning its activities, services and constituent services to recipients. The applicant must indicate its willingness to cooperate with the organization developing the national evaluation design in identifying performance goals and measures. To be considered for funding, the applicant must provide a signed statement agreeing to cooperate with the organization evaluating the national program by providing the data and information necessary for carrying out the evaluation.

2. *Review and Selection Process:*

Initial OCS Screening

Each application submitted under this Program Announcement will undergo a pre-review to determine that the application was received by the closing date and submitted in accordance with the instructions in this Announcement.

All applications that meet the published deadline requirements as provided in this Program Announcement will be screened for completeness and conformity with the following requirements.

The following requirements must be met by all Applicants except as noted:

1. The application must contain a signed Standard Form 424 ''Application of Federal Assistance'' (SF–424), a budget (SF–424A) and signed ''Assurances'' (SF–424B) completed according to instructions. The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally. Applicant's must also be aware that the applicant's legal name as required on the SF–424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

2. A project narrative must also accompany the standard forms. OCS requests that the narrative portion of the application be limited to 30 letter-size pages, numbered consecutively, and typewritten on one side of the paper only with one-inch margins single spaced and type face no smaller than 12 characters per inch or equivalent.

3. Application should contain documentation of the applicant's non-profit status. Documentation must be provided before date of award.

Consideration of Applications

Applications which pass the initial OCS screening will be reviewed and rated by an independent review panel on the basis of the specific review criteria described in Priority Area I. The review criteria were designed to assess the quality of proposed project, and to determine the likelihood of its success. The review criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the review criteria and program elements within the context of this Program Announcement. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions, but will not be the only factors considered.

Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding because other factors are taken into consideration, including, but not limited to, the timely and proper completion of applicant of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation, and input; the amount and duration of the grant requested, the proposed project's consistency and harmony with OCS goals and policy; geographic distribution of applications; previous program performance of applicants; compliance with grant terms under previous HHS grants, including the actual dedication to program of mobilized resources as set forth in project applications; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants.

Since ACF will be using non-Federal reviewers in the process, applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for

individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information. OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to verify the applicant's performance record and the documents submitted.

VI. Award Administration Information

1. *Award Notices:*

The successful applicants will be notified through the issuance of a Financial Assistance Award document which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided, and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing.

2. *Administrative and National Policy Requirements:*

Grantees are subject to the requirements in 45 CFR part 74 (non-governmental) or 45 CFR part 92 (governmental).

3. *Reporting Requirements:*

Programmatic Reports: Semi-Annually.

Financial Reports: Semi-Annually.

Grantees will be required to submit a semi-annual program progress and financial report (SF 269) throughout the project period, as well as a final program and financial report 90 days after the end of the project period. Program progress and financial reports are due 30 days after the reporting period.

Special Terms and Conditions of Awards:

Audit Requirements

Grantees are subject to the audit requirement in 45 CFR part 74 (non-profit organizations) or part 92 (governmental entities) which require audits under OMB Circular A–133.

VII. Agency Contacts

Program Office Contact: Veronica Terrell, Administrative for Children and Families Office of Community Services, Division of Community and Discretionary Programs, 370 L'Enfant Promenade, SW.—5th Floor West, 901 D Street, SW.—5th Floor West, Washington, DC 20447; Phone: 202–401–5295; Fax: 202–205–5008 Email: *vterrell@acf.hhs.gov.*

Grants Management Office Contact: Barbara Ziegler-Johnson, Grants Management Officer, Administration for Children and Families Office of Grants Management Division of Discretionary Grants, 370 L'Enfant Promenade, SW.—4th Floor West 901 D Street, SW.—4th Floor West, Washington , DC 20447; Phone: 1–800–281–9519; Email: *OCS@lcgnet.com.*

VIII. Other Information

Notice: Beginning with FY 2006, The Administration for Children and Families (ACF) will no longer publish grant announcements in the **Federal Register**. Beginning October 1, 2005 applicants will be able to find a synopsis of all ACF grant opportunities and apply electronically for opportunities via: *http://www.Grants.gov.* Applicants will also be able to find the complete text of all ACF grant announcements on the ACF Web site located at: *http://www.acf.hhs.gov/grants/index.html.*

The FY 2006 President's budget does not include or propose funding for the Rural Community Development Activities Program. Future funding is based on the availability of Federal funds.

Direct Federal grants, subaward funds, or contracts under this rural Community Development Activities Program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this Program. Regulations pertaining to the prohibition of Federal funds for inherently religious activities can be found on the HHS Web site at *http://www.os.dhhs.gov/fbci/waisgate21.pdf.*

FOR FURTHER INFORMATION CONTACT: Veronica Terrell (202) 401–5295, *vterrell@acf.hhs.gov,* or Carol Watkins (202) 401–9356, *cwatkins@acf.hhs.gov.* Web site address for reading and downloading applications: *http://www.acf.hhs.gov/programs/ocs*—double click on ''Funding Opportunities.''

Dated: April 14, 2005.

Josephine B. Robinson,

Director, Office of Community Services.

[FR Doc. 05–8133 Filed 4–22–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Alien Crewman Landing Permit

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Alien Crewman Landing Permit. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 24, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this

document CBP is soliciting comments concerning the following information collection:

Title: Alien Crewman Landing Permit.

OMB Number: 1651–0114.

Form Number: Form CBP–95A and 95B.

Abstract: This collection of information is used by CBP to document conditions and limitations imposed upon an alien crewman applying for benefits under Section 251 of the Immigration and Nationality Act.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 433,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 35,939.

Estimated Total Annualized Cost on the Public: $359,390.

Dated: April 19, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 05–8175 Filed 4–22–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Open Meeting of the Federal Interagency Committee on Emergency Medical Services (FICEMS)

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice of open meeting.

SUMMARY: FEMA announces the following open meeting.

Name: Federal Interagency Committee on Emergency Medical Services (FICEMS).

Date of Meeting: June 2, 2005.

Place: 3rd Floor Conference Center, Twinbrook Room, Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857.

Times: 10:30 a.m.—Main FICEMS Meeting; 1 p.m.—FICEMS Ambulance Safety Subcommittee.

Proposed Agenda: Review and submission for approval of previous FICEMS Committee Meeting Minutes; Ambulance Safety Subcommittee and Counter-terrorism Subcommittee report; Action Items review; presentation of member agency reports; and reports of other interested parties.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public with limited seating available on a first-come, first-served basis. See the Response and Security Procedures below. For those driving, parking is $7.00 per day.

Response Procedures: Committee Members and members of the general public who plan to attend the meeting should contact Ms. Patti Roman, on or before Tuesday, May 30, 2005, via mail at NATEK Incorporated, 21355 Ridgetop Circle, Suite 200, Dulles, Virginia 20166–8503, or by telephone at (703) 674–0190, or via facsimile at (703) 674–0195, or via e-mail at *proman@natekinc.com.* This is necessary to be able to create and provide a current roster of visitors to HRSA Security per directives.

Security Procedures: Increased security controls and surveillance are in effect at the Parklawn Building/HRSA facilities. All visitors must have a valid picture identification card and their vehicles will be subject to search by Security personnel. All visitors will be issued a visitor pass which must be worn at all times while in the facility. Please allow adequate time before the meeting to complete the security process.

Conference Call Capabilities: If you are not able to attend in person, a toll free number has been set up for teleconferencing. The toll free number will be available from 10 a.m. until 4 p.m. Members should call in around 10:30 a.m. The number is 1–800–320–4330. The FICEMS conference code is ''885721#.''

FICEMS Meeting Minutes: Minutes of the meeting will be prepared and will be available upon request 30 days after they have been approved at the next FICEMS Committee Meeting on September 1, 2005. The minutes will also be posted on the United States Fire Administration Web site at *http://www.usfa.fema.gov/fire-service/ems/ficems.shtm* within 30 days after their approval at the September 1, 2005 FICEMS Committee Meeting.

Dated: April 18, 2005.

R. David Paulison,

U.S. Fire Administrator, Director of the Preparedness Division.

[FR Doc. 05–8179 Filed 4–22–05; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Reports, Forms, and Record Keeping Requirements: Agency Information Collection Activity Under OMB Review; Flight Crew Self-Defense Training—Registration and Evaluation

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice.

SUMMARY: This notice announces that TSA has forwarded the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and clearance of an extension of the currently approved collection under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on February 2, 2005 (70 FR 5456).

DATES: Send your comments by May 25, 2005. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Comments may be faxed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: DHS–TSA Desk Officer, at (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Katrina Wawer, Information Collection Specialist, Office of Transportation Security Policy, TSA–9, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–1995; facsimile (571) 227–2559.

SUPPLEMENTARY INFORMATION:

Transportation Security Administration (TSA)

Title: Flight Crew Self-Defense Training—Registration and Evaluation.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0028.

Forms(s): ''Level 1 End-of-Course Evaluation''; ''Community College Sign-In Sheet''

Affected Public: Flight and cabin crewmembers on commercial passenger and cargo flights.

Abstract: Section 603 of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176) requires TSA to develop and provide a voluntary advanced self-defense training program for flight and cabin crew members of air carriers providing scheduled passenger

air transportation. This collection allows TSA to collect identifying information from volunteer flight and cabin crewmembers who register for self-defense classes, and permits TSA to solicit voluntary feedback on the quality of the training.

TSA seeks renewal for this collection of information, which permits TSA to collect identifying information from flight and cabin crewmembers who register for self-defense classes, and solicits voluntary feedback from participants on the quality of the training. Identifying information is gathered from trainees who have registered for a self-defense program to confirm that they are eligible for that program (*i.e.*, that they are an active flight or cabin crewmember for a commercial or cargo air carrier), and to confirm their attendance at the self-defense classes. The information that is collected consists of the trainee's identifying information (such as the trainee's name and employee number), the name of their employer, and contact information. TSA uses a sign-in sheet to collect this information at the beginning of the self-defense course.

After training is completed, TSA solicits written feedback from trainees by using a standard TSA training evaluation form. Completion of this form is voluntary and anonymous.

Number of Respondents: 3,000.

Estimated Annual Burden Hours: An estimated 750 hours annually.

TSA is soliciting comments to—

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

(2) Evaluate the accuracy of the agency's estimate of the burden;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Issued in Arlington, Virginia, on April 19, 2005.

Lisa S. Dean,

Privacy Officer.

[FR Doc. 05–8181 Filed 4–22–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4978–N–04]

Notice of Proposed Information Collection for Public; Comment; Capital Fund

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: HUD will submit the proposal for collection of information described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department will request this previously approved information collection be extended, and is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 24, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Aneita Waites, (202) 708–0713, extension 4114, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will request an extension of and submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Public Housing Capital Fund Program.

OMB Control Number: 2577–XXXX (new approval number).

Description of the need for the information and proposed use: Public Housing Agencies (PHAs) must provide information to HUD various stages of implementing Capital Fund grant. This grant is used for modernization of existing public housing stock and development of new units, which requires contract administration and construction contracting.

Agency form numbers, if applicable: HUD–50070, HUD–50071, HUD–5084, HUD–51915, HUD–51915–A, Consolidated Public Housing Certification of Completion, HUD–5378, HUD–51971–I–II, HUD–52482, HUD–52483–A, HUD–52485, HUD–52651–A, HUD–52427, HUD–52484, HUD–52396, HUD–5372, HUD–51000, HUD–51001, HUD–51002, HUD–51003, HUD–51004, HUD–5460, Procedure for Obtaining Certificates of Insurance for Capital Program Projects, HUD–52860, HUD–52850, HUD–5369, HUD–5369A, HUD–5369B, HUD–5369C, HUD–5370, HUD–5370C, HUD–52832, HUD–52833, HUD–52834, HUD–52835, HUD–52836, HUD–52837, HUD–52838, HUD–52842, HUD–50080–COMP, HUD–53001, HUD–53015, CFFP Sample Model Term Sheet, CFFP Sample Model Debt Service Schedule, CFFP Sample Model Effective Cost of Financing, Sample Model Housing Authority—Monthly Debt Service Detail, CFFP Sample Model List of Participating PHAs.

Members of affected public: Business or other for-profit, State, Local Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Frequency of Submission: Annually.

HUD form No.	No. of respondents	Frequency of response	Estimated hours of preparation	Total annual burden hours
HUD–50070	1,500	1	0.5	750
HUD–50071	1,500	1	0.5	750
HUD–5084	3,100	1	1.5	4,650

HUD form No.	No. of respondents	Frequency of response	Estimated hours of preparation	Total annual burden hours
HUD–51915	3,100	1	3.0	9,300
HUD–51915–A	3,100	1	3.0	9,300
Consolidated Public Housing Certificate of Completion	3,100	1	1.0	3,100
HUD–5378	3,100	1	0.1	310
HUD–51971–I–II	3,100	1	1.0	3,100
HUD–52482	3,100	1	2.0	6,200
HUD–52483–A	3,100	1	2.0	6,200
HUD–52485	3,100	1	2.0	6,200
HUD–52651–A	3,100	1	2.0	6,200
HUD–52427	3,100	1	0.5	1,550
HUD–52484	3,100	1	10.0	31,000
HUD–52396	3,100	1	2.0	6,200
HUD–5372	3,100	1	1.0	3,100
HUD–51000	3,100	1	1.0	3,100
HUD–51001	3,100	1	3.5	10,850
HUD–51002	3,100	1	1.0	3,100
HUD–51003	3,100	1	1.5	4,650
HUD–51004	3,100	1	2.5	7,750
HUD–5460	3,100	1	1.0	3,100
Procedure for Obtaining Certificates of Insurance for Capital Program Projects	3,100	1	0.5	1,550
HUD–52860	3,100	1	16.0	49,600
HUD–52850	3,100	1	1.0	3,100
HUD–5369	3,100	1	0.5	1,550
HUD–5369A	3,100	1	0.5	1,550
HUD–5369B	3,100	1	0.5	1,550
HUD–5369C	3,100	1	0.5	1,550
HUD–5370	3,100	1	1.0	3,100
HUD–5370C	3,100	1	0.5	1,550
HUD–52832	3,100	1	252.0	781,200
HUD–52833	3,100	1	110.0	341,000
HUD–52834	3,100	1	40.0	124,000
HUD–52835	3,100	1	.1	310
HUD–52836	3,100	1	.1	310
HUD–52837	3,100	1	75.0	232,500
HUD–52842	3,100	1	5.0	15,500
HUD–50080–COMP	3,100	1	.15	465
HUD–53001	3,100	1	5.0	15,500
HUD–53015	3,100	1	1.0	3,100
NEW—CFFP Sample Model Term Sheet	2,000	1	8.0	16,000
NEW—CFFP Sample Model Debt Service Schedule	2,000	1	3.0	6,000
NEW—CFFP Sample Model Effective Cost of Financing	2,000	1	3.0	6,000
NEW—CFFP Sample Model HA–Monthly Debt Service Detail	2,000	1	3.0	6,000
NEW—Sample Model List of Participating PHAs	2,000	1	3.0	6,000
Total No. of Respondents	133,900			
Total Hrs.				1,749,445

Status of the proposed information collection: Consolidation of currently approved and new collections to incorporate OMB information collections.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 14, 2005.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

[FR Doc. E5–1924 Filed 4–22–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Preparation of an Environmental Impact Statement for Issuance of an Incidental Take Permit Amendment Associated With Expansion of the U.S. Borax Mine, Near Boron in Kern County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the U.S. Fish and Wildlife Service (Service) advises the public that we intend to gather information necessary to prepare an Environmental Impact Statement (EIS) on the proposed expansion and amendment of the U.S. Borax Inc. (U.S. Borax) Life of Mine Project Habitat Conservation Plan (HCP). The proposed amendment is being prepared under section 10(a)(1)(B) of the Endangered Species Act of 1973 as amended, (Act). The HCP and incidental take permit amendments are needed to authorize the incidental take of listed species as a result of implementing activities covered under the proposed HCP amendment.

We provide this notice to: (1) Describe the proposed action and possible alternatives; (2) advise other Federal and State agencies, affected Tribes, and the public of our intent to prepare an EIS; (3) announce the initiation of a 30-day public scoping period; and (4) obtain suggestions and information on

the scope of issues and alternatives to be included in the EIS.

DATES: A public meeting will be held on: Tuesday, May 17, 2005 at 1–3 p.m. and 6–8 p.m. Written comments should be received on or before May 25, 2005.

ADDRESSES: The public meeting will be held at Boron Senior Citizens Center, 27177 Twenty Mule Team Road, Boron, CA 93516. Information, written comments, or questions related to the preparation of the EIS and the NEPA process should be submitted to the U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003; *fw1usborax@fws.gov;* or fax (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Doug Threloff (*see* **ADDRESSES**), (805) 644–1766.

SUPPLEMENTARY INFORMATION:

Reasonable Accommodation

Persons needing reasonable accommodations to attend and participate in the public meeting should contact Geri Black of the Ventura Fish and Wildlife Office at (805) 644–1766 as soon as possible. To allow sufficient time to process requests, please call no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

Background

Section 9 of the Act and Federal regulations prohibit the ''take'' of a fish or wildlife species listed as endangered or threatened. Under the Endangered Species Act (16 U.S.C. 1531 *et seq.*), the following activities are defined as take: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). However, under section 10(a)(1)(B) of the Act, we may issue permits to authorize ''incidental take'' of listed animal species. Incidental take is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened and endangered species are at 50 CFR part 13 and 50 CFR part 17, respectively.

U.S. Borax currently holds a permit for the federally threatened desert tortoise (*Gopherus agassizii*) for incidental take caused by mining operations on 3,465 acres in San Bernardino County, California. The permit was issued on February 5, 1999, and expires on February 5, 2049. Activities included in the HCP for the permitted project are: The creation of an overburden stockpile on 1,848 acres; expansion of the open mine pit by 22 acres; creation of 3 flood control catchment basins on 70 acres; construction of a desert tortoise berm on 9.8 miles; and conservation of 2,274 acres of desert tortoise habitat. Overburden consists of soil and rock material overlying the borate ore. Since the permit was issued, U.S. Borax has been in compliance with the terms and conditions outlined in its HCP, Implementing Agreement, and incidental take permit. In addition, no desert tortoises have been reported as taken.

U.S. Borax intends to request a permit amendment for the incidental take of the desert tortoise on approximately 1,501 additional acres in Kern County. The proposed expansion would modify the currently permitted mining entitlements and the processing of sodium and calcium borates at the existing U.S. Borax facility in Boron, California. Activities proposed to be covered by the HCP amendment are: to increase the overburden stockpile cover by 1,333 acres; create a gangue stockpile on 129 acres (gangue is the insoluble material in the ore); create 4 additional flood control catchment basins on 39 acres; construct a desert tortoise exclusion barrier along 7.1 miles; and conserve 1,466 acres of desert tortoise habitat.

Environmental Impact Statement

U.S. Borax and the Service have selected WZI, Inc. (WZI) to prepare the EIS. The document will be prepared in compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) (NEPA). WZI will prepare the EIS under the supervision of the Service, which will be responsible for the scope and content of the document.

The EIS will consider the proposed action, the issuance of a section 10(a)(1)(B) permit amendment under the Act, no action (no permit amendment), and a reasonable range of alternatives. A detailed description of the impacts of the proposed action and each alternative will be included in the EIS. Several alternatives will be considered and analyzed, representing varying levels of conservation and impacts. The alternatives to be considered for analysis in the EIS may include: Variations in the scope of covered activities; variations in the location, amount, and type of conservation; variations in permit duration; or a combination of these elements.

The EIS will also identify potentially significant direct, indirect, and cumulative impacts on biological resources, land use, air quality, water quality, water resources, socioeconomics, and other environmental issues that could occur with the implementation of the proposed actions and alternatives. For all potentially significant impacts, the EIS will identify avoidance, minimization, and mitigation measures to reduce these impacts, where feasible, to a level below significance.

Review of the EIS will be conducted in accordance with the requirements of NEPA, Council on Environmental Quality Regulations (40 CFR 1500–1508), the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), other applicable regulations, and the Service's procedures for compliance with those regulations. This notice is being furnished in accordance with 40 CFR 1501.7 of NEPA to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS. The primary purpose of the scoping process is to identify important issues and alternatives raised by the public related to the proposed action. Written comments from interested parties are welcome to ensure that the full range of issues related to the permit request is identified. Comments will only be accepted in written form. You may submit written comments by mail, e-mail, or facsimile transmission (*see* **ADDRESSES**). 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 identity from the administrative record. We will honor such requests to the extent allowed by law. If you wish us to withhold your identity (*e.g.*, individual name, home address, and home phone number), you must state this prominently at the beginning of your comments. We will make all submissions from organizations, agencies, or businesses, and from individuals identifying themselves as representatives or officials of such entities, available for public inspection in their entirety.

Dated: April 19, 2005.

D. Kenneth McDermond,

Deputy Manager, California/Nevada Operations Office, U.S. Fish and Wildlife Service.

[FR Doc. 05–8174 Filed 4–22–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–923–1430–ET; COC–28707]

Public Land Order No. 7631; Revocation of Secretarial Order Dated May 27, 1929; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order in its entirety as it affects 9 acres of public land withdrawn for the Bureau of Land Management's Power Site Classification No. 229. This order also opens the land to surface entry subject to valid existing rights and other segregations of record.

EFFECTIVE DATE: July 25, 2005.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7093, 303–239–3706.

SUPPEMENTARY INFORMATION: This action will allow for the completion of a pending land exchange and clear the records of an unneeded withdrawal. The land is open to mining under the provisions of the Mining Claims Rights Restoration Act, 30 U.S.C. 621 (2000). Since this act applies only to land withdrawn for power purposes, the provisions of the act are no longer applicable to the land included in this revocation order.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), and pursuant to the determination by the Federal Energy Regulatory Commission in DA–10000, it is ordered as follows:

1. The Secretarial Order dated May 27, 1929, which established the Bureau of Land Management's Power Site Classification No. 229, is hereby revoked in its entirety:

Sixth Principal Meridian

T. 4 N., R. 85 W.,
Sec. 17, lot 8;

Sec. 20, lots 3 and 6.

A 100-foot wide strip across the above described land comprising approximately 9 acres in Routt County.

2. At 9 a.m. on July 25, 2005, the land described in Paragraph 1, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received on or prior to 9 a.m. on July 25, 2005, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The State of Colorado, with respect to the lands described in Paragraph 1, has a preference right for public highway rights-of-way or material sites until July 25, 2005, and any location, entry, selection, or subsequent patent shall be subject to any rights granted the State as provided by the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (2000).

4. The land described in Paragraph 1 has been open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, 65 Stat. 682; 30 U.S.C. 621 (2000), and these provisions are no longer applicable.

Dated: April 1, 2005.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 05–8150 Filed 4–22–05; 8:45 am]

BILLING CODE 4310–JB–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–518]

In the Matter of Certain Ear Protection Devices; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation With Respect to all Remaining Respondents; Issuance of Consent Orders; Request for Written Submissions on Remedy, the Public Interest, and Bonding with Respect to Respondents Found in Default

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) of the presiding administrative law judge (ALJ) in the above-captioned investigation terminating the investigation as to six respondents. The investigation was terminated as to two respondents based on settlement agreements and consent orders and as to four respondents based on consent orders alone. The Commission also is requesting briefing on remedy, public interest, and bonding with respect to three respondents previously found in default.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Esq., telephone 202–205–3041, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 16, 2004, based on a complaint filed by 180s, Inc. and 180s, LLC of Baltimore, Maryland. Complainants filed an amended complaint on July 23, 2004. The amended complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ear protection devices by reason of infringement of claims 1, 3, 13, 17–19, and 21–22 of U.S. Patent No. 5,835,609 (the '609 patent). The complaint named nine respondents: Ningbo Electric and Consumer Goods, Import & Export Corp. (Ningbo) of China; Vollmacht Enterprise Co., Ltd. (Vollmacht) of Taiwan; March Trading of New York, NY; Alicia International, Inc., d/b/a Lincolnwood Merchandising of Niles, IL; Hebron Imports of Chicago, IL; Ross Sales of Commack, NY; Value Drugs Rock, Inc. of New York, NY; Song's Wholesaler (Song's) of Washington, DC; and Wang Da, Inc. Retail and Wholesales (Wang Da) of New York, NY. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337.

On September 24, 2004, complainants filed a motion pursuant Commission rule 210.16 for an order to show cause and entry of a default judgment against three respondents: Ningbo, Vollmacht, and Wang Da. The Commission investigative attorney supported the motion. None of the respondents filed a response to the motion. The ALJ issued a show cause order (Order No. 4) on October 12, 2004. The order required

the three respondents to show cause why they should not be held in default, having not responded to the complaint or motion for a show cause order.

The ALJ issued an ID on November 2, 2004 finding that respondents Ningbo, Vollmacht, and Wang Da did not respond to the complaint, notice of investigation, or the order to show cause. Consequently, the ALJ found the respondents in default, and pursuant to Commission Rule 210.16(b)(3), to have waived their right to appear, be served with documents, or contest the allegations in the complaint. No petitions for review of the ID were filed. The Commission did not review the ID, and it thereby became the final determination of the Commission.

On March 23, 2005, the complainants filed six motions for termination of the investigation with respect to the six remaining respondents. The motions for termination as to March Trading and Song's were based on settlement agreements and consent orders. The four remaining motions were based on consent orders alone. The Commission Investigative Attorney filed a response in support of the motions on March 25, 2005.

The ALJ issued the subject ID on April 1, 2005, granting the motions for termination. No party petitioned for review of the ID pursuant to 19 CFR 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 CFR 210.44.

Section 337(g)(1), 19 U.S.C. 1337(g)(1), and Commission Rule 210.16(c), 19 CFR 210.16(c), authorize the Commission to order limited relief against the respondents found in default unless, after consideration of public interest factors, it finds that such relief should not issue. The Commission may issue an order that could result in the exclusion of the defaulting respondents' products from entry into the United States, and/or issue one or more cease and desist orders that could result in the defaulting respondents being required to cease and desist from engaging in unfair acts in the importation and sale of their products. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see In the Matter of Certain Devices for Connecting Computers via Telephone Lines, Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

When the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

Written Submissions: The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are asked to provide the expiration date of the '609 patent and the HTSUS numbers under which the infringing goods are imported. The written submissions and proposed remedial orders must be filed no later than close of business on April 29, 2005. Reply submissions must be filed no later than the close of business on May 6, 2005. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See § 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All non-confidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in §§ 210.16(c), 210.21(c), and 210.42(h) of the Commission's Rules of Practice and Procedure.

Issued: April 19, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–8165 Filed 4–22–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated May 18, 2004, and published in the **Federal Register** on June 3, 2004, (69 FR 31410–31411), Applied Science Labs, Division of Alltech Associates Inc., 2701 Carolean Industrial Drive, State College, Pennsylvania 16801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below in Schedules I and II:

Drug	Schedule
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
4-Methylaminorex (cis isomer) (1590).	I
Alpha-Ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
2, 5-dimethoxy-4-n)-propylthio-phenethylamine (2C–T–7) (7348).	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2-5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I

Drug	Schedule
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
Alpha-methyltryptamine (AMT) (7432).	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltyptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
5-methoxy-N-,N-diisopropyltryptamine-(5-MeO-DIPT) (7439).	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
1-(1-Phenylcyclohexyl) pyrrolidine (PCPy) (7458).	I
1[1-(2 Thienyl) cyclohexyl] piperidine (7470).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Methamphetamine (1105)	II
1-Phenylcylohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Morphine (9300)	II
Noroxymorphone (9668)	II

The company plans to manufacture small quantities of the listed controlled substances for reference standards.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Applied Science Labs to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Applied Science Labs to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: April 14, 2005.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 05–8140 Filed 4–22–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 1, 2005, Penick, Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in Schedules II:

Drug	Schedule
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative, Liaison and Policy Section (ODL); or any being sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than June 24, 2005.

Dated: April 14, 2005.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 05–8141 Filed 4–22–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,168]

AG Communication Systems, a Division of Lucent Technologies, Genoa, IL; Including Employees of AG Communication Systems, a Division of Lucent Technologies, Genoa, IL Working in the States of: TA–W–56,168A Florida, TA–W–56,168B Wisconson, TA–W–56,168C California, TA-W–56,168D Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 4, 2005, applicable to workers of AG Communication Systems, a division of Lucent Technologies, Genoa, Illinois. The notice was published in the **Federal Register** on February 7, 2005 (70 FR 6460).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations have occurred involving employees of AG Communication Systems, a division of Lucent Technologies, Genoa, Illinois working in Florida, Wisconsin, California and Texas. These employees provide support function services for the production of telecommunications equipment produced at the Genoa, Illinois location of the subject firm.

Based on these findings, the Department is amending this certification to include employees of AG Communication Systems, a division of Lucent Technologies, Genoa, Illinois working in Florida, Wisconsin, California and Texas.

The intent of the Department's certification is to include all workers of AG Communication Systems, a division of Lucent Technologies who were adversely affected by a shift in production to Malaysia.

The amended notice applicable to TA-W–56,168 is hereby issued as follows:

All workers of AG Communication Systems, a division of Lucent Technologies, Genoa, Illinois (TA–W–56,168), including employees of AG Communication Systems, a division of Lucent Technologies, Genoa, Illinois, working in Florida (TA–W–56,168A), Wisconsin (TA–W–56,168B), California (TA–W–56,168C) and Texas (TA–W–56,168D), who became totally or partially separated from employment on or after December 3, 2003, through January 4, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 1st day of April 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1937 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,838]

Alden Manufacturing, Co. Chicago, IL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 14, 2003 in response to a petition filed on by a company official on behalf of workers of Alden Manufacturing, Co., Chicago, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 30th day of March 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1936 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

[TA–W 56,756 and TA–W 56,756A]

Ansonia Copper and Brass, Anosonia, CT, Ansonia Copper and Brass, Waterbury, CT; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 14, 2005 in response to a petition filed by a state agency representative on behalf of workers at Ansonia Copper and Brass, Ansonia, Connecticut, and Ansonia Copper and Brass, Waterbury, Connecticut.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 6th day of April 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1934 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,083]

Apex Pattern Company, Los Angeles, CA; Notice of Negative Determination Regarding Application for Reconsideration

By application of February 14, 2005 a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA). The denial notice was signed on February 1, 2005 and published in the **Federal Register** on March 9, 2005 (70 FR 11703).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Apex Pattern Company, Los Angeles, California engaged in production of wheel molds was denied because the ''contributed importantly'' group eligibility requirement of Section 222 of the Trade Act of 1974 was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed no increase in imports of wheel molds during the relevant period. The subject firm did not import wheel molds in the relevant period nor did it shift production to a foreign country.

The petitioner alleges that the subject firm lost its business due to its major customers importing products and shifting their production abroad.

In order to establish import impact, the Department must consider imports that are like or directly competitive with those produced at the subject firm. The Department conducted a survey of the subject firm's major declining customer regarding their purchases of wheel molds. The survey revealed that the declining customers did not increase their imports of wheel molds during the relevant period.

The petitioner further alleges that the major customer of the subject firm has shifted its production of wheels to Mexico and that workers of this firm were certified eligible for TAA.

The fact that subject firm's customer shifted its production abroad and were certified eligible for TAA is relevant to this investigation if determining whether workers of the subject firm are eligible for trade adjustment assistance (TAA) based on the secondary upstream supplier impact. For certification on the basis of the workers' firm being a secondary upstream supplier, the subject firm must produce a component part of the article that was the basis for the customers' certification.

In this case, however, the subject firm does not act as an upstream supplier, because wheel molds do not form a component part of the aluminum automotive wheels. Thus the subject firm workers are not eligible under secondary impact.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 31st day of March, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1938 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,536, TA–W–56,536A, and TA–W–56,536B]

Butler Manufacturing Company, Subsidiary of Bluescope Steel, LTD, Buildings Division, Wall and Roof Panels Production, Galesburg, IL; Buildings Division, Trim and Components Production, Galesburg, IL; Buildings Division, Secondaries Production, Galesburg, IL; Notice of Affirmative Determination Regarding Application for Reconsideration

By application of April 1, 2005, members of the subject worker group requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The negative determination was signed on March 2, 2005 and the Notice of determination was published in the **Federal Register** on April 1, 2005 (70 FR 16847). The workers produced parts for pre-engineered metal buildings systems. Workers are separately identifiable by product line.

The petition was denied because the subject firm did not shift production abroad and there were no increased imports by the subject company or its customers during the relevant period.

The request for reconsideration alleges that the workers are not separately identifiable by product line, that the subject firm will shift of production to India and China in May/June 2005 and import pre-engineered metal buildings from those facilities, that the shift to Mexico will continue, and that the subject firm has increased imports from Mexico, Australia, China and India.

The Department has carefully reviewed the petitioner's request for reconsideration and shall further investigate the matter based on new information provided by the petitioners.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 6th day of April 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1928 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,607]

Creo Americas, Inc., U.S. Headquarters, a Subsidiary of Creo, Inc., Billerica, MA; Notice of Revised Determination on Remand

On February 22, 2005, the United States Court of International Trade (USCIT) granted the Department's motion for voluntary remand for further investigation in *Former Employees of Creo Americas, Inc.* v. *U.S. Secretary of Labor* (Court No. 05–0021).

The Department's denial of the initial petition for Trade Adjustment Assistance (TAA) was issued on October 20, 2004. The Notice of determination was published in the **Federal Register** on November 12, 2004 (69 FR 65462).

The negative determination was based on the finding that the predominant cause of separations at the subject facility was the consolidation of administrative and support functions to the subject firm's corporate headquarters in Canada.

Administrative reconsideration was not requested.

By letter dated January 8, 2005, the petitioner filed an appeal with the USCIT, alleging that worker separations were due to the subject firm's shift of production to Canada. In order to carry out the intent of the statute and to safeguard the interests of the petitioners, the Department requested, and was granted, a voluntary remand to further investigate the matter.

During the remand investigation, the Department raised additional questions and obtained detailed supplemental responses from the company. In particular, the new information provided by the company officials revealed that the subject firm is an integrated organization which coordinates all activities at the subject facility and that the subject worker group supported domestic subject firm production, including the subject firm's production facility in Lynwood, Washington (TA–W–55,165; certified on July 12, 2004) during 2003 and January through September 2004.

The Department also investigated whether Creo Americas, Inc., Creo Seattle Division, A Subsidiary of Creo, Inc., Lynwood, Washington was TAA-certifiable during the relevant period. The investigation revealed that the Lynwood, Washington facility experienced a shift of production to Canada during the relevant period and that the shift of production contributed importantly to the employment declines at the subject facility.

Conclusion

After careful review of the newly-obtained facts generated during the remand investigation, I determine that a shift of production contributed importantly to the total or partial separation of workers at the subject facility. In accordance with the provisions of the Act, I make the following certification:

All workers of Creo Americas, Inc., U.S. Headquarters, A Subsidiary of Creo, Inc., Billerica, Massachusetts, who became totally or partially separated from employment on or after September 7, 2003, through two years from the issuance of this determination, are eligible to apply for Trade Adjustment Assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 5th day of April 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1932 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,826]

Dendrite International Stroudsburg, PA; Notice of Negative Determination on Reconsideration

On January 31, 2005, the Department of Labor issued its Notice of Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the subject firm. The Department's Notice was published in the **Federal Register** on February 22, 2005 (70 FR 8638).

The Department's initial determination was issued on the basis that the workers did not produce an article within the meaning of section 222(a)(2) of the Trade Act.

In the request for reconsideration, the petitioner alleged that the workers produced an article, licensed pharmaceutical sales software sold in a physical medium, such as CD–ROM.

During the reconsideration investigation, the Department contacted several members of the subject worker group and several company officials to determine whether the workers were engaged in activity related to the production of an article.

The reconsideration investigation revealed that the workers used to work for another company that produced sales force automation software and began working for the subject company when it was purchased by the subject company in 1999. After the purchase, the subject company continued to sell the sales force automation software to vendors within the pharmaceutical industry and provided related software support and maintenance services to its clients, such as implementing changes in the software configuration to adapt to a client's needs. Sales of the software ceased in 2002 and the subject facility did not replicate any software available to the retail public after 2002.

From that time in 2002 until the subject facility closed in 2004, the workers provided software support and maintenance services. The services rendered pursuant to a service contract included providing a ''bug-fix'' solution burned on a CD to a client in response to a specific problem, sending another copy of the obsolete software per a client's request, and updating software via electronic mail or network messages.

The reconsideration also revealed that those activities which were moved to Bangalore, India did not subsequently enter the United States in a physical medium and that the remaining support services were consolidated into the subject company's Bethlehem, Pennsylvania and Bedminster, New Jersey facilities.

Furthermore, because the ''bug-fix'' solution was not mass-produced but custom designed to meet specific, one-time needs of an individual client, it was inherently unique. As such, each ''bug-fix'' release was a separate creation of a trouble-solving solution. Therefore, even if the Department were to consider the ''bug-fix'' CD to be a product for purposes of TAA, neither Section 222(a)(2)(B)—increased imports—nor Section 222 (a)(2)(A)—shift of production—of the Trade Act would have been met because each solution could not have been considered ''like or directly'' competitive with other custom designed solutions.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Dendrite International, Stroudsburg, Pennsylvania.

Signed at Washington, DC, this 1st day of April 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1940 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,566B]

Devilbiss Air Power Company, Subsidiary of Black and Decker Compressors/Generators Division, Jackson, TN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 14, 2005 in response to a petition filed by a company official on behalf of workers at DeVilbiss Air Power Company, subsidiary of Black and Decker, Compressors/Generators Division, Jackson, Tennessee.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 30th day of March, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1929 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,722]

Fisher Controls, North Stonington, CT, Now Located In Pawcatuck, CT; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 8, 2004, applicable to workers of Fisher Controls, North Stonington, Connecticut. The notice was published in the **Federal Register** on February 6, 2004 (69 FR 5867).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of rotary valves.

New information shows that in October 2004, the subject firm located in North Stonington, Connecticut, relocated to Pawcatuck, Connecticut.

Accordingly, the Department is amending this certification to include workers at the new location of the subject firm in Pawcatuck, Connecticut.

The intent of the Department's certification is to include all workers employed at Fisher Controls, who were adversely affected by increased imports.

The amended notice applicable to TA–W–53,722 is hereby issued as follows:

All workers of Fisher Controls, North Stonington, Connecticut, now located in Pawcatuck, Connecticut, who became totally or partially separated from employment on or after December 2, 2002, through January 8, 2006, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 5th day of April 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1944 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,272]

Geotrac, Inc., Norwalk, OH; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Geotrac, Inc., Norwalk, Ohio. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–56,272; Geotrac, Inc. Norwalk, Ohio (April 1, 2005)

Signed at Washington, DC this 14th day of April 2005.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E5–1935 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,907]

GlaxoSmithKline Bristol, TN; Notice of Revised Determination on Reconsideration

On February 23, 2005, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on March 15, 2005 (70 FR 12737).

The previous investigation initiated on November 7, 2004, resulted in a negative determination issued on December 9, 2004, based on the finding that imports of Augmentin and Amoxil did not contribute importantly to worker separations at the subject firm and no shift of production to a foreign source occurred. The denial notice was published in the **Federal Register** on January 24, 2005 (70 FR 3390).

In the request for reconsideration, the petitioner provided additional information regarding subject firm's products. In particular, it was revealed that Augmentin and Amoxil, addressed by the company official during the original investigation as products manufactured at GlaxoSmithKline in Bristol, Tennessee, are brand names of penicillin-based antibiotics. It was further revealed that other companies manufacture antibiotics equivalent to Augmentin and Amoxil, but use different generic names for these products. Therefore, surveys of customers conducted during the original investigation did not reveal purchases from any sources other than the subject firm.

The Department conducted new customer surveys requesting information on purchases of penicillin-based antibiotics like or directly competitive with Augmentin and Amoxil. The result of this survey showed that the largest declining customer of the subject firm significantly increased its reliance on purchases of penicillin-based antibiotics like or directly competitive with Augmentin and Amoxil from other domestic firms during the relevant time period. However, the customer had no knowledge of the country of origin of these products.

Upon further investigation, it was revealed that GlaxoSmithKline, Bristol, Tennessee is the only domestic manufacturer of Augmentin and Amoxil and their generic equivalents in the United States. All other generic brands sold on the domestic market are imports. Consequently, customers increasing their reliance on purchases from other domestic firms, increased their reliance on imports.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at GlaxoSmithKline, Bristol, Tennessee, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of GlaxoSmithKline, Bristol, Tennessee, who became totally or partially separated from employment on or after October 11, 2003 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC this 8th day of April 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1939 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,361; TA–W–56,361A; TA–W–56,361B; and TA–W–56,361C]

Hedstrom Corporation, Arlington Heights, IL, Including Employees of Hedstrom Corporation Arlington Heights, IL Working In The States of: Nevada, Texas, Florida; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 8, 2005, applicable to workers of Hedstrom Corporation, Arlington Heights, Illinois. The notice was published in the **Federal Register** on March 9, 2005 (70 FR 11704).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations have occurred involving employees of Hedstrom Corporation, Arlington Heights, Illinois working in Nevada, Texas and Florida. These employees provide support function services for the production of children's leisure products such as swing sets, trampolines and sleeping bags produced at the Arlington Heights, Illinois location of the subject firm.

Based on these findings, the Department is amending this certification to include employees of Hedstrom Corporation, Arlington Heights, Illinois working in Nevada, Texas and Florida.

The intent of the Department's certification is to include all workers of Hedstrom Corporation who were adversely affected by increased company imports.

The amended notice applicable to TA–W–56,361 is hereby issued as follows:

All workers of Hedstrom Corporation, Arlington Heights, Illinois (TA–W–56,361), including employees of Hedstrom Corporation, Arlington Heights, Illinois, working in Nevada (TA–W–56,361A), Texas (TA–W–56,361B), and Florida (TA–W–56,361C), who became totally or partially separated from employment on or after January 12, 2004, through February 8, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC this 1st day of April 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1927 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,751]

Hitachi Global Storage Technologies, Inc., San Jose, CA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 11, 2005 in response to a worker petition filed by a company official on behalf of workers at Hitachi Global Storage Technologies, Inc., San Jose, California.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 30th day of March 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1933 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,586]

Lawson-Hemphill Sales, Inc., Spartanburg, SC; Notice of Affirmative Determination Regarding Application for Reconsideration

By application of April 2, 2005, a petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The determination was signed on March 3, 2005 and the Department's Notice of determination was published in the **Federal Register** on April 1, 2005 (70 FR 16847). Workers were engaged in the distribution of textile testing instruments.

A company official filed the petition on January 24, 2005 as a secondarily-affected company. The petition was denied on the basis that the subject firm neither separated nor threatened to separate a significant number or proportion of workers at the subject facility during the relevant period.

In the request for reconsideration, the petitioner alleged, and provided documentation that supports the allegation, that the subject facility is affiliated with Lawson-Hemphill, Inc., Central Falls, Rhode Island, and infers that worker separations at the subject facility are related to sales and/or production declines at Lawson-Hemphill, Inc., Central Falls, Rhode Island.

During the initial investigation, the Department determined that the subject facility was unaffiliated with Lawson-Hemphill, Inc., Central Falls, Rhode Island, and thus did not inquire into whether sales and/or production declined at that facility.

The Department carefully reviewed the petitioner's request for reconsideration and has determined that the Department will conduct further investigation based on new information provided by the petitioner.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 6th day of April 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1930 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,748]

Liz Claiborne, Inc., North Bergen, NJ; Notice of Revised Determination on Reconsideration

On March 1, 2005, the Department issued an Affirmative Determination Regarding Application for Reconsideration applicable to workers and former workers of the subject firm. The Notice of determination was published in the **Federal Register** on March 15, 2005 (70 FR 12737). A corrected copy of the determination (dated March 11, 2005) was published in the **Federal Register** on March 22, 2005 (70 FR 14484).

The Department initially denied Trade Adjustment Assistance (TAA) to workers of Liz Claiborne, Inc., North Bergen, New Jersey because the subject company did not import garment prototypes or samples and did not shift production of these articles abroad.

In the request for reconsideration, the petitioners alleged that the subject firm shifted sample production abroad.

In order to make an affirmative determination and issue a certification of eligibility to apply for Trade Adjustment Assistance, the group eligibility requirements in either paragraph (a)(2)(A) or (a)(2)(B) of Section 222 of the Trade Act must be met. It is determined in this case that the requirements of (a)(2)(B) of Section 222 have been met.

During the reconsideration investigation, the Department requested additional information and clarification from the subject company and the petitioners.

The reconsideration investigation revealed that the company official misunderstood what constituted a shift of production. Based on newly obtained information, the Department determined that during the relevant period, subject company domestic garment sample production levels and employment levels declined and that the subject company shifted garment sample production abroad and increased its reliance on imports of garment samples.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

According to the company official, a significant number of workers at the firm are age fifty or over and workers of the subject facility possess skills that are not easily transferable. Competitive conditions within the garment industry are adverse.

Conclusion

After careful review of the newly obtained facts obtained in the reconsideration investigation, I determine that there was a shift of garment sample production abroad followed by actual or likely increased imports of articles that are like or directly competitive with those produced by the subject firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

All workers of Liz Claiborne, Inc., North Bergen, New Jersey, who became totally or partially separated from employment on or after October 5, 2003 through two years from the date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC this 25th day of March 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1941 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,625]

Longwear Hosiery Mill, Inc., Hildebran, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 23, 2005 in response to a petition filed by a company official on behalf of workers at Longwear Hosiery Mill, Inc., Hildebran, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 30th day of March, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1931 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–54,408]

Morganite, Inc., Commutator Division, Now Known as Energy Conversion Systems Holdings LLC, Commutator Division, Dunn, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 23, 2004, applicable to workers of Morganite, Inc., Commutator Division, Dunn, North Carolina. The notice was published in the **Federal Register** on June 2, 2004 (69 FR 31136).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of commutators for fractional horsepower motors in consumer applications.

New information shows that Morganite, Inc, Commutator Division became known as Energy Conversion Systems Holdings, LLC, Commutator Division, after the subject firms' assets and operations were sold to Energy Conversion Systems Holdings, LLC in June 2004. Workers separated from employment as the subject firm had their wages reported under a separated unemployment insurance (UI) tax account for Energy Conversion Systems Holdings, LLC, Commutator Division.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Morganite, Inc., Commutator Division, now known as Energy Conversion Systems Holdings LLC, Commutator Division, who were adversely affected by increased imports.

The amended notice applicable to TA–W–54,408 is hereby issued as follows:

All workers of Morganite, Inc., Commutator Division, now known as Energy Conversion Systems Holdings LLC, Commutator Division, Dunn, North Carolina, who became totally or partially separated from employment on or after February 16, 2003, through April 23, 2006, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 8th day of April 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1943 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,322]

Roseburg Forest Products Particleboard Plant, a Subsidiary of RLC Industries, Roseburg, OR; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter dated March 29, 2005, the Western Council of Industrial Workers, Local 2949, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The determination was signed on February 4, 2005 and the Department's Notice of determination was published in the **Federal Register** on March 9, 2005 (70 FR 11703). The workers of the subject company produce particleboard.

The negative determination was based on the findings that subject company sales and production increased during the investigatory period, that the subject company did not have any imports of like or directly competitive products, and that the subject company did not shift particleboard production abroad.

In the request for reconsideration, the petitioner alleges that particleboard production decreased during the relevant period.

The Department has carefully reviewed the request for reconsideration and has determined that the Department will conduct further investigation based on new information provided by the petitioner.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 6th day of April 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1926 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,274]

Shane-Hunter, Inc., San Francisco, CA; Notice of Revised Determination on Reconsideration

On March 15, 2005, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The Notice of determination will soon be published in the **Federal Register**.

The Department initially denied Trade Adjustment Assistance (TAA) to workers of Shane-Hunter, Inc., San Francisco, California because the subject

company's sales and production increased during the relevant period and the subject company did not shift production abroad. Workers were engaged in employment related to the production of women's and children's garments and were not separately identifiable by product line.

In the request for reconsideration, the petitioner alleged that the subject company shifted garment production abroad and is increasing reliance upon imports.

In order to make an affirmative determination and issue a certification of eligibility to apply for Trade Adjustment Assistance, the group eligibility requirements in either paragraph (a)(2)(A) or (a)(2)(B) of Section 222 of the Trade Act must be met. It is determined in this case that the requirements of (a)(2)(A) of Section 222 have been met.

During the reconsideration investigation, the Department requested additional information and clarification from the subject company. The investigation revealed that during the relevant period, the subject company's domestic production levels and employment levels declined and that the subject company increased its reliance on imports of articles like or directly competitive with those produced at the subject company.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met.

The Department has determined in this case that the requirements of Section 246 have been met. A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the garment industry are adverse.

Conclusion

After careful review of the facts obtained in the reconsideration investigation, I determine that increases of imports of articles like or directly competitive with those produced at the subject firm contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Shane-Hunter, Inc., San Francisco, California, who became totally or partially separated from employment on or after December 15, 2003 through two years from the date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC this 25th day of March 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1925 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–54,048A and TA–W–54,048D]

Westpoint Stevens, Lanier Facility, Bed Products Division, Valley, AL, and Westpoint Stevens, Sheeting Division Office, Opelika, AL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 19, 2004, applicable to workers of WestPoint Stevens, Lanier Facility, Bed Products Division, Valley, Alabama. The notice was published in the **Federal Register** on March 12, 2004 (69 FR 11889).

At the request of the company official, the Department reviewed the certification for workers of the subject firm. The workers of the firm's Bed Products Division produced sheeting materials.

New information submitted by the company demonstrates that workers in the WestPoint Stevens, Sheeting Division Office, Opelika, Alabama, provided administrative support for the firm's production of sheeting at the Lanier Plant in Valley, Alabama which has ceased production. When filing the petition, the company official inadvertently failed to include workers in the Sheeting Division Office, Opelika, Alabama, in support of the Lanier Plant production.

The intent of the Department's certification is to include all workers of the firm who were adversely affected by increased imports.

Accordingly, the Department is amending this certification to include workers of the Sheeting Division Office of the subject firm in Opelika, Alabama.

The amended notice applicable to TA–W–54,048A is hereby issued as follows:

All workers of WestPoint Stevens, Lanier Facility, Bed Products Division, Valley, Alabama (TA–W–54,048A), and WestPoint Stevens, Sheeting Division Office, Opelika, Alabama, who became totally or partially separated from employment on or after January 15, 2003, through February 19, 2006, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 6th day of April 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1942 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Public Meeting of the Advisory Committee on Apprenticeship (ACA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of an open ACA meeting.

SUMMARY: Pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. APP. 1), notice is hereby given of an open meeting of the Advisory Committee on Apprenticeship (ACA).

Time and Date: The meeting will begin at approximately 8:30 a.m. on Monday, May 16th, and continue until approximately 5 p.m. The meeting will reconvene at approximately 8:30 a.m. on Tuesday, May 17th, and continue until approximately 4 p.m. The final meeting day will begin at approximately 8:30 a.m. on Wednesday, May 18th, and adjourn at 12 noon.

Place: Hilton Crystal City, 2399 Jefferson Davis Highway, Arlington, Virginia 22202, (703) 418–6800.

The agenda is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the ACA meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Swoope, Administrator, Office of Apprenticeship Training, Employer and Labor Services, Employment and Training Administration, U.S. Department of Labor, Room N–5311,

200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2796 (this is not a toll-free number).

Matters To Be Considered: The agenda will focus on the following topics:

- Committee Orientation;
- Advisory Committee Procedures and Ethics;
- Demand Driven Workforce Solutions; and
- 21st Century Apprenticeship

Status: Members of the public are invited to attend the proceedings. Individuals with disabilities should contact Marion Winters at (202) 693–3786 no later than May 10, 2005, if special accommodations are needed.

Any member of the public who wishes to file written data or comments pertaining to the agenda may do so by sending them to Mr. Anthony Swoope, Administrator, Office of Apprenticeship Training, Employer and Labor Services, Employment and Training Administration, U.S. Department of Labor, Room N–5311, 200 Constitution Avenue, NW., Washington, DC 20210. Such submissions should be sent by May 10, 2005, to be included in the record for the meeting.

Any member of the public who wishes to speak at the meeting should indicate the nature of the intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal Official, Mr. Anthony Swoope, by May 9, 2005. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Signed at Washington, DC, this 18th day of April, 2005.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

[FR Doc. E5–1950 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans Employment and Training Service

President's National Hire Veterans Committee; Notice of Open Meeting

The President's National Hire Veterans Committee was established under 38 U.S.C. 4100 note Public Law 107–288, Jobs for Veterans Act, to furnish information to employers with respect to the training and skills of veterans and disabled veterans, and the advantages afforded employers by hiring veterans with such training and skills and to facilitate employment of veterans and disabled veterans through participation in Career One Stop national labor exchange, and other means.

The President's National Hire Veterans Committee will meet on Thursday, May 5, 2005, beginning at 8:30 a.m. at the Omni Hotel Conference Center, Austin, Texas.

The committee will discuss raising employers awareness of the advantages of hiring veterans.

Signed at Washington, DC, this 18th of April, 2005.

Frederico Juarbe, Jr.,

Assistant Secretary of Labor for Veterans' Employment and Training.

[FR Doc. 05–8195 Filed 4–22–05; 8:45 am]

BILLING CODE 4510–79–M

LEGAL SERVICES CORPORATION

Sunshine Act Meetings of the Board of Directors and Four of the Board's Committees

TIMES AND DATES: The Legal Services Corporation Board of Directors and four of its Committees will meet April 29–30, 2005, in the order set forth in the following schedule.

Meeting Schedule

Friday, April 29, 2005:

1. Provision for the Delivery of Legal Service Committee. 1:45 p.m.
2. Performance Reviews Committee.
3. Operations & Regulations Committee.

Saturday, April 30, 2005:

1. Finance Committee. 9:30 a.m.
2. Board of Directors.

LOCATION: The Caribe Hilton Hotel, Los Rosales Street, San Geronimo Grounds, San Juan, Puerto Rico.

STATUS OF MEETINGS: Open, except as noted below.

- *Status:* April 29, 2005, Annual Performance Reviews Committee Meeting—Closed. The Performance Reviews Committee meeting may be closed to the public pursuant to a vote of the Board of Directors authorizing the Committee in its executive session to consider and act on internal personnel rules and practices of the Corporation. The closing will be authorized by the relevant provisions of the Government in the Sunshine Act (5 U.S.C. 552b(c)(2) and (6)) and the Legal Services Corporation's corresponding regulation 45 CFR 1622.5(a) and (e). A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.
- *Status:* April 30, 2005, Board of Directors Meeting—Open, except that a portion of the meeting of the Board of Directors may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Board will consider and may act on the proposed appointment of two corporate officers, and the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party and the Board may act on the matters reported. The closing is authorized by 5 U.S.C. 552b(c)(2) and LSC's corresponding regulation 45 CFR 1622.5(a); 5 U.S.C. 552b(c)(6) and LSC's corresponding regulation 45 CFR 1622.5(e); 5 U.S.C. 552b(c)(7) and LSC's implementing regulation 45 CFR 1622.5(f)(4), and 5 U.S.C. 522b(c)(9)(B) and LSC's implementing regulation 45 CFR 1622.5(g); and 5 U.S.C. 552b(c)(10) and LSC's corresponding regulation 45 CFR 1622.5(h). A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED: Friday, April 29, 2005. Provision for the Delivery of Legal Services Committee.

Open Session

1. Approval of agenda.
2. Approval of the Committee's meeting minutes of February 4, 2005.
3. Presentations by Puerto Rico Legal Services:
   a. Introductions and Overview by Luis Maldonado-Guzmán, Executive Director, Puerto Rico Legal Services, Inc.
   b. Presentation on Private Attorney Involvement by Gladys Ares-Rivera, PAI Coordinator.
   c. Presentation on TeleLawyer Project by Benjamin Garcia-Gonzalez, TeleLawyer Director.
   d. Presentation on Special Education Project by Josefina Pantoja-Oquendo, Project Coordinator.
4. Presentations by Community Law Offices:
   a. Overview by Carlos Rodriguez Videl, Board Chairman.
   b. Report on collaborations with the Inter-American University and other organizations by Juan Correa Luna, Executive Director.
5. Public comment.
6. Consider and act on other business.
7. Consider and act on adjournment of meeting.

Performance Reviews Committee

1. Closed Session:
2. Approval of agenda.
3. Approval of the minutes of the Executive Session of the Committee's meeting of February 4–5, 2005.

4. Consider and act on internal procedures for annual performance review of LSC President.
5. Consider and act on issue of annual performance review of LSC Inspector General.
6. Consider and act on other business.
7. Consider and act on adjournment of meeting.

Operations & Regulations Committee

Open Session

1. Approval of agenda.
2. Approval of the Committee's meeting minutes of February 4–5, 2005.
3. Consider and act on 45 CFR part 1611 (Financial Eligibility).
4. Consider and act on petition to amend 45 CFR part 1617 (Class Actions).
5. Consider and act on future activities of the Committee.
6. Public comment.
7. Consider and act on other business.
8. Consider and act on adjournment of meeting.

Saturday, April 30, 2005.

Finance Committee

Open Session

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of February 4, 2005.
3. Presentation by LSC's Inspector General of the FY 2004 Annual Financial Audit.
4. Report on LSC's Financial Results through February 28, 2005.
5. Report on FY 2005 Internal Budgetary Adjustments as recommended by the President and Inspector General as a result of the review of expenditures through February 28, 2005 and projected operating expenditures for the remainder of the fiscal year.
6. Consider and act on any FY 2005 COB Reallocations as recommended by the President and/or Inspector General.
7. Report on the status of the FY 2006 Appropriations process.
8. Consider and act on other business.
9. Public comment.
10. Consider and act on adjournment of meeting.

Board of Directors Meeting

Open Session

1. Approval of agenda.
2. Presentation by Puerto Rico Legal Services, Monitoring Office.
3. Approval of minutes of the Board's meeting of February 5, 2005.
4. Approval of minutes of the Executive Session of the Board's meeting of February 5, 2005.
5. Approval of minutes of the Board's meeting of April 13, 2005.
6. Chairman's Report.
7. Members' Reports.
8. President's Report.
9. Inspector General's Report.
10. Consider and act on the report of the Committee on the Provision for the Delivery of Legal Services.
11. Consider and act on the report of the Finance Committee.
12. Consider and act on the report of the Operations & Regulations Committee.
13. Consider and act on the report of the Performance Reviews Committee.
14. Consider and act on proposed process for the review and development of Strategic Directions.
15. Consider and act on Board's meeting schedule for calendar year 2006.
16. Consider and act on other business.
17. Public comment.
18. Consider and act on whether to authorize an executive session of the Board to address items listed below under Closed Session.

Closed Session

19. Consider and act on the appointment of a Chief Administrative Officer.
20. Consider and act on the appointment of a Vice President for Programs and Compliance.
21. Consider and act on General Counsel's report on potential and pending litigation involving LSC.
22. Consider and act on motion to adjourn meeting.

FOR FURTHER INFORMATION CONTACT: Patricia D. Batie, Manager of Board Operations, at (202) 295–1500.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295–1500.

Dated: April 20, 2005.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 05–8258 Filed 4–20–05; 4:55pm]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINSTRATION

[Notice 05–078]

NASA Aeronautical Technologies Strategic Roadmap Committee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Aeronautical Technologies Strategic Roadmap Committee.

DATES: Thursday, May 26, 2005, 8 a.m. to 5 p.m., Friday, May 27, 2005, 8 a.m. to 5 p.m. Eastern Standard Time.

ADDRESSES: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Yuri Gawdiak, 202–358–1853.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the meeting room. Attendees will be requested to sign a register.

The agenda for the meeting is as follows:

- Criteria Survey Review Results.
- Portfolio Workshop Review Results.
- Sensitivity Analysis Review Results.
- External Partnership Road Map Requirements.
- Deliberations on Strategic Road Map Revisions.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: April 19, 2005.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 05–8230 Filed 4–22–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 05–077]

NASA Search for Earth-Like Planets Strategic Roadmap Committee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public

Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Search for Earth-Like Planets Strategic Roadmap Committee.

DATES: Monday, May 16, 2005, 8:30 a.m. to 5 p.m., Tuesday, May 17, 2005, 8:30 a.m. to 5 p.m. Pacific Daylight Time.

ADDRESSES: Crowne Plaza Hotel Seattle, 1113 6th Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Dr. Eric Smith, 202–358–2439.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the meeting room. Attendees will be requested to sign a register.

The agenda for the meeting is as follows:

- Discussion of overall roadmap strategy
- Discussion of draft roadmap sections
- Roadmap integration working sessions
- Plans and assignments for roadmap completion

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: April 19, 2005.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 05–8231 Filed 4–22–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Daniel Schneider, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* May 6, 2005.

Time: 8:30 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the March 22, 2005 deadline.

2. *Date:* May 23, 2005.

Time: 9 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Faculty Humanities Workshop, submitted to the Division of Education Programs at the April 7, 2005 deadline.

3. *Date:* May 24, 2005.

Time: 9 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Faculty Humanities Workshop, submitted to the Division of Education Programs at the April 7, 2005 deadline.

4. *Date:* May 27, 2005.

Time: 9 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Faculty Humanities Workshop, submitted to the Division of Education Programs at the April 7, 2005 deadline.

Daniel Schneider,

Advisory Committee Management Officer.

[FR Doc. 05–8144 Filed 4–22–05; 8:45 am]

BILLING CODE 7536–01–P

OFFICE OF MANAGEMENT AND BUDGET

Acquisition Advisory Panel; Notification of Upcoming Meetings of the Acquisition Advisory Panel

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of Federal Advisory Committee Meetings.

SUMMARY: The Office of Management and Budget announces two meetings of the Acquisition Advisory Panel (AAP or ''Panel'') established in accordance with the Services Acquisition Reform Act of 2003.

DATES: There are two meetings announced in this **Federal Register** Notice. A public meeting of the Panel will be held on May 17, 2005, beginning at 9 a.m. Eastern Time and ending no later than 5 p.m. A second public meeting of the Panel will be held on May 23, 2005, beginning at 9:15 a.m. central time and ending no later than 5 p.m.

ADDRESSES: The May 17, 2005 meeting will be held at the Federal Deposit Insurance Corporation (FDIC), Basement auditorium, 801 17th Street, NW., Washington, DC 20434. The May 23, 2005 meeting will be held in the Fritz G. Lanham Federal Bldg, 819 Taylor Street, Room 4A14H (Texas Room), Ft. Worth, TX 76102. The public is asked to pre-register one week in advance for both meetings due to security and/or seating limitations (see below for information on pre-registration).

FOR FURTHER INFORMATION: Members of the public wishing further information concerning these meetings or the Acquisition Advisory Panel itself, or to pre-register for either meeting, should contact Ms. Laura Auletta, Designated Federal Officer (DFO), at: laura.auletta@gsa.gov, phone/voice mail (202) 208–7279, or mail at: General Services Administration, 1800 F. Street, NW., Room 4006, Washington, DC 20405. Members of the public wishing to reserve speaking time must contact Ms. Anne Terry, AAP Staff Analyst, in writing at: *anne.terry@gsa.gov,* by fax at (202) 501–3341, or mail at the address given above for the DFO, no later than one week prior to the meeting at which they wish to speak.

SUPPLEMENTARY INFORMATION:

(a) Background

The purpose of the Panel is to provide independent advice and recommendations to the Office of Federal Procurement Policy and Congress pursuant to Section 1423 of

the Services Acquisition Reform Act of 2003. The Panel's statutory charter is to review Federal contracting laws, regulations, and governmentwide policies, including the use of commercial practices, performance-based contracting, performance of acquisition functions across agency lines of responsibility, and governmentwide contracts. Interested parties are invited to attend the meetings. Opportunity for public comments will be provided at both meetings. Additional time for oral public comments is expected at future public meetings to be announced in the **Federal Register**.

May 17, 2005 Meeting—The working groups, established at the February 28, 2005 public meeting of the AAP (see *http://www.acqnet.gov/aap* for a list of working groups), will report any significant updates during this meeting, which may include any follow-up recommendations for additional working groups or other issues to be examined. The Panel also expects to hear from additional invited speakers from the public and private sectors who will address issues related to the Panel's statutory charter. In addition to working group reports and invited speakers, the Panel is also welcoming oral public comments at this meeting and has reserved an estimated two hours for this purpose. Members of the public wishing to address the Panel during either meeting must contact Ms. Anne Terry, in writing, as soon as possible to reserve time (*see* **FOR FURTHER INFORMATION** above).

May 23, 2005 Meeting—The Panel plans to hear invited speakers, including those from the private sector, at this meeting. The Panel also welcomes oral public comments at this meeting and is reserving an estimated three hours for this purpose. Members of the public wishing to address the Panel during either meeting must contact Ms. Anne Terry, *in writing,* as soon as possible to reserve time (see contact information above).

(b) Availability of Materials for the Meetings

Please see the Acquisition Advisory Panel Web site for any available materials, including draft agendas, for these meetings *(http://www.acqnet.gov/aap).* Questions/issues of particular interest to the Panel will also be made available to the public on this Web site. The Panel asks that the public address any of these questions/issues when presenting either oral public comments or written statements to the Panel. The public may also obtain copies of Initial Working Group Reports presented at the March 30, 2005 public meeting at the Panel's Web site under ''Meeting Materials'' at *http://www.acqnet.gov/aap* for additional information on the Panel's areas of interest.

(c) Procedures for Providing Public Comments

It is the policy of the Acquisition Advisory Panel to accept written public comments of any length, and to accommodate oral public comments whenever possible. To facilitate Panel discussions at its meetings, the Panel may not accept oral comments at all meetings. The Panel Staff expects that public statements presented at Panel meetings will be focused on the Panel's statutory charter and working group topics, and not be repetitive of previously submitted oral or written statements, and that comments will be relevant to the issues under discussion.

Oral Comments: Speaking times will be confirmed by Panel staff on a ''first-come/first-served'' basis. To accommodate as many speakers as possible, oral public comments must be no longer than 10 minutes for the May 17th meeting and 15 minutes for the May 23rd meeting. Because Panel members may ask questions, reserved times will be approximate. Interested parties must contact Ms. Anne Terry, in writing (via mail, e-mail, or fax identified above for Ms. Terry) at least one week prior to the meeting in order to be placed on the public speaker list for the meeting. Oral requests for speaking time will not be taken. Speakers are requested to bring extra copies of their comments and presentation slides for distribution to the Panel at the meeting. Speakers wishing to use a Power Point presentation must e-mail the presentation to Ms. Terry one week in advance of the meeting.

Written Comments: Although written comments are accepted until the date of the meeting (unless otherwise stated), written comments should be received by the Panel Staff at least one week prior to the meeting date so that the comments may be made available to the Panel for their consideration prior to the meeting. Written comments should be supplied to the DFO at the address/contact information given in the FR Notice in one of the following formats (Adobe Acrobat, WordPerfect, Word, or Rich Text files, in IBM–PC/Windows 98/2000/XP format). *Please note:* Since the Panel operates under the provisions of the Federal Advisory Committee Act, as amended, all public presentations will be treated as public documents and will be made available for public inspection, up to and including being posted on the Panel's Web site.

(d) Meeting Accommodations

Individuals requiring special accommodation to access the public meetings listed above should contact Ms. Auletta at least five business days prior to the meeting so that appropriate arrangements can be made.

Laura Auletta,

Designated Federal Officer (Executive Director), Acquisition Advisory Panel.

[FR Doc. 05–8216 Filed 4–22–05; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Regulation S–X, SEC File No. 270–3, OMB Control No. 3235–0009.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Information collected and information prepared pursuant to Regulation S–X focus on the form and content of, and requirements for, financial statements filed with periodic reports and in connection with the offer and sale of securities. Investors need reasonably current financial statements to make informed investment and voting decisions.

The potential respondents include all entities that file registration statements or reports pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, or the Investment Company Act of 1940.

Regulation S–X specifies the form and content of financial statements when those financial statements are required to be filed by other rules and forms under the federal securities laws. Compliance burdens associated with the financial statements are assigned to the rule or form that directly requires the financial statements to be filed, not to Regulation S–X. Instead, an estimated burden of one hour traditionally has been assigned to Regulation S–X for

incidental reading of the regulation. The estimated average burden hours are solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules or forms.

Recordkeeping retention periods are based on the disclosure required by various forms and rules other than Regulation S–X. In general, balance sheets for the preceding two fiscal years, income and cash flow statements for the preceding three fiscal years, and condensed quarterly financial statements must be filed with the Commission. Five year summary financial information is required to be disclosed by some larger registrants.

Filing financial statements, when required by the governing rule or form, is mandatory. Because these statements are provided for the purpose of disseminating information to the securities markets, they are not kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *David_Rostker@omb.eop.gov,* and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 5, 2005.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–1948 Filed 4–22–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of April 25, 2005:

A Closed Meeting will be held on Thursday, April 28, 2005 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Goldschmid, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, April 28, 2005, will be:

Formal orders of investigations;
Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings of an enforcement nature; and
Adjudicatory matters.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: April 20, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–8249 Filed 4–20–05; 4:00 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51563; File No. SR–Amex–2005–001]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 by the American Stock Exchange LLC and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Relating to the Adoption of Generic Listing Standards for Index-Linked Securities

April 15, 2005.

I. Introduction

On January 6, 2005, the American Stock Exchange LLC (''Amex'' 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 add Section 107D to the Amex Company Guide for the purpose of adopting generic listing standards pursuant to Rule 19b–4(e) of the Act[3] in connection with index-linked securities (''Index Securities''). On February 25, 2005, Amex amended its proposal.[4] The proposed rule change, as modified by Amendment No. 1, was published for notice and comment in the **Federal Register** on March 4, 2005.[5] The Commission received no comment letters regarding the proposed rule change. On April 15, 2005, Amex amended the proposed rule change.[6] This order approves the proposed rule change, as modified by Amendment No. 1. Simultaneously, the Commission provides notice of filing of Amendment No. 2 and grants accelerated approval of Amendment No. 2.

II. Description of Proposal

Under section 107A of the Amex Company Guide, the Exchange may approve for listing and trading securities that cannot be readily categorized under the listing criteria for common and preferred securities, bonds, debentures, or warrants.[7] The Amex proposes to add Section 107D to the Amex Company Guide to provide generic listing standards to permit the listing and trading of Index Securities pursuant to Rule 19b–4(e) under the Act.[8]

A. Generic Listing Standards

Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4,[9] if the Commission has approved, pursuant to Section 19(b) of the Act,[10] the self-regulatory organization's trading rules,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(e).

[4] *See* Amendment No. 1, dated February 25, 2005 (''Amendment No. 1''). In Amendment No. 1, the Exchange revised the proposed rule text and corresponding description. Amendment No. 1 replaced Amex's original filing in its entirety.

[5] *See* Securities Exchange Act Release No. 51258 (February 25, 2005), 70 FR 10700 (''Notice'').

[6] *See* Amendment No. 2, dated April 15, 2005 (''Amendment No. 2''). In Amendment No. 2, the Exchange proposed minor clarifications to the rule text. The text of Amendment No. 2 is available on Amex's Web site *(http://www.amex.com),* at the Amex's Office of the Secretary, and at the Commission's Public Reference Room.

[7] *See* Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8624 (March 8, 1990) (order approving File No. SR–Amex–89–29).

[8] 17 CFR 240.19b–4(e).

[9] 17 CFR 240.19b–4(c)(1).

[10] 15 U.S.C. 78s(b).

procedures and listing standards for the product class that would include the new derivatives securities product, and the self-regulatory organization has a surveillance program for the product class.[11] Hence, Amex is proposing in this rule filing to adopt generic listing standard under new Section 107D of the Company Guide for this product class, pursuant to which it will be able to list and trade (including pursuant to unlisted trading privileges) Index Securities without individual Commission approval of each product pursuant to Section 19(b)(2) of the Act.[12] Instead, Amex represents that any securities it lists and/or trades pursuant to Section 107D of the Amex Company Guide will satisfy the standards set forth therein. The Exchange states that, within five (5) business days after commencement of trading of an Index Security in reliance on Section 107D, Amex will file a Form 19b–4(e).[13]

The Exchange submits that several Index Securities based on both broad-based and market segment indexes are currently trading on the Exchange.[14] Each of these products separately received approval for trading by the Commission. Amex believes that the proposed generic listing standards for Index Securities will serve to streamline and increase the efficiency of listing index-linked products on the Exchange.

B. Index Securities

Index Securities are designed for investors who desire to participate in a specific market segment or combination of market segments through index products by providing investors with exposure to an identifiable underlying market index.[15] Index Securities are the non-convertible debt of an issuer that have a term of at least one (1) year but not greater than ten (10) years. Index Securities may or may not make interest payments based on dividends or other cash distributions paid on the securities comprising the Underlying Index or Indexes to the holder during their term. Despite the fact that Index Securities are linked to an underlying index, each will trade as a single, exchange-listed security.

A typical Index Security listed and traded on the Exchange provides for a payment amount in a multiple greater than one (1) times the positive index return or performance, subject to a maximum gain or cap.[16] More generally, Index Securities may or may not be structured[17] with accelerated returns, upside or downside, based on the performance of the Underlying Index. Amex specifically represents that the proposed generic listing standards will not be applicable to Index Securities where the payment at maturity may be based on a multiple of negative performance of an underlying index or indexes. An Index Security may or may not provide ''principal protection,'' *i.e.*, a minimum guaranteed amount to be repaid.[18] The Exchange believes that the flexibility to list a variety of Index Securities will offer investors the opportunity to more precisely focus their specific investment strategies.

The original public offering price of Index Securities may vary with the most common offering price expected to be $10 or $1,000 per unit. As discussed above, Index Securities entitle the owner at maturity to receive a cash amount based upon the performance of a particular market index or combination of indexes. The Index Securities do not give the holder any right to receive a portfolio security, dividend payments, or any other ownership right or interest in the portfolio or index of securities comprising the Underlying Index. Pursuant to Section 107D, the current value of an Underlying Index or composite value of the Underlying Indexes will be widely disseminated at least every 15 seconds during the trading day.

Index Securities are expected to trade at a lower cost than the cost of trading each of the underlying component securities separately (because of reduced commission and custody costs) and are also expected to give investors the ability to maintain index exposure without the corresponding management or administrative fees and ongoing expenses. The initial offering price for an Index Security will be established on the date the security is priced for sale to the public. The final value of an Index Security will be determined on the valuation date at or near maturity consistent with the mechanics detailed in the prospectus for such Index Security.

C. Proposed Listing Criteria

As explained more fully in the Notice, Amex has proposed asset/equity requirements and tangible net worth for each Index Security issuer, as well as minimum distribution, principal/market value, and term thresholds for each issuance of Index Securities.

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[11] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (the ''19b–4(e) Order'').

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 19b–4(e)(2)(ii); 17 CFR 249.820.

[14] *See, e.g.*, Securities Exchange Act Release Nos. 48151 (July 10, 2003), 68 FR 42438 (July 17, 2003) (approving the listing and trading of notes linked to the Amex Biotech Index); 47983 (June 4, 2003), 68 FR 35032 (June 11, 2003) (approving the listing and trading of a CSFB Note linked to S&P 500); 47911 (May 22,2003), 68 FR 32558 (May 30, 2003) (approving the listing and trading of notes linked to the S&P 500); 46021 (June 3, 2002), 67 FR 39753 (June 10, 2002) (approving the listing and trading of notes linked to the Select European 50 Index); 45639 (March 25, 2002), 67 FR 15258 (March 29, 2002) (approving the listing and trading of notes linked to the Oil Natural Gas Index); 45305 (January 17, 2002), 67 FR 3753 (January 25, 2002) (approving the listing and trading of notes linked to the Biotech-Pharmaceutical Index); 44437 (June 18, 2001), 66 FR 33585 (June 22, 2001) (approving the listing and trading of notes linked to the Industrial 15 Index); and 44342 (May 23, 2001), 66 FR 29613 (May 31, 2001) (approving the listing and trading of notes linked to the Select Ten Index). *See also* infra notes 16.

[15] As explained in the Notice, the holder of an Index Security may or may not be fully exposed to the appreciation and/or depreciation of the underlying component securities. For example, an Index Security may be subject to a ''cap'' on the maximum principal amount to be repaid to holders or a ''floor'' on the minimum principal amount to be repaid to holders at maturity.

[16] *See, e.g.*, Securities Exchange Act Release Nos. 50812 (December 7, 2004), 69 FR 74544 (December 14, 2004) (approving the listing and trading of Wachovia Notes linked to the performance of the Nasdaq-100); 50278 (August 26, 2004), 69 FR 53751 (September 2, 2004) (approving the listing and trading of Citigroup Notes linked to the performance of the S&P 500); 50019 (July 14, 2004), 69 FR 43635 (July 21, 2004) (approving the listing and trading of Morgan Stanley PLUS Notes linked to the performance of the S&P 500); 50016 (July 14, 2004), 69 FR 43639 (July 21, 2004) (approving the listing and trading of Morgan Stanley PLUS Notes linked to the performance of the Nikkei 225 Index); 48152 (July 10, 2003), 68 FR 42435 (July 17 2003) (approving the listing and trading of a UBS Partial Protection Note linked to the S&P 500); 47983 (June 4, 2003), 68 FR 35032 (June 11, 2003) (approving the listing and trading of a CSFB Accelerated Return Notes linked to S&P 500); 47911 (May 22, 2003), 68 FR 32558 (May 30, 2003) (approving the listing and trading of notes (Wachovia TEES) linked to the S&P 500); 46883 (November 21, 2002), 67 FR 71216 (November 29, 2002) (approving the listing and trading of Market Recovery Notes on the DJIA) and 45966 (May 20, 2002), 67 FR 36942 (May 28, 2002) (approving the listing and trading of notes linked to the performance of the Nasdaq 100).

[17] *See, e.g.*, Securities Exchange Act Release Nos. 48280 (August 1, 2003), 68 FR 47121 (August 7, 2003). As stated, the proposed generic listing standards will not be applicable to Index Securities that are structured with ''downside'' accelerated returns.

[18] Some Index Securities may provide for ''contingent'' protection of the principal amount, whereby the principal protection may disappear if the Underlying Index at any point in time during the life of such security reaches a certain pre-determined level. *See, e.g.*, Securities Exchange Act Release Nos. 50850 (December 14, 2004), 69 FR 76506 (December 21, 2004) (approving the listing and trading of Wachovia Trigger Capitals linked to the performance of the S&P 500); 50414 (September 20, 2004), 69 FR 58001 (September 28, 2004) (approving the listing and trading of Lehman Contingent Protection Notes on the S&P 500); 49453 (March 19, 2004), 69 FR 15913 (March 26, 2004) (approving the listing and trading of Contingent Principal Protection Notes linked to the performance of the DJIA); 48486 (September 11, 2003), 68 FR 54758 (September 18, 2003) (approving the listing and trading of CSFB Contingent Principal Protection Notes linked to the performance of the S&P 500); and 48152 (July 10, 2003), 68 FR 42435 (July 17, 2003) (approving the listing and trading of a UBS Partial Protection Note linked to the performance of the S&P 500).

Criteria for Underlying Indexes

Each index or combination of indexes underlying an Index Security (the ''Underlying Index'' or ''Underlying Indexes'') must satisfy the specific criteria set forth in proposed Section 107D(g) of the *Company Guide* or be an index previously approved for the trading of options or other derivative securities by the Commission under Section 19(b)(2) of the Act and rules thereunder. In general, the criteria for the underlying component securities of an Underlying Index is substantially similar to the requirements for index options set forth in Commentary .02 to Amex Rule 901C. In all cases, an Underlying Index is required to have a minimum of ten (10) component securities (''Underlying Security'').

Examples of Underlying Indexes intended to be covered under the proposed generic listing standards include the Standard & Poor's 500 Index (''S&P 500''), Nasdaq-100 Index (''Nasdaq 100''), the Dow Jones Industrial Average (''DJIA''), Nikkei 225 Index (''Nikkei 225''), the Dow Jones STOXX 50 Index (''DJ STOXX 50''), the Global Titans 50 Index (''Global Titans 50''), Amex Biotechnology Index (''Amex Biotech''), and certain other indexes that represent various industry and/or market segments.[19] The Exchange will require that all changes to an Underlying Index, including the deletion and addition of underlying component securities, index rebalancings and changes to the calculation of the index, will be made in accordance with the proposed generic criteria or the Commission's Section 19(b)(2) order, which approved the similar derivative product containing the Underlying Index.

In order to satisfy the proposed generic listing standards, the Underlying Index will be calculated based on either a market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology.[20] If a broker-dealer is responsible for maintaining (or has a role in maintaining) the Underlying Index, such broker-dealer is required to erect and maintain a ''firewall,'' in a form satisfactory to the Exchange, to prevent the flow of information regarding the Underlying Index from the index production personnel to the sales and trading personnel.[21] In addition, an Underlying Index that is maintained by a broker-dealer is also required to be calculated by an independent third party who is not a broker-dealer.

Eligibility Standards for Underlying Securities

Index Securities will be subject to the criteria in proposed Amex *Company Guide* Section 107D(g) and (h) for initial and continued listing. For an Underlying Index to be appropriate for the initial listing of an Index Security, such Index must either be approved for the trading of options or other derivative securities by the Commission under Section 19(b)(2) of the Act and rules thereunder or meet the following requirements:

- Each Underlying Security must have a minimum market value of at least $75 million, except that for each of the lowest weighted Underlying Securities in the index that in the aggregate account for no more than 10% of the weight of the index, the market value can be at least $50 million;
- Each Underlying Security must have a trading volume in each of the last six months of not less than 1,000,000 shares, except that for each of the lowest weighted Underlying Securities in the index that in the aggregate account for no more than 10% of the weight of the index, the trading volume shall be at least 500,000 shares in each of the last six months;
- In the case of a capitalization-weighted or modified capitalization-weighted index, the lesser of the five highest weight Underlying Securities in the index or the highest weighted Underlying Securities in the index that in the aggregate represent at least 30% of the total number of Underlying Securities in the index, each have an average monthly trading volume of at least 2,000,000 shares over the previous six months;
- No component security will represent more than 25% of the weight of the index, and the five highest weighted component securities in the index will not in the aggregate account for more than 50% of the weight of the index (60% for an index consisting of fewer than 25 Underlying Securities);
- 90% of the index's numerical index value (*e.g.*, underlying securities that account for 90% of the weight of the index) and at least 80% of the total number of component securities will meet the then current criteria for standardized options trading set forth in Exchange Rule 915;
- Each component security shall be a 1934 Act reporting company which is listed on a national securities exchange or is traded through the facilities of a national securities association and is subject to last sale reporting; and
- Foreign country securities or American Depository Receipts (''ADRs'') that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 20% of the weight of the index.

As described above in the Section entitled ''Description of Underlying Indexes,'' all Underlying Indexes are required to have at least ten (10) component securities.

The proposed continued listing criteria set forth in proposed Amex *Company Guide* Section 107D(h)(1) regarding the underlying components of an Underlying Index provides that the Exchange will commence delisting or removal proceedings of an Index Security (unless the Commission has approved the continued trading of the Index Security) if any of the standards set forth in the initial eligibility criteria of proposed Amex *Company Guide* Section 107D(g) are not continuously maintained, except that:

- The criteria that no single component represent more than 25% of the weight of the index and the five highest weighted components in the index can not represent more than 50% (or 60% for indexes with less than 25 components) of the weight of the Index, need only be satisfied for capitalization-weighted, modified capitalization-weighted and price weighted indexes as of the first day of January and July in each year;

[19] *See supra* notes 16, 18. *See also* Securities Exchange Act Release Nos. 49548 (April 9, 2004), 69 FR 20089 (April 15, 2004) (approving the listing and trading of notes linked to the performance of the Select Utility Index); 48151 (July 10, 2003), 68 FR 42438 (July 17, 2003) (approving the listing and trading of notes linked to the performance of the Amex Biotechnology Index); 46882 (November 21, 2002), 67 FR 71219 (November 29, 2002) (approving the listing and trading of notes linked to the performance of the Select Fifty Index); 45305 (January 17, 2002), 67 FR 3753 (January 25, 2002) (approving the listing and trading of notes linked to the performance of the Biotech-Pharmaceutical Index); 44342 (May 23, 2001), 66 FR 29613 (May 31, 2001) (Select Ten Index); 44437 (June 18, 2001), 66 FR 33585 (June 22, 2001) (approving the listing and trading of notes linked to the performance of the Industrial 15 Index); and 46021 (June 3, 2002), 67 FR 39753 (June 10, 2002) (approving the listing and trading of notes linked to the performance of the Select European 50 Index).

[20] Details regarding each of these methodologies are described in the Notice. *See* Notice, notes 20–24.

[21] For certain indexes, an index provider, such as Dow Jones, may select the components and calculate the index, but overseas broker-dealer affiliates of U.S. registered broker-dealers may sit on an ''advisory'' committee that recommends component selections to the index provider. In such case, the Exchange should ensure that appropriate information barriers and insider trading policies exist for this advisory committee. *See* Securities Exchange Act Release No. 50501 (October 7, 2004), 69 FR 61533 (October 19, 2004) (approving NASD 2004–138, pertaining to index linked notes on the Dow Jones Euro Stoxx 50 Index). Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on February 23, 2005.

• The total number of components in the index may not increase or decrease by more than 33⅓% from the number of components in the index at the time of its initial listing, and in no event may be less than ten (10) components;

• The trading volume of each component security in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted components in the index that in the aggregate account for no more than 10% of the weight of the index, trading volume must be at least 400,000 shares for each of the last six months; and

• In a capitalization-weighted or modified capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of stocks in the index have had an average monthly trading volume of at least 1,000,000 shares over the previous six months.

In connection with an Index Security that is listed pursuant to proposed Amex *Company Guide* Section 107D(g)(1), the Exchange will commence delisting or removal proceedings (unless the Commission has approved the continued trading of the Index Security) if an underlying index or indexes fails to satisfy the maintenance standards or conditions for such index or indexes as set forth by the Commission in its order under Section 19(b)(2) of the Act approving the index or indexes for the trading of options or other derivatives.

As set forth in proposed Amex *Company Guide* Section 107D(h)(3), the Exchange will also commence delisting or removal proceedings of an Index Security (unless the Commission has approved the continued trading of the Index Security), under any of the following circumstances:

• If the aggregate market value or the principal amount of the securities publicly held is less than $400,000;

• If the value of the Underlying Index or composite value of the Underlying Indexes is no longer calculated and widely disseminated on at least a 15-second basis; or

• If such other event shall occur or condition exists which is the opinion of the Exchange makes further dealings on the Exchange inadvisable.

The Amex represents that Index Securities listed and traded on the Exchange will be required to be in compliance with Rule 10A–3 under the Act.[22]

Exchange Rules Applicable to Index-Linked Securities

Index Securities will be treated as equity instruments and will be subject to all Exchange rules governing the trading of equity securities, including, among others, rules governing priority, parity and precedence of orders, market volatility related trading halt provisions pursuant to Amex Rule 117, and responsibilities of the specialist. Exchange equity margin rules and the regular equity trading hours of 9:30 a.m. to 4:00 p.m. will apply to transactions in Index Securities.

Information Circular

In addition, upon evaluating the nature and complexity of each Index Security, the Exchange represents that it will prepare and distribute, if appropriate, an Information Circular to members describing the product. Accordingly, the particular structure and corresponding risk of any Index Security traded on the Exchange will be highlighted and disclosed.[23] In particular, the circular will set forth the Exchange's suitability rule that requires member and member organizations and employees thereof recommending a transaction in Index Securities: (1) To determine that such transaction is suitable for the customer (Amex Rule 411) and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of such transaction.

Surveillance

The Exchange will closely monitor activity in Index Securities to identify and deter any potential improper trading activity in Index Securities. Additionally, the Exchange represents that it will develop surveillance procedures adequate to properly monitor the trading of the Index Securities. Specifically, the Amex will rely on its existing surveillance procedures governing equities, options and exchange-traded funds, which have been deemed adequate under the Act. The Exchange has developed procedures to closely monitor activity in the Index Security and related Underlying Securities to identify and deter potential improper trading activity. Proposed Amex *Company Guide* Section 107D(j) provides that the Exchange will implement written surveillance procedures for Index Securities.

The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees. As detailed above in the description of the generic standards, if the issuer or a broker-dealer is responsible for maintaining (or has a role in maintaining) the Underlying Index, such issuer or broker-dealer is required to erect and maintain a ''firewall'' in a form satisfactory to the Exchange, in order to prevent the flow of information regarding the Underlying Index from the index production personnel to sales and trading personnel. In addition, the Exchange will require that calculation of Underlying Indexes be performed by an independent third party who is not a broker-dealer.

III. Commission Findings

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b) of the Act[24] and the rules and regulations thereunder applicable to a national securities exchange.[25] In particular, the Commission believes that the proposal furthers the objectives of Section 6(b)(5) of the Act[26] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principal of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Commission has previously approved the listing and trading of several Index Securities by the Exchange based on a variety of debt structures and market indexes.[27] In approving these securities for Exchange trading, the Commission thoroughly considered the structures, their

[22] *See* Rule 10A–3(c)(7), 17 CFR 240.10A–3(c)(7).

[23] The Exchange notes that members conducting a public securities business are subject to the rules and regulations of the National Association of Securities Dealers, Inc. (''NASD''), including NASD Rule 2310(a) and (b). Accordingly, NASD Notice to Members 03–71 regarding non-conventional investments or ''NCIs'' applies to Exchange members recommending/selling index-linked securities to public customers. This Notice specifically reminds members in connection with NCIs (such as index-linked securities) of their obligations to: (1) Conduct adequate due diligence to understand the features of the product; (2) perform a reasonable-basis suitability analysis; (3) perform customer-specific suitability analysis in connection with any recommended transactions; (4) provide a balanced disclosure of both the risks and rewards associated with the particular product, especially when selling to retail investors; (5) implement appropriate internal controls; and (6) train registered persons regarding the features, risk and suitability of these products.

[24] 15 U.S.C. 78f(b).

[25] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78f(b)(5).

[27] *See supra* notes 16, 18 and 19.

usefulness to investors and to the markets, and Amex rules that govern their trading. The Commission believes that generic listing standards for these securities should fulfill the intended objective of Rule 19b–4(e) by allowing those Index Securities that satisfy the generic listing standards to commence trading without public comment and Commission approval.[28] This has the potential to reduce the time frame for bringing Index Securities to market and thereby reduce the burdens on issuers and other market participants. Further, the Exchange's ability to rely on Rule 19b–4(e) for Index Securities potentially reduces the time frame for listing and trading these securities, and thus enhances investors' opportunities. The Commission notes that it maintains regulatory oversight over any products listed pursuant to generic listing standards through regular inspection oversight.

A. Trading of Index Securities

Taken together, the Commission finds that the Amex proposal contains adequate rules and procedures to govern the trading of Index Securities listed pursuant to Rule 19b–4(e) on the Exchange or traded pursuant to unlisted trading privileges. All Index Security products listed under the standards will be subject to the full panoply of Amex rules and procedures that now govern the trading of Index Securities and the trading of equity securities on the Amex, including among others, rules and procedures governing trading halts, disclosures to members, responsibilities of the specialist, account opening and customer suitability requirements, the election of a stop or limit order, and margin.

Amex has proposed asset/equity requirements and tangible net worth for each Index Security issuer, as well as minimum distribution, principal/market value, and term thresholds for each issuance of Index Securities. As set forth more fully above, Amex's proposed listing criteria include minimum market capitalization, monthly trading volume, and relative weighting requirements for the Index Securities. These requirements are designed to ensure that the trading markets for index components underlying Index Securities are adequately capitalized and sufficiently liquid, and that no one stock dominates the index. The Commission believes that these requirements should significantly minimize the potential for manipulation. The Commission also finds that the requirement that each component security underlying an Index Security be listed on a national securities exchange or traded through the facilities of a national securities system and subject to last sale reporting will contribute significantly to the transparency of the market for Index Securities. Alternatively, if the index component securities are foreign securities that are not reporting companies, the generic listing standards permit listing of an Index Security if the Commission previously approved the underlying index for trading in connection with another derivative product and certain surveillance sharing arrangements exist with foreign markets. The Commission believes that if it has previously determined that such index and its components were sufficiently transparent, then the Exchange may rely on this finding, provided it has comparable surveillance sharing arrangements with the foreign market that the Commission relied on in approving the previous product.

The Commission believes that by requiring pricing information for both the relevant underlying index or indexes and the Index Security to be readily available and disseminated, the proposed listing standards should help ensure a fair and orderly market for Index Securities approved pursuant to Section 107D.

The Commission also believes that the requirement that at least 90 percent of the component securities, by weight, and 80 percent of the total number of component securities, be eligible individually for options trading will prevent an Index Security from being a vehicle for trading options on a security not otherwise options eligible.

The Exchange has also developed delisting criteria that will permit Amex to suspend trading of an Index Security in case of circumstances that make further dealings in the product inadvisable. The Commission believes that the delisting criteria will help ensure a minimum level of liquidity exists for each Index Security to allow for the maintenance of fair and orderly markets. Also, the Exchange will commence delisting proceedings in the event that the value of the underlying index or index is no longer calculated and widely disseminated on at least a 15-second basis.

B. Surveillance

The Exchange must surveil trading in any products listed under the generic listing standards. In that regard, the Commission believes that a surveillance sharing agreement between an Exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. When a new derivative securities product based upon domestic securities is listed and traded on an exchange pursuant to Rule 19b–4(e) under the Act, the exchange should determine that the markets upon which all of the U.S. component securities trade are members of the Intermarket Surveillance Group (''ISG''), which provides information relevant to the surveillance of the trading of securities on other market centers.[29] For new derivative securities products based on securities from a foreign market, the exchange should have a comprehensive Intermarket Surveillance Agreement with the market for the securities underlying the new securities product.[30] Accordingly, the Commission finds that Amex's commitment to implement comprehensive surveillance sharing agreements, as necessary,[31] and the requirement that no more than 20 percent of the weight of the index may be comprised of foreign country securities or ADRs that are not subject to a comprehensive surveillance sharing agreement[32] will make possible adequate surveillance of trading of Index Securities listed pursuant to the proposed generic listing standards.

With regard to actual oversight, Amex represents that its surveillance procedures are sufficient to detect fraudulent trading among members in the trading of Index Securities pursuant to proposed Section 107D of the Amex *Company Guide.*

[28] The Exchange has previously received Commission approval to list and trade certain index options, exchange-traded fund shares and trust issued receipts pursuant to Rule 19b–4(e). *See* Securities Exchange Act Release Nos. 41091 (February 23, 1999), 64 FR 10515 (March 4, 1999) (Narrow-Based Index Options); 42787 (May 15, 2000), 65 FR 33598 (May 24, 2000) (ETFs); and 43396 (September 29, 2000), 65 FR 60230 (October 10, 2000) (TIRs). The Commission notes that the failure of a particular index to comply with the proposed generic listing standards under Rule 19b–4(e), however, would not preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2), requesting Commission approval to list and trade a particular index-linked product.

[29] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (File No. S7–13–98). ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. The Commission notes that all of the registered national securities exchanges, including the ISE, as well as the NASD, are members of the ISG.

[30] *See id.*

[31] Proposed Amex *Company Guide* Section 107D(j).

[32] Proposed Amex *Company Guide* Section 107D(g)(vii).

C. Acceleration

The Commission finds good cause for approving proposed Amendment No. 2 before the 30th day after the date of publication of notice of filing thereof in the **Federal Register**. In Amendment No. 2, Amex made minor modifications to the rule text and corresponding description, which clarified the scope of the proposal. The Commission believes that Amendment No. 2 will facilitate application of the Exchange's generic listing standards and enable more expeditious review and listing of Index Securities by Amex, reducing administrative burdens and benefiting the investing public. Thus, the Commission finds good cause to accelerate approval of the proposed rule change, as amended.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 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–Amex–2005–001 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–Amex–2005–001. 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 Amex. 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–Amex–2005–001 and should be submitted on or before May 16, 2005.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[33] that the proposed rule change (SR–Amex–2005–001), as modified by Amendment No. 1, is hereby approved, and that Amendment No. 2 to the proposed rule change is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[34]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–1949 Filed 4–22–05; 8:45 am]

BILLING CODE 8010–01–P

[33] 15 U.S.C. 78s(b)(2).

[34] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Delegations of Authority

AGENCY: Small Business Administration.

ACTION: Notice of Delegations of Authority.

SUMMARY: This document provides the public notice of the delegations of authority for lender oversight and enforcement activities by the Administrator of the Small Business Administration (SBA) to the Associate Administrator for the Office of Lender Oversight, the Lender Oversight Committee, and the Associate Deputy Administrator for Capital Access.

FOR FURTHER INFORMATION CONTACT: Janet A. Tasker, Associate Administrator for the Office of Lender Oversight, or Diane K. Wright, Attorney Advisor, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, telephone numbers: (202) 205–3049 or (202) 205–6642, respectively; facsimile number: (202) 205–6846; and electronic mail: *janet.tasker@sba.gov* or *diane.wright@sba.gov,* respectively.

SUPPLEMENTARY INFORMATION: This publication provides the public notice of the Administrator's delegations of authority with respect to SBA's lender oversight and enforcement activities. It follows in time the Administrator's approval of designated responsibilities of SBA's Office of Lender Oversight. It also incorporates specific authorities enacted in Pub. L. 108–447, Division K (December 7, 2004) or promulgated in SBA regulations codified at 13 CFR part 120 or part 145. Delegation of Authority 12–G reads as follows:

Delegation of Authority No. 12–G.

I. The Administrator of the SBA, Hector V. Barreto, pursuant to the authority vested in him by the Small Business Act, 15 U.S.C. 631, as amended, and the Small Business Investment Act of 1958, 15 U.S.C. 661, as amended, hereby delegates the following authorities:

A. *To the Associate Administrator for the Office of Lender Oversight (AA/OLO):*

1. Lender Oversight Activities.

a. To direct and coordinate SBA's lender oversight activities.

b. To review, examine, monitor, and assess the risks to SBA loan programs of, SBA lenders [including but not limited to Small Business Lending Companies (SBLCs); non-Federally regulated lenders (as defined in Section 3(r)(2) of the Small Business Act); other 7(a) lenders; Certified Development Companies (CDCs); and intermediaries participating in SBA's Microloan Program (as defined in 13 CFR 120.701(e))] using a variety of oversight tools, including but not limited to: SBA's Loan and Lender Monitoring System (L/LMS); on-site reviews; off-site monitoring and evaluation; and lender ratings.

c. To set capital standards for SBLCs.

d. To assume responsibility for follow-up and day-to-day dealings with lenders with higher risk ratings of 4 or 5, other than servicing actions on individual loans (which will be reviewed by the Office of Financial Assistance (OFA)), including but not limited to approving delegations of program authority (for example new authority, renewal of authority, or expansion of authority in the Preferred Lender Program, Express Program, Premier Certified Lender Program or any other delegated program authority established in the future).

e. To head and direct the activities of the Bureau of PCLP Oversight.

f. To take all other actions relating to lender oversight activities that are not otherwise delegated to others pursuant to these Delegations of Authority.

2. Enforcement Actions.

a. To make recommendations to the Lender Oversight Committee relating to enforcement actions against lenders

with higher risk ratings (ratings of 4 or 5).

b. To take enforcement actions against lenders with higher risk ratings (ratings of 4 or 5) as approved by the Lender Oversight Committee and, if necessary, as approved by the Administrator or his/her authorized delegatee, with the concurrence of the Office of General Counsel.

c. To take all other actions in connection with lender oversight enforcement for lenders with higher risk ratings (ratings of 4 or 5) that are not otherwise delegated to others pursuant to these Delegations of Authority.

d. To take other actions in connection with lender oversight enforcement as permitted by regulation.

3. Policy, Program, and Portfolio Analysis.

a. To provide the Office of Capital Access (OCA) and appropriate program management offices with independent policy, program and portfolio analysis for SBA's loan programs and portfolios.

b. To monitor changes in accounting, banking, and financial industries relative to small business lending, and recommend appropriate modification of SBA oversight and lending policies.

c. To conduct reviews of the guaranteed purchase review process, practices and decisions.

d. To provide L/LMS administration and support.

4. To serve as the debarring and suspending official for SBA's financial assistance programs in accordance with current regulations.

5. To take all other actions in connection with matters related to SBA's Lender Oversight Program and to do and perform and to assent to the doing and performance of, each and every act and thing requisite and proper to effectuate the powers granted herein.

B. *To the Lender Oversight Committee:*

1. To review reports on lender oversight activities.

2. To review enforcement action recommendations of the AA/OLO for lenders with higher risk ratings (ratings of 4 or 5), and

a. With respect to enforcement actions under Sections 23(b) (directive to increase capital for SBLC), 23(d) (revocation or suspension of loan authority of SBLC/non-Federally regulated lender), and 23(e) (cease and desist order issued to SBLC/non-Federally regulated lender) of the Small Business Act, to vote to recommend this or another action or to vote to not recommend action, to the Administrator or his/her authorized delegatee, and

b. With respect to all other enforcement actions, to vote to approve, disapprove, or modify the action.

3. To review OLO's budget, staffing, and operating plans.

4. To take such other actions and perform such other functions as may be formally adopted by SOP or otherwise.

C. *To the Associate Deputy Administrator for Capital Access (ADA/CA):*

1. In addition to the powers and authorities already delegated to the ADA/CA, to issue a directive to one or more SBLCs that he/she determines is being operated in an imprudent manner to increase capital to such level as he/she determines will result in the safe and sound operation of the SBLC, in accordance with SBA regulations.

II. The authorities delegated to the AA/OLO, except the authority to change assigned ratings, may be redelegated.

III. The authorities delegated to the AA/OLO may be exercised by any SBA employee officially designated as Acting in the position.

IV. The authority delegated herein to the ADA/CA may be exercised by any SBA employee officially designated as Acting in the position.

V. Other than the authority delegated to the Lender Oversight Committee in Paragraph I.B.2.b., the authorities delegated herein to the Lender Oversight Committee and the ADA/CA may not be redelegated. With regard to the Paragraph I.B.2.b., the Lender Oversight Committee may delegate authority to the AA/OLO to approve certain specified enforcement actions.

VI. The authorities delegated herein can only be revoked by the Administrator and in writing.

VII. All previous delegations that are contrary to these delegations are hereby revoked.

VIII. These delegations of authority may be amended from time to time.

Authority: 15 U.S.C. 634(b)(7); 15 U.S.C. 687(f); 15 U.S.C. 650; 15 U.S.C. 696(3)(A); 15 U.S.C. 697(a)(2); 15 U.S.C. 697e(c)(8); and Pub.L. 104–208, Division D, Title I, Section 103(h) (September 30, 1996).

Dated: April 19, 2005.

Hector V. Barreto,

Administrator.

[FR Doc. 05–8170 Filed 4–22–05; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA; Fax: (202) 395–6974.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Building, 6401 Security Blvd., Baltimore, MD 21235; Fax: (410) 965–6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at (410) 965–0454 or by writing to the address listed above.

1. Record of SSI Inquiry—20 CFR 416.345—0960–0140.

Form SSA–3462 is completed by SSA personnel via telephone or personal interview, and it is used to determine potential eligibility for Supplemental Security Income (SSI) benefits. The respondents are individuals who inquire about SSI eligibility for themselves or someone else.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 2,134,100.

Frequency of Response: 1.

Average Burden per Response: 5 minutes.

Estimated Annual Burden: 177,842 hours.

2. The Ticket to Work and Self-Sufficiency Program—20 CFR 411.160–.730—0960–0644.

The Ticket to Work and Self-Sufficiency program allows individuals with disabilities who are receiving disability payments to work towards decreased dependence on government cash benefits programs without jeopardizing their benefits during the transition period to employment. The program allows disability payment recipients to choose a provider from an employment network (EN), who will guide these beneficiaries in obtaining, regaining, and maintaining self-supporting employment. 20 CFR 411.160–.730 of the Code of Federal Regulations discusses the rules governing this program. The respondents are individuals entitled to Social Security benefits based on disability or individuals entitled to SSI based on disability; program managers; EN contractors; and State vocational rehabilitation agencies.

Type of Request: Extension of an OMB-approved information collection.

CFR sections	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
411.140(c), [X-refer sections 411.145, 411.150, 411.325(a), (b), (c), & (d), 411.320(f)].	70,000	2/year	60	140,000
411.325(e), [X-refer section 411.395(b)]	70,000	12/year	60	840,000
411.325(f), [X-refer section 411.395(a)]	60,000	1/year	5	5,000
411.190 (a), [X-refer section 411.195]	250	1/year	30	125
411.220(a)(1)	55	Varies	30	28
441.245(b)(1)	12,000	1	1	200
411.325(d)	25	1	480	200
411.365	82	1	240	328
411.575, [X-refer section 411.500]	6,000	1	30	3,000
411.605(b), [X-refer section 411.610]	27,000	Varies	5	2,250
411.435(c)	100	Once	60	100
411.615	1,000	Once	60	1,000
411.625	50	Once	60	50
411.210(b)	2,000	Once	30	1,000
411.590(b)	100	Once	60	100
411.655	1	Once/year	120	2
411.200	150	1/monthly	15	450
Total annual respondents	248,813		Total annual burden hours.	993,833

Total Estimated Annual Burden: 993,833 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at (410) 965–0454, or by writing to the address listed above.

1. Help America Vote Act—0960–NEW.

Background

On October 29, 2002, President George W. Bush signed into law H.R. 3295, the Help America Vote Act (HAVA) of 2002, which mandates the verification of newly registered voters. HAVA places certain requirements upon SSA in terms of verifying information to be used for each State's voter registration process. SSA's role in HAVA is defined in Section 303 of the law. Section 303 requires each State to implement a computerized statewide voter registration list and to verify voter information with the State motor vehicle administration (MVA) records, or if none exist, with SSA records.

HAVA Information Collection

Individuals registering to vote must provide their driver's license number to the State election agency. If they have no driver's license or State-issued identity card they must supply the last four digits of the Social Security number (SSN). The State election agency will forward the new registrant name, date of birth, and the last four digits of the SSN to the State MVA.

SSA requires State MVAs to use the American Association of Motor Vehicle Administrations (AAMVA) as a consolidation point for data transfer.

The data, as input by the MVA, routes the applicant's information to the AAMVA network hub. AAMVA forwards the transaction to SSA's HAVA verification system. The result will be returned from SSA to the AAMVA hub for distribution to the State MVA.

The respondents to the HAVA collection are the various State MVAs responsible for verifying voter registration information.

Type of Request: New Information Collection.

Number of Respondents: 50 State MVAs.

Total Annual Responses: *1,000,000.

Average Burden per Response: 2 minutes.

Estimated Annual Burden: 33,333 hours.

[*The actual number of responses per State will vary based on population. Therefore, the total number of responses is based on data of new voter applications received by all 50 States in 1999–2000.]

2. Public Understanding Measurement System (PUMS)—0960–0612.

As required by Section 2(b) of the Government Performance and Results Act, which provides that Agencies establish the means for measuring their progress in achieving agency-level goals, SSA established the PUMS in 1998 as a tool for measuring its performance in meeting its strategic objectives in the area of public knowledge about and understanding of the Social Security program. The instrument used in PUMS is a national phone survey of adult Americans (age 18 and over) conducted annually for SSA by a professional polling organization. The PUMS survey instrument is designed to collect knowledge data from key populations toward which SSA has targeted education and outreach programs. Additionally, the survey is intended to assure a valid knowledge measure for key populations at the national level. This information is a crucial step in making SSA more focused and effective

in its communication programs. The respondents are randomly selected adults residing in the United States.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 1,400.

Frequency of Response: 1.

Average Burden per Response: 15 minutes.

Estimated Annual Burden: 350 hours.

3. Railroad Employment Questionnaire—20 CFR 404.1401, 404.1406–.1408—0960–0078.

SSA uses form SSA–671 to secure sufficient information to effect the required coordination with the Railroad Retirement Board (RRB) for Social Security claims processing. It is completed whenever claimants give indications of having been employed in the railroad industry. The respondents are applicants for Social Security benefits, who have had railroad employment, or dependents of railroad workers.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 125,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 10,417 hours.

4. Statement of Income and Resources—20 CFR 416.207, 416.301–.310, 416.704 and 416.708—0960–0124.

The information collected on form SSA–8010–BK is used in SSI claims and redeterminations to obtain information about the income and resources of: ineligible spouses, parents/spouses of parents, and children living in the claimant's/beneficiary's household; essential persons; and sponsors of aliens (including spouses of sponsors who live with the sponsor). The information is needed to make initial or continuing eligibility determinations for SSI claimants/beneficiaries who are subject to deeming. If eligible, the information is used to determine the amount of the SSI payment. The respondents are persons whose income and resources must be considered in determining the eligibility of SSI claimants or beneficiaries.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 341,000.

Frequency of Response: 1.

Average Burden Per Response: 26 minutes.

Estimated Annual Burden: 147,767 hours.

5. Government Pension Questionnaire—20 CFR 404.408a—0960–0160.

The Social Security Act and the Code of Federal Regulations provide that an individual receiving spouse's benefits and concurrently receiving a Government pension, based on the individual's own earnings, may have the Social Security benefit amount reduced by two-thirds of the pension amount. The data collected on form SSA–3885 is used by SSA to determine if the individual's Social Security benefit will be reduced, the amount of the reduction, and if one of the exceptions in 20 CFR 404.408a applies. The respondents are individuals who are receiving, or will receive, Social Security spouse's benefits and also receive their own Government pension.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 76,000.

Frequency of Response: 1.

Average Burden Per Response: 12.5 minutes.

Estimated Annual Burden: 15,833 hours.

6. Teacher Questionnaire (SSA–5665–BK); Request for Administrative Information (SSA–5666–BK)—20 CFR 416.924a and 20 CFR 404.1520—0960–0646.

If an individual who is claiming disability under Title XVI or Title II is currently, or has recently been, in an education program, SSA must obtain information about his or her functioning from teachers, instructors, and other education personnel who have the opportunity to observe the individual on a day-to-day basis. Educational programs are an important source of evidence and often provide formal assessment results and other kinds of information from a variety of disciplines. Evidence obtained from educational programs varies a great deal, however, in format, content, reliability, and usefulness. The need exists, therefore, for an information collection instrument that will assure a degree of uniformity and consistency in the quantity and quality of information received about a claimant's (or beneficiary's/recipient's) impairment-related limitations.

SSA–5665–BK

Type of Request: Revision of OMB-approved information collection.

Number of Respondents: 557,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 185,667 hours.

SSA–5666

Type of Request: Revision of OMB-approved information collection.

Number of Respondents: 555,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 138,750 hours.

Dated: April 19, 2005.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 05–8180 Filed 4–22–05; 8:45 am]

BILLING CODE 4191–02–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Notice of Availability and Request for Public Comment on Interim Environmental Review of United States-Oman Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of availability and request for public comment.

SUMMARY: The Office of the U.S. Trade Representative (USTR), on behalf of the Trade Policy Staff Committee (TPSC), seeks comment on the interim environmental review of the proposed U.S.-Oman Free Trade Agreement (FTA). The interim environmental review is available at *http://www.ustr.gov/Trade_Sectors/Environment/Environmental_Reviews/Section_Index.html*. Copies of the review will also be sent to interested members of the public by mail upon request.

DATES: Comments on the draft environmental review are requested by May 31, 2005 to inform the negotiations and the review of the final agreement.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments, contact Gloria Blue, Executive Secretary, TPSC, Office of the USTR, 1724 F Street, NW., Washington, DC 20508, telephone (202) 395–3475. Questions concerning the environmental review, or requests for copies, should be addressed to David Brooks, Environment and Natural Resources Section, Office of the USTR, telephone 202–395–7320.

SUPPLEMENTARY INFORMATION: The Trade Act of 2002, signed by the President on August 6, 2002, provides that the President shall conduct environmental reviews of [certain] trade agreements consistent with Executive Order 13121—Environmental Review of Trade Agreements (64 FR 63,169, Nov. 18, 1999) and its implementing guidelines (65 FR 79,442, Dec. 19, 2000) and report on such reviews to the Committee on Ways and Means of the House of

Representatives and the Committee on Finance of the Senate. The Order and guidelines are available at *http://www.ustr.gov/Trade_Sectors/Environment/Section_Index.html*.

The purpose of environmental reviews is to ensure that policymakers and the public are informed about reasonably foreseeable environmental impacts of trade agreements (both positive and negative), to identify complementarities between trade and environmental objectives, and to help shape appropriate responses if environmental impacts are identified. Reviews are intended to be one tool, among others, for integrating environmental information and analysis into the fluid, dynamic process of trade negotiations. USTR and the Council on Environmental Quality jointly oversee implementation of the Order and Guidelines. USTR, through the Trade Policy Staff Committee (TPSC), is responsible for conducting the individual reviews.

Written Comments

In order to facilitate prompt processing of submissions of comments, the Office of the United States Trade Representative strongly urges and prefers e-mail submissions in response to this notice. Persons submitting comments by e-mail should use the following e-mail address: *FR0510@ustr.eop.gov* with the subject line: ''US—Oman FTA Interim Environmental Review.'' Documents should be submitted as a Word Perfect, MSWord, or text (.TXT) file. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. To the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. If submission by e-mail is impossible, comments should be made by facsimile to (202) 395–6143, attention: Gloria Blue.

Written comments will be placed in a file open to public inspection in the USTR Reading Room at 1724 F Street, NW., Washington DC. An appointment to review the file may be made by calling (202) 395–6186. The Reading Room is open to the public from 10–12 a.m. and from 1–4 p.m., Monday through Friday.

General information concerning the Office of the United States Trade Representative may be obtained by accessing its Internet Web site (*www.ustr.gov*).

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 05–8223 Filed 4–22–05; 8:45 am]

BILLING CODE 3190–W5–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 23–13A, Fatigue, Fail-Safe, and Damage Tolerance Evaluation of Metallic Structure for Part 23 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular AC 23–13A, and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular, Advisory Circular (AC) 23–13A, Fatigue, Fail-Safe, and Damage Tolerance Evaluation of Metallic Structure for part 23 Airplanes. The AC provides information and guidance on acceptable means, but not the only means of compliance with Title 14 of the Code of Federal Regulations (14 CFR) part 23, applicable to fatigue, fail-safe, and damage tolerance evaluations of metallic structure in normal, utility, aerobatic, and commuter category airplanes. The proposed AC is a significant revision to the existing AC 23–13, incorporating a reader friendly question and answer format, updated guidance based on recent policy documents, and updated flight load spectra. The proposed AC also provides information on approval of continued operational flight with known cracks in the structure of small airplanes. Finally, it consolidates existing policy documents, and certain technical reports, into a single document. This notice is necessary to give all interested people an opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before June 24, 2005.

ADDRESSES: If possible, please send your comments electronically to *Michael.Reyer@faa.gov.* Otherwise, send all comments on the proposed AC to: Federal Aviation Administration, Attention: Mr. Mike Reyer, ACE–111, 901 Locust, Kansas City, MO 64106. Comments may be inspected at the above address between 7:30 and 4 p.m. weekdays, except Federal holidays. All comments should contain the name and telephone number of the individual or company making the comment, the paragraph and page number that the comment references, the reason for comment, and the recommended resolution.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Reyer, Standards Office, Small Airplane Directorate, Aircraft Certification Service, Kansas City, Missouri 64106, telephone (816) 329–4131, fax (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested people are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Comments should identify AC number 23–13A. Send comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered before issuing the final AC. The proposed AC can be found and downloaded from the Internet at *http://www.faa.gov/certification/aircraft* in a few days. A paper copy of the proposed AC may be obtained by contacting the person named above under the caption **FOR FURTHER INFORMATION CONTACT**.

Issued in Kansas City, Missouri on April 15, 2005.

Nancy C. Lane,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–8137 Filed 4–22–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance Kalamazoo/Battle Creek International Airport Kalamazoo, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of 2 parcels of land totaling approximately 6.13 acres. Current use and present condition is as an overflow parking area for car rental vehicles on the southern portion of subject parcels. The northern portion of subject parcels is vacant, unimproved land. The land was not acquired with

federal funds. There are no impacts to the airport by allowing the airport to dispose of the property. The proposal concerns selling the land to a corporation that will construct a commercial office building on the site. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before May 25, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence C. King, Project Manager, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO 607, 11677 South Wayne Road, Romulus, Michigan 48174. Telephone Number (734) 229–2933/Fax Number (734) 229–2950. Documents reflecting this FAA action may be reviewed at this same location or at Kalamazoo/Battle Creek International Airport, Kalamazoo, Michigan.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Kalamazoo, Kalamazoo County, Michigan, and described as follows:

Parcel "A"

Part of the Northeast ¼ of Section 2, Town 3 South, Range 11 West, City of Kalamazoo, Kalamazoo County, Michigan, described as commencing at the North ¼ corner of said Section; thence S00°35′50″ E along the North-South ¼ line of Section 2 a distance of 1129.82 feet, (recorded as a distance of 1130.00 feet); thence N89°24′32″ E a distance of 996.88 feet, (recorded as N89°24′10″ E a distance of 997.27 feet) to the point of beginning; thence N00°32′18″ W a distance of 541.88 feet, (recorded as N00°35′50″ W a distance of 542.17 feet); thence N89°59′28″ E a distance of 101.85 feet, (recorded as N89°51′10″ E a distance of 101.74 feet); thence N00°51′54″ W a distance of 47.35 feet, (recorded as N00°08′50″ W a distance of 47.00 feet); thence N89°56′28'' E a distance of 299.81 feet, (recorded as N89°51′10″ E a distance of 299.17 feet); thence S09°11′15″ E a distance of 542.42 feet, (recorded as S09°12′50″ E) to the Northerly right of way of Fairfield Road; thence S40°10′02″ W along the said right of way a distance of 65.75 feet; thence S89°28′32″ W along the said right of way a distance of 440.07 feet to the point of beginning. Contains 255,945 square feet or 5.876 acres.

Part "C"

Part of the Northeast ¼ of Section 2, Town 3 South, Range 11 West, City of Kalamazoo, Kalamazoo County, Michigan, described as commencing at the North ¼ corner of said Section; thence S00°35′50″ E along the North-South ¼ line of Section 2 a distance of 1129.82 feet, (recorded as a distance of 1130.00 feet); thence N89°24′32″ E a distance of 996.88 feet, (recorded as N89D24′10″ E a distance of 997.27 feet); thence S69°10′09″ E a distance of 180.47 feet to the southerly right of way of Fairfield Road; thence N89°28′32″ E along said right of way a distance of 332.47 feet to the point of beginning; thence S89°28′32″ W along said right of way a distance of 154.27 feet; thence N00°31′28″ W a distance of 65.72 feet to the Northerly right of way of Fairfield Road; thence N89°28′32″ E along the Northerly right of way of Fairfield Road a distance of 93.79 feet; thence N40°10′02″ E along said right ofo way a distance of 65.75 feet; thence S09°11′15″ E along the easterly right of way of Fairfield Road a distance of 116.90 feet to the point of beginning. Contains 11,067 square feet or 0.254 acres.

Total acres to be released are 6.13, more or less.

Dated: Issued in Romulus, Michigan on April 1, 2005.

Irene R. Porter,

Manager, Detroit Airports District Office FAA, Great Lakes Region.

[FR Doc. 05–8135 Filed 4–22–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257; Notice No. 36]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of the Railroad Safety Advisory Committee (RSAC) meeting.

SUMMARY: FRA announces the next meeting of the RSAC, a Federal Advisory Committee that develops railroad safety regulations through a consensus process. The RSAC briefing topics may include a State of Safety Report; recent safety advisories; the Rail Integrity Task Force; implementation of the final rule on Performance Standards for Processor-Based Signal and Train Control Systems; and an update on other regulatory activity. Status reports will be given on the Roadway Worker Working Group, and other active working groups. The Event Recorder Working Group will report recommendations for a final rule, which the Committee will be asked to vote on by mail ballot following the meeting. The Committee will be asked to vote on (1) the Passenger Safety Working Group—Emergency Preparedness recommendations for a proposed amendments to passenger safety regulations and (2) the Cab Working Conditions—Occupational Noise Exposure recommendations for final rule. The Committee may be asked to adopt a task on revision of FRA rules governing railroad operating rules and practices.

DATES: The meeting of the RSAC is scheduled to commence at 9:30 a.m., and conclude at 4 p.m., on Wednesday, May 18, 2005.

ADDRESSES: The meeting of the RSAC will be held at the Washington Plaza, 10 Thomas Circle, NW., Washington, DC 20005, (202) 842–1300. The meeting is open to the public on a first-come, first-serve basis and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Inga Toye, RSAC Coordinator, FRA, 1120 Vermont Avenue, NW., Stop 25, Washington, DC 20590, (202) 493–6305 or Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC. The meeting is scheduled to begin at 9:30 a.m., and conclude at 4 p.m., on Wednesday, May 18, 2005. The meeting of the RSAC will be held at the Washington Plaza, 10 Thomas Circle, NW., Washington, DC 20005, (202) 842–1300.

RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The Committee consists of 48 individual voting representatives and 5 associate representatives drawn from among 30 organizations representing various rail

industry perspectives, 2 associate representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico and other diverse groups. Staffs of the National Transportation Safety Board and the Federal Transit Administration also participate in an advisory capacity.

See the RSAC Web site for details on pending tasks at: *http://rsac.fra.dot.gov/* . Please refer to the notice published in the **Federal Register** on March 11, 1996, (61 FR 9740) for more information about the RSAC.

Issued in Washington, DC on April 19, 2005.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 05–8134 Filed 4–22–05; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34671]

Genesee & Wyoming Inc.—Continuance in Control Exemption—First Coast Railroad, Inc.

Genesee & Wyoming Inc. (GWI) has filed a verified notice of exemption to continue in control of First Coast Railroad, Inc. (FCRD), upon FCRD's becoming a Class III rail carrier.

The transaction was expected to be consummated on or after April 9, 2005.

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 34670, *First Coast Railroad, Inc.—Lease and Operation Exemption—CSX Transportation, Inc.,* wherein FCRD seeks to acquire by lease from CSX Transportation, Inc. and operate approximately 31.83 miles of rail line in Florida and Georgia.

GWI is a noncarrier holding company that directly or indirectly controls one operating Class II rail carrier and 22 operating and four non-operating Class III rail carriers.[1]

Applicant states that: (1) The lines being leased and operated by FCRD do not connect with any other rail lines in its corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the leased lines with any other rail lines in GWI's corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves one Class II and a number of Class III rail carriers, the exemption is subject to the labor protection requirements of 49 U.S.C. 11326(b).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34671, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Eric M. Hocky, Gollatz, Griffin & Ewing, P.C., Four Penn Center, Suite 200, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103–2808.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 18, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–8108 Filed 4–22–05; 8:45 am]

BILLING CODE 4915–01–P

[1] The common control of these carriers was authorized in *Genesee & Wyoming, Inc.—Continuance in Control Exemption—Tazewell & Peoria Railroad, Inc.,* STB Finance Docket No. 34545 (STB served Oct. 1, 2004).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34670]

First Coast Railroad, Inc.—Lease and Operation Exemption—CSX Transportation, Inc.

First Coast Railroad, Inc. (FCRD), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease, from CSX Transportation, Inc. (CSXT), and operate approximately 31.83 miles of rail line consisting of the Kingsland Subdivision between Yulee, FL, milepost S 611.95, and the end of the track at Seals, GA, milepost S 593.4, and the Fernandina Subdivision between Yulee, milepost SMA 35.1, and the end of the track at Fernandina, FL, milepost SMA 48.38.

FCRD certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier, and further certifies that its projected annual revenues will not exceed $5 million per year. The transaction was expected to be consummated on or after April 9, 2005.

This transaction is related to STB Finance Docket No. 34671, *Genesee & Wyoming Inc.—Continuance in Control Exemption—First Coast Railroad, Inc.,* wherein Genesee & Wyoming Inc. has concurrently filed a verified notice of exemption to continue in control of FCRD upon its becoming a rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34670, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Eric M. Hocky, Gollatz, Griffin & Ewing, P.C., Four Penn Center, Suite 200, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103–2808.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 18, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–8107 Filed 4–22–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 15, 2005.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before May 25,2005 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1901.

Revenue Procedure Number: Revenue Procedure 2004–59.

Type of Review: Reinstatement.

Title: Offer To Resolve Issues Arising From Certain Tax, Withholding, and Reporting Obligations of the U.S. Withholding Agents With Respect to Payment to Foreign Persons.

Description: This revenue procedure describes the section 1441 Voluntary Compliance Program (''VCP''), which is available to certain withholding agents with respect to the payment, withholding, and reporting certain tax due on payments made to foreign persons.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 500.

Estimated Burden Hours Respondent: 400 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 200,000 hours.

Clearance Officer: Glenn P. Kirkland (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 05–8232 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 19, 2005.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 25, 2005 to be assured of consideration.

United States Mint

OMB Number: 1525–0012.

Form Number: None.

Type of Review: Extension.

Title: Generic Clearance for Voluntary Surveys To Implement E.O. 12862 Implemented by Sales and Marketing Division.

Description: This is generic clearance for an undefined number of customer satisfaction and opinion surveys or focus group interviews to be conducted over the three years. The information collected from these surveys will be used to improve Mint products and services.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 5,388.

Estimated Burden Hours per Respondent: Various.

Frequency of Response: Other (various).

Estimated Total Reporting Burden: 2,776 hours.

Clearance Officer: Yvonne M. Pollard (202) 772–7310, United States Mint, 799 9th Street, NW., 4th Floor, Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 05–8233 Filed 4–22–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 15, 2005.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before May 25, 2005 to be assured of consideration.

Departmental Offices/Community Development Financial Institution (CDFI) Fund

OMB Number: 1559–0005.

Form Numbers: CDFI–0002.

Type of Review: Reinstatement.

Title: Bank Enterprise Award Program FY 2005—FY 2006 Application.

Description: The BEA Program provides incentives to insured depository institutions to increase their support of CDFIs and their activities in economically distressed communities.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 65.

Estimated Burden Hours Per Respondent: 15 hours.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 975 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 05–8234 Filed 4–22–05; 8:45 am]

BILLING CODE 4811–16–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–264–82]

Proposed Collection; Comment Request for Regulation Project

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 an existing final regulation, PS–264–82 (TD 8508), Adjustments to Basis of Stock and Indebtedness to Shareholders of S Coprorations and Treatment of Distributions by S Corporations to Shareholders. (Regulation §§ 1.1367–1(f), 1.1368–1(f), 1.1368–1(g)).

DATES: Written comments should be received on or before June 24, 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 regulations 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: Adjustments to Basis of Stock and Indebtedness to Shareholders of S Corporations and Treatment of Distributions by S Corporations to Shareholders.

OMB Number: 1545–1139.

Regulation Project Number: PS–264–82.

Abstract: The regulation provides the procedures and the statements to be filed by S corporations for making the election provided under Internal Revenue Code section 1368, and by shareholders who choose to reorder items that decrease their basis. Statements required to be filed will be used to verify that taxpayers are complying with the requirements imposed by Congress.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 200.

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: April 14, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 05–8156 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 843

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 843, Claim for Refund and Request for Abatement.

DATES: Written comments should be received on or before June 24, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Claim for Refund and Request for Abatement.

OMB Number: 1545–0024.

Form Number: 843.

Abstract: Internal Revenue Code section 6402, 6404, and sections 301.6402–2, 301.6404–1, and 301.6404–3 of the regulations allow for refunds of taxes (except income taxes) or refund, abatement, or credit of interest, penalties, and additions to tax in the event of errors or certain actions by the IRS. Form 843 is used by taxpayers to claim these refunds, credits, or abatements.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions, farms, and State, local or tribal governments.

Estimated Number of Responses: 545,500.

Estimated Time per Respondent: 1 hr., 41 min.

Estimated Total Annual Burden Hours: 916,440.

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: April 15, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1952 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–106879–00]

Proposed Collection; Comment Request for Regulation Project

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 existing final regulation, REG–106879–00, Dual Consolidated Loss Recapture Events.

DATES: Written comments should be received on or before June 24, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Dual Consolidated Loss Recapture Events.

OMB Number: 1545–1796. Regulation Project Number: REG–106879–00 (Final).

Abstract: This document contains final regulations under section 1503(d) regarding the events that require the recapture of dual consolidated losses. These regulations are issued to facilitate compliance by taxpayers with the dual consolidated loss provisions. The regulations generally provide that certain events will not trigger recapture of a dual consolidated loss or payment of the associated interest charge. The regulations provide for the filing of certain agreements in such cases. This document also makes clarifying and conforming changes to the current regulations.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 30.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 60.

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: April 20, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1953 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2002–32

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 Revenue Procedure 2002–32, Waiver of 60-month Bar on Reconsolidation after Disaffiliation.

DATES: Written comments should be received on or before June 24, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedure should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Waiver of 60-moth Bar on Reconsolidation after Disaffiliation.

OMB Number: 1545–1784.

Revenue Procedure Number: Revenue Procedure 2002–32.

Abstract: Revenue Procedure 2002–32 provides qualifying taxpayers with a waiver of the general rule of § 1504(a)(3)(A) of the Internal Revenue Code barring corporations from filing consolidated returns as a member of a group of which it had been a member for 60 months following the year of disaffiliation.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated number of respondents: 20.

The estimated annual burden per respondent varies from 2 hours to 8

hours, depending on individual circumstances, with an estimated average of 5 hours.

Estimated total annual reporting burden: 100.

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: April 20, 2005.

Glenn Kirkland,

OMB Reports Clearance Officer.

[FR Doc. E5–1954 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2002–27

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 Notice 2002–27, IRA Required Minimum Distribution Reporting.

DATES: Written comments should be received on or before June 24, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: IRA Required Minimum Distribution Reporting.

OMB Number: 1545–1779.

Notice Number: Notice 2002–27.

Abstract: Notice 2002–27 provides guidance with respect to the reporting requirements, that is, data that custodians and trustees of IRAs must furnish IRA owners in those instances where there must be a minimum distribution from an individual retirement arrangement.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 78,000.

Estimated Average Time per Respondent: 15 hours.

Estimated Total Annual Burden Hours: 1,170.000.

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: April 18, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1955 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–R

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

DATES: Written comments should be received on or before June 24, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue

Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

OMB Number: 1545–0119.

Form Number: 1099–R.

Abstract: Form 1099–R is used to report distributions from pensions, annuities, profit-sharing or retirement plans, IRAs, and the surrender of insurance contracts. This information is used by the IRS to verify that income has been properly reported by the recipient.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, not for-profit institutions, and Federal, State, local or tribal governments.

Estimated Number of Responses: 62,348,484.

Estimated Time per Response: 18 min.

Estimated Total Annual Burden Hours: 18,704,549.

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: April 19, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1957 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209837–96]

Proposed Collection; Comment Request for Regulation Project

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 an existing final regulation, REG–209837–96, (TD 8742), Requirements Respecting the Adoption or Change of Accounting Method; Extensions of Time To Make Elections (§§ 301.9100–2 and 301.9100–3).

DATES: Written comments should be received on or before June 24, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Requirements Respecting the Adoption or Change of Accounting Method; Extensions of Time to Make Elections.

OMB Number: 1545–1488.

Regulation Project Number: REG–209837–96.

Abstract: This final regulation provides the procedures for requesting an extension of time to make certain elections, including changes in accounting method and accounting period. In addition, the regulation provides the standards that the IRS will use in determining whether to grant taxpayers extensions of time to make these elections.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, and farms.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 5,000.

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: April 19, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1958 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209798–95]

Proposed Collection; Comment Request for Regulation Project

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 existing final regulations, REG–209798–95 (TD 8746), Amortizable Bond Premium, (Reg. Sections 1.163–13, 1.171–4, and 1.171–5).

DATES: Written comments should be received on or before June 24, 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 regulations 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: Amortizable Bond Premium.

OMB Number: 1545–1491.

Regulation Project Number: REG–209798–95.

Abstract: This regulation addresses the tax treatment of bond premium. The regulation provides that a holder may make an election to amortize bond premium by offsetting interest income with bond premium, and the holder must attach a statement to their tax return providing certain information. The regulation also provides that a taxpayer may receive automatic consent to change its method of accounting for premium provided the taxpayer attaches a statement to its tax return. The information requested is necessary for the IRS to determine whether an issuer or a holder has changed its method of accounting for premium.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations and individuals.

Estimated Number of Respondents: 15,000.

Estimated Time per Respondent: 29 minutes.

Estimated Total Annual Burden Hours: 7,250.

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: April 18, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1959 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8233

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 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual.

DATES: Written comments should be received on or before June 24, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual.

OMB Number: 1545–0795.

Form Number: 8233.

Abstract: Compensation paid to a nonresident alien individual for independent personal services (self-employment) is generally subject to 30% withholding or graduated rates. However, such compensation may be exempt from withholding because of a U.S. tax treaty or the personal exemption amount. Form 8233 is used to request exemption from withholding. Nonresident alien students, teachers, and researchers performing dependent personal services also use Form 8233 to request exemption from withholding.

Current Actions: There are no changes being made to Form 8233 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 480,000.

Estimated Time per Respondent: 1 hr., 45 min.

Estimated Total Annual Burden Hours: 1,320,000.

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: April 18, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1960 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–159243–03]

Proposed Collection; Comment Request for Regulation Project

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 an existing notice of temporary and proposed rulemaking, REG–159243–03, Residence and Source Rules Involving U.S. Possessions and Other Conforming Changes.

DATES: Written comments should be received on or before June 24, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6514, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Residence and Source Rules Involving U.S. Possessions and Other Conforming Changes.

OMB Number: 1545–1930.

Regulation Project Number: REG–159243–03.

Abstract: The regulations provide rules for determining whether an individual is a bona fide resident of a U.S possession and whether income is derived from sources in a possession or effectively connected with the conduct of a trade of business in a possession.

Current Actions: There is no change to this proposed regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households or businesses or other for-profit organizations.

Estimated Number of Respondents: 50,000.

Estimated Total Burden Hours: 75,000.

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: April 18, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1961 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held May 18, 2005.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on May 18, 2005, in Room 4200E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, C:AP:AS, 1099 14th Street, NW., Washington, DC 20005. Telephone (202) 435–5609 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a closed meeting of the Art Advisory Panel will be held on May 18, 2005, in Room 4200E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of

art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7), and that the meeting will not be open to the public.

David B. Robison,

Chief, Appeals.

[FR Doc. 05–8157 Filed 4–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request—Fiduciary Powers of Savings Associations

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

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 comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

DATES: Submit written comments on or before June 24, 2005.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Timothy Leary, Special Counsel for BSA Compliance, (202) 906–7170, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Fiduciary Powers of Savings Associations.

OMB Number: 1550–0037.

Form Number: N/A.

Regulation Requirement: 12 CFR 550.70(c) and 550.125.

Description: Section 550.70(c) of OTS's regulations requires that a federal savings association that wants to commence in a new state fiduciary activities that are not materially different from those that OTS has already approved must file a notice with OTS. Instructions for filing the notice are found at 12 CFR 550.125. OTS must know when a federal savings association is acting in a fiduciary capacity in a new state, in order to effectively monitor and examine the fiduciary activities of the association.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 10.

Estimated Number of Responses: 10.

Estimated Burden Hours per Response: 3 hours.

Estimated Frequency of Response: Event-generated.

Estimated Total Burden: 30 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Mark Menchik, (202) 395–3176, Office of Management and Budget, Room 10236, New Executive Office Building, Washington, DC 20503.

Dated: April 14, 2005.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 05–8142 Filed 4–22–05; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request—Recordkeeping and Confirmation Requirements for Securities Transactions

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

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 comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

DATES: Submit written comments on or before June 24, 2005.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To

make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Timothy Leary, Special Counsel for BSA Compliance, (202) 906–7170, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Recordkeeping and Confirmation Requirements for Securities Transactions.

OMB Number: 1550–0109.

Form Number: N/A.

Regulation Requirement: 12 CFR part 551.

Description: 12 CFR part 551 imposes recordkeeping and confirmation requirements for savings associations that effect securities transactions.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 880.

Estimated Number of Responses: 880.

Estimated Burden Hours per Response: 11 hours.

Estimated Frequency of Response: Event-generated.

Estimated Total Burden: 9,680 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Mark Menchik, (202) 395–3176, Office of Management and Budget, Room 10236, New Executive Office Building, Washington, DC 20503.

Dated: April 14, 2005.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 05–8143 Filed 4–22–05; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on CARES Business Plan Studies; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Pub. L. 92–463 (Federal Advisory Committee Act) that the Advisory Committee on CARES Business Plan Studies will meet as indicated below. The meetings are open to the public.

Location	Date	Time
Waco Convention Center, McLennan Room, 100 Washington Street, Waco, TX 76702.	Tuesday, May 3, 2005	9 a.m. until 4:30 p.m.
Marriott New York at the Brooklyn Bridge, 333 Adams Street, Brooklyn, NY 11201.	Tuesday, May 3, 2005	3 p.m. until 9:30 p.m.
Perry Point VA Medical Center, Building 314, Theater, Perry Point, MD 21902.	Tuesday, May 3, 2005	9 a.m. until 1 p.m.
Jonathan M. Wainwright Memorial, VA Medical Center, Theater, Building 78, Room 103, 77 Wainwright Drive, Walla Walla, WA 99362.	Wednesday, May 4, 2005	8 a.m. until 5 p.m.
RSA Plaza Terrace, 770 Washington Avenue, Montgomery, AL 36130.	Wednesday, May 4, 2005	1 p.m. until 5 p.m.
VA Primary and Extended Care Center, Pratt Auditorium, 179 Street and Linden Boulevard, Saint Albans, NY 11425.	Thursday, May 5, 2005	3 p.m. until 9:30 p.m.
VA Greater Los Angeles Healthcare System, Wadsworth Theatre, Bldg 226, 11301 Wilshire Blvd., Los Angeles, CA 90073.	Friday, May 6, 2005	8 a.m. until 4:30 p.m.
VA Southern Oregon Rehabilitation Center and Clinics, Theatre, Building 220, Room 109, 8495 Crater Lake Highway, White City, OR 97503.	Tuesday, May 10, 2005	1 p.m. until 5 p.m.
Montrose Campus of VA Hudson Valley Health Care System, Building 25, 2094 Albany Post Road, Montrose, NY 10548.	Wednesday, May 11, 2005	9 a.m. until 3 p.m.
VA Gulf Coast Veterans Health Care System, Building 17, Recreation Hall, 400 Veterans Avenue, Biloxi, MS 39531.	Thursday, May 12, 2005	8 a.m. until 5 p.m.
Veterans Affairs Medical Center, 2250 Leestown Road, Auditorium, Building 4, Room 100, Lexington, KY 40511.	Thursday, May 12, 2005	10 a.m. until 2:30 p.m.
VA Palo Alto Health Care System, 4951 Arroyo Road, Nursing Home Care Unit, Building 90, Livermore, CA 94550.	Friday, May 13, 2005	9 a.m. until 4:30 p.m.
Edith Nourse Rogers Medical Center, Theatre, Building 78, 200 Springs Road, Bedford, MA 01730.	Friday, May 13, 2005	9 a.m. until 4:30 p.m.
Municipal Auditorium, 310 East 3rd Street, Big Spring, TX 79720	Friday, May 13, 2005	Two identical meetings: 8 a.m. until 12 noon and 5 p.m. until 9 p.m.
VA Medical Center, 1500 North Westwood Boulevard, Building 1, Room 2099, Poplar Bluff, MO 63901.	Tuesday, June 7, 2005	8 a.m. until 2 p.m.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs on proposed business plans at those VA facility sites identified in May 2004 as requiring further study by the Capital Asset Realignment for Enhanced Services (CARES) Decision document.

The agenda at each meeting will include presentations on objectives of the CARES project and the project's timeframes. Additional presentations will focus on the VA-selected contractor's methodology and tools to develop business plan options, as well as the methodology for gathering and evaluating stakeholder input. The agenda will also accommodate public commentary on site-specific issues.

Interested persons may attend and present oral or written statements to the Committee. For additional information regarding the meetings, please contact Mr. Jay Halpern, Designated Federal Officer, (00CARES), 810 Vermont Avenue, NW., Washington, DC 20024 by phone at (202) 273–5994, or by e-mail at *jay.halpern@hq.med.va.gov*.

Dated: April 14, 2005.

By Direction of the Secretary,

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–8183 Filed 4–22–05; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 70, No. 78

Monday, April 25, 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

Indian Arts and Crafts Board

Proposed Renewal of Information Collection for Source Directory Publication; Comment Request

Correction

In notice document 05–6157 beginning on page 15869 in the issue of Tuesday, March 29, 2005, make the following correction:

On page 15869, in the first column, in the **DATES** section, in the second line, ''May 3, 2005'' should read ''May 31, 2005''.

[FR Doc. C5–6157 Filed 4–22–05; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
April 25, 2005

Part II

Department of Education

National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Engineering Research Centers; Overview Information; Notices

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Engineering Research Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of final priorities (NFP).

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces three funding priorities for the National Institute on Disability and Rehabilitation Research's (NIDRR) Disability and Rehabilitation Research Projects and Centers Program, Rehabilitation Engineering Research Centers (RERC) program. Each of these priorities may be used for competitions in fiscal year (FY) 2005 and later years. We take this action to focus research attention on areas of national need. We intend these priorities to improve rehabilitation services and outcomes for individuals with disabilities.

EFFECTIVE DATE: These priorities are effective May 25, 2005.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 245–7462.

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 contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Rehabilitation Engineering Research Centers Program

We may make awards under this program for up to 60 months through grants or cooperative agreements to public and private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to conduct research, demonstration, and training activities regarding rehabilitation technology in order to enhance opportunities for meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives. Each RERC must be operated by or in collaboration with an institution of higher education or a nonprofit organization. Additional information on the RERC program can be found at: *http://www.ed.gov/rschstat/research/pubs/index.html.*

General Requirements of Rehabilitation Engineering Research Centers

RERCs shall carry out research or demonstration activities in support of the Rehabilitation Act of 1973, as amended, by—

- Developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to (1) solve rehabilitation problems and remove environmental barriers and (2) study and evaluate new or emerging technologies, products, or environments and their effectiveness and benefits; or
- Demonstrating and disseminating (1) innovative models for the delivery of cost-effective rehabilitation technology services to rural and urban areas and (2) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; or
- Facilitating service delivery systems change through (1) the development, evaluation, and dissemination of consumer-responsive and individual and family-centered innovative models for the delivery to both rural and urban areas of innovative cost-effective rehabilitation technology services and (2) other scientific research to assist in meeting the employment and independence needs of individuals with severe disabilities.

Each RERC must provide training opportunities, in conjunction with institutions of higher education and nonprofit organizations, to assist individuals, including individuals with disabilities, to become rehabilitation technology researchers and practitioners.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. During the funding cycle of any RERC, NIDRR will conduct one or more reviews of the activities and achievements of the RERC. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

Public Comment

We published a notice of proposed priorities (NPP) for this program in the **Federal Register** on November 26, 2004 (69 FR 68890). The NPP included a background statement that described our rationale for proposing these priorities.

In response to our invitation in the NPP, we received nine comments. An analysis of the comments is included as an appendix to this notice.

Generally, we do not address technical and other minor changes and suggested changes we are not authorized to make under the applicable statutory authority. This NFP contains no changes from the NPP.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these final priorities, we invite applications through a notice in the **Federal Register**. When inviting applications we designate each priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Note: NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom.*

The final priorities are in concert with NIDRR's 1999–2003 Long-Range Plan (Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research topics. While applicants will find many sections throughout the Plan that support potential research to be conducted under the final priorities, a specific reference is included for each of the priorities presented in this notice. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/rschstat/research/pubs/index.html.*

Through the implementation of the NFI and the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and

understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

Priorities

The Assistant Secretary intends to fund RERCs, each of which must focus on one of the following priorities: (a) Technologies for Children with Orthopedic Disabilities, (b) Low Vision and Blindness, or (c) Universal Design and the Built Environment.

(a) *Technologies for Children with Orthopedic Disabilities:* This RERC must research and develop technologies that will help children with orthopedic disabilities overcome functional deficits and that will support their ability to learn, play, and interact socially. The reference for this priority can be found in the Plan, chapter 5, Technology for Access and Function: Research to Enhance Mobility, and Research to Improve Manipulation Ability.

(b) *Low Vision and Blindness:* This RERC must research and develop technologies that will improve assessment of vision impairments and promote independence for individuals with low vision and blindness, including those who are deaf/blind. The reference for this priority can be found in the Plan, chapter 5, Technology for Access and Function: Research to Improve or Substitute for Sensory Functioning.

(c) *Universal Design and the Built Environment:* This RERC must research, develop, and evaluate strategies and devices that will advance the field of universal design and assist designers, builders, and manufacturers with incorporating universal design in their products and buildings. The reference for this priority can be found in the Plan, chapter 5, Technology for Access and Function: Systems Technology: Universal Design and Accessibility.

Under any one of these priorities, RERCs must focus on innovative technological solutions, new knowledge, and concepts to promote the health, safety, independence, active engagement in daily activities, and quality of life of persons with disabilities. Accordingly, each RERC must:

(1) Contribute substantially to the technical and scientific knowledge-base relevant to the priority;

(2) Research, develop, and evaluate innovative technologies, products, environments, performance guidelines, and monitoring and assessment tools as applicable to the priority;

(3) Identify, implement, and evaluate, in collaboration with the relevant industry, professional associations, and institutions of higher education, innovative approaches to expand research capacity in the specific field of study;

(4) Monitor trends and evolving product concepts that represent and signify future directions for technologies in the specific area of research; and

(5) Provide technical assistance to public and private organizations responsible for developing policies, guidelines, and standards that affect the specific area of research.

In addition, the following requirements apply to each RERC priority:

- Each RERC must have the capability to design, build, and test prototype devices and assist in the transfer of successful solutions to relevant production and service delivery settings. Each RERC must evaluate the efficacy and safety of its new products, instrumentation, or assistive devices.
- Each RERC must develop and implement, in the first three months of the grant, a plan that describes how the RERC will include, as appropriate, individuals with disabilities or their representatives in all phases of its activities including research, development, training, dissemination, and evaluation;
- Each RERC must develop and implement, in the first year of the grant and in consultation with the NIDRR-funded National Center for the Dissemination of Disability Research (NCDDR), a plan to disseminate the RERC's research results to persons with disabilities, their representatives, disability organizations, service providers, professional journals, manufacturers, and other interested parties.
- Each RERC must develop and implement, in the first year of the grant and in consultation with the NIDRR-funded RERC on Technology Transfer, a plan for ensuring that all new and improved technologies developed by this RERC are successfully transferred to the marketplace.
- Each RERC must conduct a state-of-the-science conference on its respective area of research in the third year of the grant and publish a comprehensive report on the final outcomes of the conference in the fourth year of the grant.
- Each RERC must coordinate with research projects of mutual interest with relevant NIDRR-funded projects as identified through consultation with the NIDRR project officer.

Executive Order 12866

This notice of final priorities has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of final priorities are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of final priorities, we have determined that the benefits of the final priorities justify the costs.

Summary of Potential Costs and Benefits

The potential costs associated with these final priorities are minimal while the benefits are significant. Grantees may anticipate costs associated with completing the application process in terms of staff time, copying, and mailing or delivery. The use of e-Application technology reduces mailing and copying costs significantly.

The benefits of the RERC Program have been well established over the years in that similar projects have been completed successfully. These final priorities will generate new knowledge and technologies through research, development, dissemination, utilization, and technical assistance projects.

Another benefit of these final priorities will be the establishment of new RERCs that support the President's NFI and will improve the lives of persons with disabilities. The new RERCs will generate, disseminate, and promote the use of new information that will improve the options for individuals with disabilities to perform regular activities in the community.

Applicable Program Regulations: 34 CFR part 350.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/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.*

(Catalog of Federal Domestic Assistance Number: 84.133E, Rehabilitation Engineering Research Centers Program)

Program Authority: 29 U.S.C. 762(g) and 764(b)(3).

Dated: April 6, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix

Analysis of Comments and Changes

Comment: One commenter believes the target audience for the Universal Design and the Built Environment priority should be expanded beyond architects and interior designers to include consumer product and package designers.

Discussion: An applicant could propose activities that include consumer product and package designers and the peer review process will evaluate the merits of the proposal. However, NIDRR has no basis for requiring all applicants to include consumer product and package designers.

Changes: None.

Comment: One commenter believes the Universal Design and the Built Environment priority should require applicants to research, develop, and evaluate innovative ways to present human factors and other user data so that designers are more likely to incorporate the information into their designs.

Discussion: An applicant could propose activities that include innovative ways to present human factors and other user data so that designers are more likely to incorporate the information into their designs and the peer review process will evaluate the merits of the proposal. However, NIDRR has no basis for requiring all applicants to include these specific types of activities in their proposals.

Changes: None.

Comment: One commenter states that persons with cognitive disabilities have been underserved by the universal design community and believes the Universal Design and the Built Environment priority should require applicants to include the design needs of persons with cognitive disabilities in their research and development projects.

Discussion: Although NIDRR agrees with the commenter that the universal design community has been slow to include the design needs of persons with cognitive disabilities, it has no basis for requiring that all applicants focus on this population. Applicants are encouraged to include the population in their applications. The peer review process will evaluate the merits of the proposal.

Changes: None.

Comment: One commenter asked whether the Universal Design and the Built Environment priority applies only to architectural design.

Discussion: The Universal Design and the Built Environment priority does not apply only to architectural design. Applicants are required to advance the field of universal design and assist designers as well as builders and manufacturers, with incorporating universal design in their products and buildings.

Changes: None.

Comment: Three commenters believe applicants responding to the Low Vision and Blindness priority should be required to target populations across their lifespan, including early infancy, and to include a focus on employment.

Discussion: NIDRR agrees with the commenters that there is a need to target populations across their lifespan, including early infancy, and to focus on employment. However, NIDRR believes that there are simply not enough resources allocated for this RERC to make it a requirement for all applicants. An applicant could propose activities that target populations across their lifespan, including early infancy, and that focus on employment. The peer review process will evaluate the merits of the proposal.

Changes: None.

Comment: One commenter asked NIDRR to clarify that the Low Vision and Blindness priority is not restricted to only computer access.

Discussion: The Low Vision and Blindness priority is not restricted only to computer access. Applicants are required to research and develop technologies that will improve assessment of vision impairments and promote independence for individuals with low vision and blindness, including those who are deaf/blind. Proposals may focus on computer access as well as other relevant technologies.

Changes: None.

Comment: One commenter asked whether the Technologies for Children with Orthopedic Disabilities priority is limited to conventional prosthetics and orthotics or whether it could be more broadly interpreted to include technology that can enhance the rehabilitation of children with orthopedic disabilities.

Discussion: The Technologies for Children with Orthopedic Disabilities priority is not limited to conventional prosthetics and orthotics. The focus of this priority is broader. Accordingly, applicants are required to research and develop technologies that will help children with orthopedic disabilities overcome functional deficits and that will support their ability to learn, play, and interact socially.

Changes: None.

Comment: One commenter asked if NIDRR uses the same definition of orthopedic disability as the Office of Special Education and Rehabilitative Services (OSERS).

Discussion: NIDRR generally uses a modified version of the OSERS definition that includes an emphasis on function and mobility to improve participation and community living by individuals with disabilities.

Changes: None.

Comment: One commenter asked how much discretion an applicant has when determining the type and number of projects they include in their application.

Discussion: An applicant has full discretion when determining the type and number of projects included in a proposal provided the projects are responsive to the given priority. The peer review process will evaluate the merits of the proposal.

Changes: None.

[FR Doc. 05–8101 Filed 4–22–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Overview Information; National Institute on Disability and Rehabilitation Research (NIDRR)—Rehabilitation Engineering Research Centers (RERC); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133E–1.

Dates:

Applications Available: April 25, 2005.

Deadline for Transmittal of Applications: June 24, 2005.

Eligible Applicants: States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; institutions of higher education; and Indian tribes and tribal organizations.

Estimated Available Funds: $1,900,000.

Estimated Average Size of Awards: $947,500.

Maximum Award: We will reject any application that proposes a budget exceeding $950,000 for a single budget period of 12 months.

Note: The maximum amount includes direct and indirect costs.

Estimated Number of Awards: 2.

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: The purpose of the RERC program is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Act). For FY 2005, the competition for new awards focuses on projects designed to meet the priorities

we describe in the *Priorities* section of this notice. We intend these priorities to improve rehabilitation services and outcomes for individuals with disabilities.

Priorities: These priorities are from the notice of final priorities for this program, published elsewhere in this issue of the **Federal Register**.

Absolute Priority: 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. (a) Technologies for Children with Orthopedic Disabilities, (b) Low Vision and Blindness, or (c) Universal Design and the Built Environment. Applicants are allowed to submit more than one proposal as long as each proposal addresses only one RERC priority.

Program Authority: 29 U.S.C. 762(g) and 764(b)(3).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 85, 86, and 97, (b) the regulations for this program in 34 CFR part 350, and (c) the notice of final priorities for this program, published elsewhere in this issue of the **Federal Register**.

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: $1,900,000.

Estimated Average Size of Awards: $947,500.

Maximum Award: We will reject any application that proposes a budget exceeding $950,000 for a single budget period of 12 months.

Note: The maximum amount includes direct and indirect costs.

Estimated Number of Awards: 2.

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; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; institutions of higher education; and Indian tribes and tribal organizations.

2. *Cost Sharing or Matching:* This Program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package.* You may obtain an application package via Internet or from the Education Publications Center (ED Pubs). To obtain a copy via Internet use the following address: *http://www.ed.gov/fund/grant/apply/grantapps/index.html*.

To obtain a copy from ED Pubs, write or call the following: 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 this competition as follows: CFDA Number 84.133E.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

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: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We strongly recommend that you limit Part III to the equivalent of no more than 125 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, 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.

The application package will provide instructions for completing all components to be included in the application. Each application must include a cover sheet (ED Standard Form 424); budget requirements (ED Form 524) and narrative justification; other required forms; an abstract; Seven-Point Human Subjects narrative; Part III narrative; resumes of staff; and other related materials, if applicable.

3. *Submission Dates and Times:*

Applications Available: April 25, 2005.

Deadline for Transmittal of Applications: June 24, 2005.

Applications for grants under this competition 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. 7. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Pre-Application Meeting:* Interested parties are invited to participate in a pre-application meeting to discuss the funding priorities and to receive information and technical assistance through individual consultation about the funding priorities. The pre-application meeting will be held on May 3, 2005. Interested parties may participate either in person or by conference call at the U.S. Department of Education, Office of Special Education and Rehabilitative Services, Potomac Center Plaza, room 6082, 550 12th Street, SW., Washington, DC between 10 a.m. and 12 noon. NIDRR staff also will be available from 1:30 p.m. to 4 p.m. on that same day to provide information and technical assistance through individual consultation about the funding priority. For further information or to make arrangements to attend either in person or by conference call, or for an individual consultation, contact Donna Nangle, U.S. Department of Education, Potomac Center Plaza, room 6030, 550 12th Street, SW., Washington, DC 20202. Telephone: (202) 245–7462 or via Internet: *donna.nangle@ed.gov*.

Assistance to Individuals With Disabilities at the Pre-Application Meeting

The meeting site is accessible to individuals with disabilities, and a sign language interpreter will be available. If you will need an auxiliary aid or service other than a sign language interpreter in order to participate in the meeting (*e.g.*, other interpreting service such as oral, cued speech, or tactile interpreter; assistive listening device; or materials in alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request we receive after this date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

7. *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 Engineering Research Centers Program—CFDA Number 84.133E–1 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 Engineering Research Centers Program 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 acknowledgement 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 84.133E–1), 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 84.133E–1), 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 84.133E–1), 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

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 and 34 CFR 350.54. The specific selection criteria to be used for this competition are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

Note: NIDRR will provide information by letter to grantees on how and when to submit the report.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through review of grantee performance and products. Each year, NIDRR examines, through expert program review, a portion of its grantees to determine:

- The percentage of grantees judged by an external panel to be implementing a systematic, outcomes-oriented plan of evaluation, with well-formulated, measurable, and appropriate goals that are aligned with NIDRR's priorities and Government Performance and Results Act (GPRA) and Program Assessment Rating Tool (PART) performance measures and used to track progress towards project objectives;
- The percentage of grantee research and development that has appropriate study design, meets rigorous standards of scientific and/or engineering methods, and builds on and contributes to knowledge in the field;
- The number of discoveries, analyses, and standards developed and/or tested and published by NIDRR grantees that are judged by expert panels to meet accepted standards of scientific and/or engineering rigor;
- The number of new or improved tools and methods developed, evaluated and/or tested, and published by NIDRR grantees that are judged by an expert panel to meet the accepted standards of scientific and/or engineering rigor;
- The percentage of new studies funded by NIDRR that assess the effectiveness of interventions, programs, and devices using rigorous and appropriate methods;
- The number of new or improved assistive and universally designed technologies, products, and devices developed by grantees that are judged by an expert panel to be effective in improving outcomes and have potential to be transferred to industry for commercialization; and
- The percentage of non-academic and consumer-oriented dissemination products and services, nominated by grantees to be their best outputs based on NIDRR-funded research and related activities, that are judged by an expert panel to demonstrate ''good to excellent'' utility and have potential to advance knowledge, change/improve policy or practice, and/or enhance choice and self-determination for individuals with disabilities.

NIDRR uses information submitted by grantees as part of their Annual Performance Reports (APRs) for these reviews. NIDRR also determines, using information submitted as part of the APR:

- The number of publications in refereed journals that are based on NIDRR-funded research and development activities; and
- The percentage of NIDRR-supported fellows, post-doctoral trainees, and doctoral students who publish results of NIDRR-sponsored research in refereed journals.

Department of Education program performance reports, which include information on NIDRR programs, are available on the Department of Education Web site: *http://www.ed.gov/offices/OUS/PES/planning.html.*

Updates on the GPRA indicators, revisions and methods appear in the NIDRR Program Review Web site: *http://www.neweditions.net/pr/commonfiles/pmconcepts.htm.*

Grantees should consult these sites, on a regular basis, to obtain details and explanations on how NIDRR programs contribute to the advancement of the Department's long-term and annual performance goals.

VII. Agency Contact

For Further Information Contact: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–7462 or via Internet: *donna.nangle@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 245–7317 or 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: April 6, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–8102 Filed 4–22–05; 8:45 am]

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Federal Register

Monday,
April 25, 2005

Part III

Federal Retirement Thrift Investment Board

5 CFR Parts 1600, 1601, 1604, et al. Various Changes to the Thrift Savings Plan; Proposed Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1600, 1601, 1604, 1605, 1606, 1620, 1640, 1645, 1650, 1651, 1653, 1655 and 1690

Various Changes to the Thrift Savings Plan

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) proposes to amend the Thrift Savings Plan (TSP) regulations to accommodate new TSP lifecycle investment allocation funds, eliminate references to open seasons (which Congress repealed), and to require participants to file all death benefit beneficiary designation forms with the TSP record keeper. The Executive Director also proposes to remove obsolete and unhelpful provisions from the regulations, eliminate references to TSP form numbers, notify TSP participants of a new mailing address for loan payments, and otherwise make the regulations easier to understand.

DATES: Comments must be received on or before May 25, 2005.

ADDRESSES: Comments may be sent to Patrick J. Forrest, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005. The Board's Fax number is (202) 942–1676.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest on (202) 942–1661.

SUPPLEMENTARY INFORMATION: The Board administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

Lifecycle Funds

The Executive Director proposes to amend TSP regulations to include references to the TSP ''lifecycle funds,'' which the TSP will offer to participants in mid-2005. In general, lifecycle funds are ''target asset allocation portfolios'' which hold a variety of investments including stable value, bond, and stock funds. The mix of these funds is chosen based on the date the investor expects to need the money in his or her account for retirement.

The assumption underlying lifecycle funds is that people with longer time horizons for investment are both willing and able to tolerate risk while seeking higher rates of return. A further assumption is that as people approach the time when they will begin to withdraw their assets from the Plan, their portfolios should be adjusted to reflect a lower tolerance for risk. Thus, a young person who is many years from retirement would have more of his or her account invested in a lifecycle fund containing investments with higher risk and higher potential returns (such as stocks), and less in low-risk, lower-return investments (such as Government securities). The investments in a lifecycle fund would be adjusted gradually and automatically to lower risk portfolios as the need for withdrawal approaches. This process is referred to as rebalancing.

Our analysis of TSP data shows that some TSP participants appear either to be ''chasing'' the latest returns or to be leaving their accounts unattended altogether, never rebalancing their portfolios. Some participants leave their entire account in the most conservative fund, the G Fund, when they may need the higher potential returns of the other funds to give them the retirement income they want. The evidence therefore suggests that many TSP participants could benefit from automatic professional asset allocation offered by a lifecycle fund.

The TSP lifecycle funds will invest only in the five funds currently offered by the TSP. We will not be adding new funds or asset classes. Thus, the lifecycle funds will be composed of various percentages of the G, F, C, S, and I Fund assets. The C, S, and I Funds will provide exposure to domestic and international equities, while the G and F Funds will provide fixed income and stable value investments.

Participation in the TSP lifecycle funds is voluntary, although the TSP strongly encourages every participant to consider the option. The TSP will make information available to participants that explain lifecycle funds in detail. Participants should read these materials closely before investing in one of the TSP lifecycle funds.

Open Seasons

On December 21, 2004, the President signed into law the Thrift Savings Plan Open Seasons Act of 2004 (Pub. L. No. 108–469). That new law eliminates open seasons for the TSP and the restrictions on contribution elections that are tied to open seasons. The TSP will implement that law on July 1, 2005, and the Executive Director proposes to amend TSP regulations to explain the new rules under which participants can make TSP contribution elections after open seasons are eliminated.

The last TSP open season will run from April 15 through June 30, 2005. This means that participants may file contribution elections with their agencies or uniformed services at any time beginning April 15. Through June 30, these elections will be processed under the current rules. Beginning July 1, contribution elections will be processed under the new rules ú that is, an election will be effective the first full pay period after it is filed.

Participants will continue to file contribution elections with their agencies or services, and the agencies and services will continue to implement the elections by deducting contributions from participants' pay and reporting these amounts to the TSP each pay period.

The Open Season Act does not affect the waiting period that new employees covered by the Federal Employees' Retirement System must serve before they become eligible for agency contributions to their accounts. The Act also does not affect contribution allocations or interfund transfers, which can be made at any time by using the TSP Web site or the ThriftLine or by submitting an investment allocation form to the TSP.

Death Benefits

Federal law requires the TSP to pay a deceased participant's account to the beneficiary or beneficiaries identified in a statutory order of precedence codified at 5 U.S.C. 8242(d). *See* 5 U.S.C. 8433(e). The participant's designated beneficiary or beneficiaries are first in the order of precedence. A participant must use a specially designed paper designation of beneficiary form (a Form TSP–3) to designate a TSP beneficiary and TSP regulations explain the validity requirements for the form at 5 CFR 1651.3.

Before 1995, a participant who was still employed by the Federal government was required to submit Form TSP–3 to his or her employing agency. Beginning on January 1, 1995, all TSP participants were required to submit Forms TSP–3 to the TSP record keeper; to be valid, the form must be received by the record keeper on or before the date of the participant's death. 5 CFR 1651.3(a). In addition to requiring all participants to submit the forms to the TSP record keeper, the new policy also required employing agencies

to search their records and forward all Forms TSP–3 in their possession to the TSP record keeper.

The TSP codified the new policy in TSP regulations at 5 CFR 1651.3 on June 13, 1997 (62 FR 32429), after proposing the regulation on March 27, 1997, and seeking public comment (61 FR 14653). The TSP also directly announced the new policy to employing agencies and participants. Specifically, the TSP mailed two ''Thrift Savings Plan Bulletins'' (Bulletins) to the TSP representatives of every employing agency and three editions of ''Highlights for Thrift Savings Plan Participants'' (Highlights) to every participant.

The Bulletins, dated November 22, 1994, and November 16, 1995, instructed employing agencies to search their files for Forms TSP–3 and to forward them to the TSP record keeper.

The Highlights, dated November 1994, November 1995, and May 1996, notified each participant of the policy change, including the requirement that employing agencies forward their Forms TSP–3 to the TSP record keeper. The Highlights also advised participants to review their participant statements to learn if their employing agencies had forwarded their forms to the record keeper. (Beginning in November 1995, every TSP participant statement states, on page 1, whether the TSP has received a Form TSP–3 for the participant, and if so, the date it was signed.) The Highlights also advised participants that they could file a new Form TSP–3 and that the TSP would honor the valid form with the latest date.

TSP regulations currently provide that the TSP will honor a Form TSP–3 if the participant's employing agency received it before 1995, as long as the TSP receives it before paying a death benefit. The TSP continued to accept the agency-filed forms to allow employing agencies sufficient opportunity to send them to the TSP. Employing agencies have had sufficient time to accomplish this task. In addition, in any case where an employing agency has not forwarded a participant's Form TSP–3 to the TSP, the TSP has informed the participant at least twice a year for 10 years on participant statements that it does not possess a beneficiary form for the participant. A reasonable participant who received that information and wished to designate a beneficiary would have filed a new Form TSP–3. Therefore, the Executive Director proposes to amend 5 CFR 1651.3(a) to provide that all TSP beneficiary designations must be made with a valid Form TSP–3 received by the TSP record keeper on or before the date of the participant's death.

Miscellaneous Amendments

The Executive Director proposes to remove obsolete provisions from the regulations, such as 5 CFR part 1606, which was no longer effective after August 31, 2003, and 5 CFR 1620.33, which regulated retirement plan decisions pertaining to employment changes made before August 10, 1996. The Executive Director also proposes to remove references to TSP form numbers from the regulations because they do not aid the reader and because the references require the TSP to amend its regulations whenever it changes form numbers. In addition, the Executive Director proposes to remove discussions of Federal income tax code provisions from the regulations because the TSP provides comprehensive tax information to participants and beneficiaries elsewhere, and because the references require the TSP to amends its regulations whenever TSP-related provisions of the tax laws are amended.

The Executive Director also proposes to simplify the regulations and make them more easily understood. For example, this proposed rule would simplify several provisions in Part 1605 of the TSP regulations to more clearly explain how the TSP and the employing agencies correct errors.

The TSP has established a new mailing address for use by participants to mail loan repayment checks to the TSP. The proposed regulations inform participants that they should use this address only for loan repayments and not mail correspondence to that address. The proposed regulations also inform participants that the TSP does not agree to accept less than the total amount due on the loan by negotiating an instrument such as a check, share draft or money order with a restrictive legend on it (such as ''payment in full'' or ''submitted in full satisfaction of claims''), or by negotiating an instrument that is conditionally tendered to the TSP with an offer of compromise.

Finally, the Executive Director proposes to remove from the TSP regulations the references in section 1655.18(d) to the TSP's investigation of fraud and forgery allegations by spouses of participants. The TSP will continue to investigate these allegations, and may refer them to the United States Department of Justice for criminal prosecution and to an appropriate administrative agency for administrative action. However, it is not necessary to explain this process in the TSP regulations. This is because the TSP regulations explain to participants and beneficiaries their rights and obligations. The TSP investigates allegations of fraud or forgery only to preserve the integrity of the TSP loan and withdrawal programs, not to recover benefits for the individual who makes the allegation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees and former employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, the Agency has considered the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, the Agency is not required to prepare a written statement regarding these regulations under 2 U.S.C. 1532.

List of Subjects

5 CFR Parts 1600, 1601, 1606, 1620, 1645, 1650, 1651, 1653, 1690

Employment benefit plans, Government employees, Pensions, Retirement.

5 CFR Parts 1604, 1655

Employment benefit plans, Government employees, Military personnel, Pensions, Retirement.

5 CFR Part 1605

Administrative practice and procedure, Employment benefit plans, Government employees, Pensions, Retirement.

5 CFR Part 1640

Employment benefit plans, Government employees, Pensions, Reporting and recordkeeping requirements, Retirement.

Gary A. Amelio,

Executive Director Federal Retirement Thrift Investment Board.

For the reasons set forth in the preamble, the Board proposes to amend 5 CFR chapter VI as follows:

PART 1600—EMPLOYEE CONTRIBUTON ELECTIONS AND CONTRIBUTION ALLOCATIONS

1. The authority citation for part 1600 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432(a), 8432(b), 8432(j), 8474(b)(5) and (c)(1).

Subpart B—Elections

2. Amend § 1600.11 by removing ''TSP's investment funds'' from paragraph (b) and adding in its place ''TSP Funds''.

3. Revise § 1600.12 to read as follows:

§ 1600.12 Contribution elections.

(a) An employee may make a contribution election at any time.

(b) A participant must submit a contribution election to his or her employing agency. To make an election, employees may use either the paper election form provided by the TSP, or, if available from their employing agency, electronic media. If an electronic medium is used, all relevant elements contained on the paper form must be included in the electronic medium.

(c) A contribution election must:

(1) Be completed in accordance with the instructions on the form, if a paper form is used;

(2) Be made in accordance with the employing agency's instructions, if the submission is made electronically; and

(3) Not exceed the maximum contribution limitations described in § 1600.22.

(d) A contribution election will become effective no later than the first full pay period after it is received by the employing agency.

4. Remove §§ 1600.13 through 1600.18.

5. Add a new § 1600.13 to read as follows:

§ 1600.13 Timing of agency contributions.

(a) *Employees not previously eligible to receive agency contributions.* An employee appointed or reappointed to a position covered by FERS who had not been previously eligible to receive agency contributions is eligible to receive agency contributions under the following rules:

(1) If the effective date of the appointment is any day during the period June 1 through November 30, the agency contributions must begin the first full pay period of the following June; and

(2) If the effective date of the appointment is any day during the period December 1 through May 31, the agency contributions must begin the first full pay period of the following December.

(b) *Employees previously eligible to receive agency contributions.* An employee reappointed to a position covered by FERS who was previously eligible to receive agency contributions is immediately eligible to receive agency contributions.

6. Add a new § 1600.14 to read as follows:

§ 1600.14 Effect of transfer to FERS.

(a) If an employee appointed to a position covered by CSRS elects to transfer to FERS, the employee may make a contribution election at any time.

(b) Eligibility to make employee contributions, and therefore to have agency matching contributions made on the employee's behalf, is subject to the restrictions on making employee contributions after receipt of a financial hardship in-service withdrawal described at 5 CFR part 1650.

(c) If the employee had elected to make TSP contributions while covered by CSRS, the election continues to be valid until the employee makes a new valid election.

(d) Agency automatic (1%) contributions for all employees covered under this section and, if applicable, agency matching contributions attributable to employee contributions must begin the same pay period that the transfer to FERS becomes effective.

Subpart C—Program of Contributions

7. Revise § 1600.22 to read as follows:

§ 1600.22 Maximum contributions.

(a) *Regular employee contributions.* A participant's regular TSP contributions are subject to the following limitations:

(1) *FERS percentage limit.* The maximum employee contribution from basic pay for a FERS participant for 2005 is 15 percent. After 2005 the percentage of basic pay limit will not apply and the maximum contribution will be limited only by the provisions of the Internal Revenue Code (26 U.S.C.).

(2) *CSRS and uniformed services percentage limit.* The maximum employee contribution from basic pay for a CSRS or uniformed services participant for 2005 is 10 percent. After 2005 the percentage of basic pay limit will not apply and the maximum contribution will be limited only by the provisions of the Internal Revenue Code.

(b) *Catch-up contributions.* (1) A participant may make tax-deferred catch-up contributions from basic pay at any time during the calendar year if he or she:

(i) Is at least age 50 by the end of the calendar year;

(ii) Is making regular TSP contributions at a rate that will result in the participant making the maximum regular contributions permitted under paragraph (a) of this section; and

(iii) Does not exceed the annual limit on catch-up contributions contained in the Internal Revenue Code.

(2) Elections to make catch-up contributions shall be separate from the participant's regular contribution election.

(3) A participant who has both a civilian and a uniformed services account can make catch-up contributions to both accounts, but the total amount of the catch-up contributions to both accounts cannot exceed the Internal Revenue Code catch-up contribution limit for the year.

(4) Catch-up contributions are not eligible for matching contributions.

8. Remove § 1600.23.

9. Revise the part 1601 Part Heading to read as follows:

PART 1601—PARTICIPANTS' CHOICES OF TSP FUNDS

10. The Authority citation for part 1601 is revised to read as follows:

Authority: 5 U.S.C. 8351, 8438, 8474(b)(5) and (c)(1).

Subpart A—General

11. Amend § 1601.1 by removing ''the F Fund, C Fund, S Fund or I'' from paragraph (b) and by inserting in its place ''a TSP Fund other than the G''.

12. Amend § 1601.11 by removing ''investment funds'' wherever it appears and adding in its place ''TSP Funds''.

13. Revise § 1601.12 to read as follows:

§ 1601.12 Investing future deposits in the TSP Funds.

(a) *Allocation.* Future deposits in the TSP, including contributions, loan payments, and transfers or rollovers from traditional IRAs and eligible employer plans, will be allocated among the TSP Funds based on the most recent contribution allocation on file for the participant.

(b) *TSP Funds availability.* All participants may elect to invest all or any portion of their deposits in any of the TSP Funds.

14. Amend § 1601.13 by revising paragraphs (a) and (b) to read as follows:

§ 1601.13 Elections.

(a) *Contribution allocation.* Each participant may indicate his or her choice of TSP Funds for the allocation of future deposits by using the TSP Web site or the ThriftLine, or by completing and filing the appropriate paper TSP

form with the TSP record keeper in accordance with the form's instructions. The following rules apply to contribution allocations:

(1) Contribution allocations must be made in one percent increments. The sum of the percentages elected for all of the TSP Funds must equal 100 percent;

(2) The percentage elected by a participant for investment of future deposits in a TSP Fund will be applied to all sources of contributions and transfers (or rollovers) from traditional IRAs and eligible employer plans. A participant may not make different percentage elections for different sources of contributions;

(3) A participant who elects for the first time to invest in a TSP Fund other than the G Fund must execute an acknowledgment of risk in accordance with § 1601.33;

(4) All deposits made on behalf of a participant who does not have a contribution allocation in effect will be invested in the G Fund; and

(5) Once a contribution allocation becomes effective, it remains in effect until it is superseded by a subsequent contribution allocation. If a separated participant is rehired and had not withdrawn his or her entire TSP account, the participant's last contribution allocation before separation from service will be effective until a new allocation is made.

(b) *Effect of rejection of contribution allocation.* If a participant does correctly complete a contribution allocation, the attempted allocation will have no effect. The TSP will provide the participant with a written statement of the reason the transaction was rejected.

* * * * *

Subpart C—Redistributing Participants' Existing Account Balances (Interfund Transfers)

15. Amend § 1601.21 by removing ''TSP's investment funds'' and adding in its place ''TSP Funds''.

16. Revise § 1601.22 to read as follows:

§ 1601.22 Methods of requesting an interfund transfer.

(a) Participants may make an interfund transfer using the TSP Web site or the ThriftLine, or by completing and filing the appropriate paper TSP form with the TSP record keeper in accordance with the form's instructions. The following rules apply to an interfund transfer request:

(1) Interfund transfer requests must be made in whole percentages (one percent increments). The sum of the percentages elected for all of the TSP Funds must equal 100 percent.

(2) The percentages elected by the participant will be applied to the balances in each source of contributions and to both tax-deferred and tax-exempt balances on the effective date of the interfund transfer.

(3) Any participant who elects to invest in a TSP Fund other than the G Fund for the first time must execute an acknowledgement of risk in accordance with § 1601.33.

(b) An interfund transfer request has no effect on deposits made after the effective date of the interfund transfer request; subsequent deposits will continue to be allocated among the investment funds in accordance with the participant's contribution allocation made under subpart B of this part.

(c) If an interfund transfer is found to be invalid pursuant to § 1601.34, the purported transfer will not be made. The TSP will provide the participant with a written statement of the reason the transaction was rejected.

Subpart D—Contribution Allocations and Interfund Transfer Requests

17. Revise § 1601.32 to read as follows:

§ 1601.32 Timing and posting dates.

(a) *Posting dates.* The date on which the TSP processes or posts a contribution allocation or interfund transfer request (transaction request) is subject to a number of factors, including some that are outside of the control of the TSP, such as power outages, the failure of telephone service, acts of God, and unusually heavy transaction volume. These factors also could affect the availability of the TSP Web site and the ThriftLine. Therefore, the TSP cannot guarantee that a transaction request will be processed on a particular day. However, the TSP will process transaction requests under ordinary circumstances according to the following rules:

(1) A transaction request entered into the TSP record keeping system by a participant who uses the TSP Web site or the ThriftLine, or by a TSP Service Office participant service representative at the participant's request, at or before 12 noon eastern time of any business day, will ordinarily be posted that business day. A transaction request entered into the system after 12 noon eastern time of any business day will ordinarily be posted on the next business day.

(2) A transaction request made on the TSP Web site or the ThriftLine on a non-business day will ordinarily be posted on the next business day.

(3) A transaction request made on a paper TSP form will ordinarily be posted under the rules in paragraph (a)(1) of this section, based on when the TSP record keeper enters the form into the TSP system. The TSP record keeper ordinarily enters such forms into the system within 24 hours of their receipt.

(4) In most cases, the share price(s) applied to an interfund transfer request is the value of the shares on the date the relevant transaction is posted. In some circumstances, such as error correction, the share price(s) for an earlier date will be used.

(b) *Limit.* There is no limit on the number of contribution allocations or interfund transfer requests that may be made by a participant.

(c) *Multiple contribution allocations or interfund transfer requests.* If two or more contribution allocations or two or more interfund transfer requests (transaction requests) are received for a participant and would be posted on the same day, the following rules will apply:

(1) A transaction request submitted through the TSP Web site or the ThriftLine will take precedence over one that is submitted on a paper form.

(2) If one or more transaction requests are made through the TSP Web site or the ThriftLine, only the request entered by the participant at the latest time will be posted. The date and time of a transaction request made through the TSP Web site or the ThriftLine is the date and time (in Eastern time) that the participant confirms the percentages.

(3) If the transaction requests are submitted using paper TSP forms, the forms will be posted in the order the TSP record keeper receives them.

(d) *Cancellation of contribution allocation or interfund transfer request.* A participant may cancel a contribution allocation or an interfund transfer request (transaction cancellation request) through the TSP Web site or the ThriftLine, through written correspondence, or by contacting a participant service representative.

(1) A transaction cancellation request may be made on the TSP Web site or the ThriftLine only up to the deadline, described in paragraph (a) of this section, which applies to the original request. If the cancellation request is not received until after the deadline, the original transaction request will be processed as scheduled.

(2) A participant may also make a transaction cancellation request by submitting a letter to the TSP record keeper. To be effective, the TSP must receive and process the letter before the cutoff for the day the relevant transaction is submitted for processing. The letter must contain the following information to be processed:

(i) It must be signed, dated, contain the participant's name, Social Security number, and date of birth; and

(ii) It should state unambiguously the specific transaction the participant seeks to cancel.

(A) If the letter does not identify the specific transaction the participant seeks to cancel, the cancellation request will apply to any pending contribution allocation or interfund transfer request with a date (as determined under this paragraph (d)(2)) before the date of the cancellation letter.

(B) If the date of a cancellation letter is the same as the date of a pending transaction that was made on a paper TSP form, the form will be cancelled.

(C) A letter will be effective to cancel a Web site or ThriftLine transaction request only if the cancellation request specifies the date of the TSP Web site or ThriftLine transaction request.

(D) If there is no contribution allocation or interfund transfer pending when the written cancellation is processed by the TSP record keeper, the cancellation will have no effect. Cancellation letters will not be held until a contribution allocation or interfund transfer request is received.

18. Revise § 1601.33 to read as follows:

§ 1601.33 Acknowledgment of risk.

(a) A participant who wants to invest in a TSP Fund other than the G Fund must execute an acknowledgment of risk for that fund. If a required acknowledgment of risk has not been executed, no transactions involving the fund(s) for which the acknowledgment is required will be accepted.

(b) The acknowledgment of risk may be executed in association with a contribution allocation or an interfund transfer using the TSP Web site, the ThriftLine, or a paper TSP form.

19. Remove §§ 1601.34 and 1601.35 and redesignate § 1601.36 as § 1601.34.

20. Add a new subpart E to read as follows:

Subpart E—Lifecycle Funds

§ 1601.40 Lifecycle Funds.

The Executive Director will establish TSP Lifecycle Funds, which are target date asset allocation portfolios. The TSP Lifecycle Funds will invest solely in the funds established by the TSP pursuant to 5 U.S.C. 8438.

PART 1604—UNIFORMED SERVICES ACCOUNTS

21. The authority citation for part 1604 continues to read as follows:

Authority: 5 U.S.C. 8440e, 8474(b)(5) and (c)(1).

22. Amend § 1604.2 by removing the definitions of ''eligible retirement plan'' and ''TSP record keeper''.

23. Revise § 1604.3 to read as follows:

§ 1604.3 Contribution elections.

A service member may make contribution elections as described in 5 CFR part 1600. A service member may elect to contribute sums to the TSP from basic pay, incentive pay, and special pay (including bonuses). However, the service member must elect to contribute to the TSP from basic pay in order to contribute to the TSP from incentive pay and special pay (including bonuses). A service member may elect to contribute from special pay or incentive pay (including bonuses) in anticipation of receiving such pay (that is, he or she does not have to be receiving the special pay or incentive pay when the contribution election is made); those elections will take effect when the service member receives the special or incentive pay.

24. Amend § 1604.4 by revising paragraphs (a) and (b) to read as follows:

§ 1604.4 Contributions.

(a) *Employee contributions.* Subject to the regulations at 5 CFR part 1600 and the following limitations, a service member may make regular contributions to the TSP from basic pay. If the service member makes regular contributions, he or she also may contribute all or a portion of incentive pay and special pay (including bonuses) to the TSP. The maximum TSP regular employee contribution (including contributions from pay earned in a combat zone) a service member may make for 2005 is 10 percent of basic pay. After 2005 the percentage of basic pay limit will not apply and the maximum contribution will be limited only by the provisions of the Internal Revenue Code (26 U.S.C.).

(b) *Matching contributions.* When matching contributions are authorized for a service member, that service member's regular contributions will be matched dollar-for-dollar on the first three percent of basic pay contributed to the TSP, and 50 cents on the dollar on the next two percent of basic pay contributed. Matching contributions only apply to regular contributions.

* * * * *

25. Amend § 1604.5 by revising paragraphs (a)(1) and (b)(3) to read as follows:

§ 1604.5 Separate service member and civilian accounts.

(a) * * *

(1) If a participant contributes to a service member account and a civilian account, the contributions to both accounts together cannot exceed the Internal Revenue Code (26 U.S.C.) contribution limits.

* * * * *

(b) * * *

(3) Transferred funds will be allocated among the TSP Funds according to the contribution allocation in effect for the account into which the funds are transferred.

* * * * *

26. Amend § 1604.7 by revising paragraph (c) to read as follows:

§ 1604.7 Withdrawals.

* * * * *

(c) *Combat zone contributions.* If a service member account contains combat zone contributions, the withdrawal will be distributed pro rata from all sources. If a participant requests the TSP to transfer all, or a portion, of a withdrawal to a traditional IRA or eligible employer plan, the share of the withdrawal attributable to combat zone contributions (if any) can be transferred only if the IRA or plan accepts such funds.

* * * * *

27. Amend § 1604.8 by revising paragraph (c) to read as follows:

§ 1604.8 Death benefits.

* * * * *

(c) *Trustee-to-trustee transfers.* The surviving spouse of a TSP participant can request the TSP to transfer a death benefit payment to a traditional IRA or eligible employer plan. The share of the death benefit payment that is attributable to combat zone contributions (if any) can be transferred only if the IRA or plan accepts such funds.

* * * * *

28. Amend § 1604.9 by revising paragraph (c) to read as follows:

§ 1604.9 Court orders and legal processes.

* * * * *

(c) *Trustee-to-trustee transfers.* The current or former spouse of a TSP participant can request the TSP to transfer a court-ordered payment to a traditional IRA or eligible employer plan. If the payee requests the TSP to transfer all or a portion of the court-ordered payment to an IRA or plan, the share of the payment attributable to combat zone contributions (if any) can be transferred only if the IRA or plan accepts such funds.

* * * * *

29. Amend § 1604.10 by removing paragraph (a)(4).

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

Subpart A—General

30. The authority citation for Part 1605 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432a, and 8474(b)(5) and (c)(1).

31. Amend paragraph (b) of § 1605.1 by removing the definitions of ''Board error'', ''Employing agency error'', and ''Record keeper error'', and by adding a new definition of ''Error'' to read as follows:

§ 1605.1 Definitions.

* * * * *

(b) * * *

Error means any act or omission by the Board, the TSP Record Keeper, or the participant's employing agency that is not in accordance with applicable statutes, regulations, or administrative procedures that are made available to employing agencies and/or TSP participants. It does not mean an act or omission caused by events that are beyond the control of the Board, the TSP Record Keeper, or the participant's employing agency.

* * * * *

32. Revise § 1605.2 to read as follows:

§ 1605.2 Calculating, posting, and charging breakage.

(a) The TSP will calculate breakage on late contributions, makeup agency contributions, and loan payments as described by § 1605.15(b). This breakage calculation is subject to the following rules:

(1) The TSP will not calculate breakage if contributions or loan payments are posted within 30 days of the ''as of'' date, or if the total amount on a late payment record or the total agency contributions on a current payment record is less than $1.00; and

(2) The TSP will not take the participant's interfund transfers into account when determining breakage.

(b) *Calculating breakage.* The TSP will calculate breakage as follows:

(1) For contributions or loan payments with ''as of'' dates on or after January 1, 2000, the TSP will:

(i) Use the participant's contribution allocation on file for the ''as of'' date to determine how the funds would have been invested. If there is no contribution allocation on file, or one cannot be derived based on the investment of contributions, the TSP will consider the finds to have been invested in the G Fund;

(ii) Determine the number of shares of the applicable investment funds the participant would have received had the contributions or loan payments been made on time. If the ''as of'' date is before TSP account balances were converted to shares, this determination will be the number of shares the participant would have received on the conversion date, and will include the monthly earnings the participant would have received had the contributions or loan payments been made on the ''as of'' date; and

(iii) Determine the dollar value on the posting date of the number of shares the participant would have received had the contributions or loan payments been made on time. The difference between the dollar value of the contribution or loan payment on the posting date and the dollar value of the contribution or loan payment on the ''as of'' date is the breakage.

(2) For contributions and loan payments with an ''as of'' date before January 1, 2000, the TSP will:

(i) Value the contributions and loan payments from the ''as of'' date through the date TSP accounts were converted to shares, by using the greater of either the G Fund monthly rate of return or the average monthly rate of return for all TSP Funds;

(ii) Determine the number of shares the participant would have received at conversion; and

(iii) Determine the dollar value of those shares on the posting date by using the greater of either the G Fund share price or the average share price for all of the TSP Funds. The difference between the dollar value of the contribution or loan payment on the posting date and the dollar value of the contribution or loan payment on the ''as of'' date is the breakage.

(c) *Posting contributions and loan payments.* Makeup and late contributions, late loan payments, and breakage, will be posted to the participant's account according to his or her contribution allocation on file for the posting date. If there is no contribution allocation on file for the posting date, they will be posted to the G Fund.

(d) *Charging breakage.* If the dollar amount posted to the participant's account is greater than the dollar amount of the makeup or late contribution or late loan payment, the TSP will charge the agency the additional amount. If the dollar amount posted to the participant's account is less than the dollar amount of the makeup or late contribution, or late loan payment, the difference between the amount of the contribution and the amount posted will be forfeited to the TSP.

(e) *Posting of multiple contributions.* If the TSP posts multiple makeup or late contributions or late loan payments with different ''as of'' dates for a participant on the same business day, the amount of breakage charged to the employing agency or forfeited to the TSP will be determined separately for each transaction, without netting any gains or losses attributable to different ''as of'' dates. In addition, gains and losses from different sources of contributions or different TSP Funds will not be netted against each other. Instead, breakage will be determined separately for each as-of date, TSP Fund, and source of contributions.

Subpart B—Employing Agency Errors

33. Amend § 1605.11 by revising paragraphs (c)(5), (c)(6) and (c)(8) to read as follows:

§ 1605.11 Makeup of missed or insufficient contributions.

* * * * *

(c) * * *

(5) Employee makeup contributions will be invested in accordance with the participant's current contribution allocation. The number of shares of each TSP Fund that will be purchased will be determined by dividing the amount of the makeup contributions by the share price of the applicable fund(s) on the posting date.

(6) Employee makeup contributions will be included for purposes of applying the annual limit contained in Internal Revenue Code (I.R.C.) section 402(g) (26 U.S.C. 402(g)(1)). For purposes of applying that limit, employee makeup contributions will be applied against the limit for the year of the ''as of'' date.

(i) Before establishing a schedule of employee makeup contributions, the employing agency must review any schedule proposed by the affected participant, as well as the participant's prior TSP contributions, if any, to determine whether the makeup contributions, when combined with prior contributions for the same year, would exceed the annual contribution limit(s) contained in I.R.C. section 402(g) for the year(s) with respect to which the contributions are being made.

(ii) The employing agency must not permit contributions that, when combined with prior contributions, would exceed the applicable annual contribution limit contained in I.R.C. section 402(g).

* * * * *

(8) A participant may elect to terminate a schedule of employee makeup contributions at any time, but a

termination is irrevocable. If a participant separates from Federal service, the participant may elect to accelerate the payment schedule by a lump sum contribution from his or her final paycheck.

* * * * *

34. Revise § 1605.12 to read as follows:

§ 1605.12 Removal of erroneous contributions.

(a) *Applicability.* This section applies to the removal of funds erroneously contributed to the TSP. The TSP calls this action a negative adjustment, and agencies may only request negative adjustments of erroneous contributions made on or after January 1, 2000. Excess contributions addressed by this section include, for example, excess employee contributions that result from employing agency error and excess employer contributions. This section does not address excess contributions resulting from a FERCCA correction; those contributions are addressed in § 1605.14.

(b) *Method of correction.* Negative adjustment records must be submitted by employing agencies in accordance with this part and with any other procedures provided by the Board.

(1) To remove money from a participant's account, the employing agency must submit, for each attributable pay date involved, a negative adjustment record stating the attributable pay date and the amount, by source, of the erroneous contribution.

(2) A negative adjustment record may be for any part of the contributions made for the attributable pay date. However, for each source of contributions, the negative adjustment may not exceed the amount of contributions made for that date, less any prior negative adjustments for the same date.

(c) *Processing negative adjustments.* To determine current value, a negative adjustment will be allocated among the TSP Funds as it would have been allocated on the attributable pay period (as reported by the employing agency).

(1) If the attributable pay date for the erroneous contribution is on or before the date TSP accounts were converted to shares (and on or after January 1, 2000), the TSP will, for each source of contributions and investment fund:

(i) Determine the dollar value of the amount to be removed by using the monthly returns for the applicable TSP Fund;

(ii) Determine the number of shares the dollar value determined in paragraph (c)(1)(i) of this section would have purchased on the conversion date; and

(iii) Multiply the price per share for the date the adjustment is posted by the number of shares calculated in paragraph (c)(1)(ii) of this section.

(2) If the attributable pay date of the negative adjustment is after the date TSP accounts were converted to shares, the TSP will, for each source of contributions and TSP Fund:

(i) Determine the number of shares that represent the amount of the contribution to be removed using the share price on the attributable pay date; and

(ii) Multiply the price per share on the date the adjustment is posted by the number of shares calculated in paragraph (c)(2)(i) of this section.

(d) *Employee contributions.* The following rules apply to negative adjustments involving employee contributions:

(1) If, on the posting date, the amount calculated under paragraph (c) of this section is equal to or greater than the amount of the proposed negative adjustment, the full amount of the adjustment will be removed from the participant's account and returned to the employing agency. Earnings on the erroneous contribution will remain in the participant's account;

(2) If, on the posting date, the amount calculated under paragraph (c) of this section is less than the amount of the proposed negative adjustment, the amount of the adjustment, reduced by the investment loss, will be removed from the participants account and returned to the employing agency. However, the employing agency must refund to the participant the full amount of the erroneous contribution;

(3) If an employing agency requests the removal of erroneous employee contributions from a participant's account, it must also request the removal, under paragraph (e) of this section, of any attributable agency matching contributions; and

(4) If all employee contributions are removed from a participant's account under the rules set forth in this section, the earnings attributable to those contributions will remain in the account until the participant removes them with an in-service or a post-employment withdrawal. If the participant is not eligible to maintain a TSP account, the employing agency must submit an employee data record to the TSP indicating that the participant has separated from Federal service (this will allow the TSP-ineligible participant to make a post-employment withdrawal election).

(e) *Employer contributions.* The following rules apply to negative adjustments involving erroneous employer contributions:

(1) The amount calculated under paragraph (c) of this section will be removed from the participant's account.

(2) Erroneous employer contributions will be returned to the employing agency only if the negative adjustment record is posted by the TSP record keeper within one year of the date the erroneous contribution was posted. If one year or more has elapsed when the negative adjustment record is posted, the amount computed under paragraph (c) of this section will be removed from the participant's account and used to offset TSP administrative expenses;

(3) If the erroneous contribution has been in the participant's account for less than one year when the negative adjustment record is posted and the amount computed under paragraph (c) of this section is equal to or greater than the amount of the adjustment, the employing agency will receive the full amount of the erroneous contribution. Any earnings attributable to the erroneous contribution will be removed from the participant's account and used to offset TSP administrative expenses;

(4) If the erroneous contribution has been in the participant's account for less than one year when the negative adjustment record is posted and the amount computed under paragraph (c) of this section is less than the amount of the adjustment, the employing agency will receive the amount of the erroneous contribution reduced by the investment loss; and

(5) An employing agency's obligation to submit negative adjustment records to remove erroneous contributions from a participant's account is not affected by the length of time the contributions have been in the account.

(f)(1) If multiple negative adjustments for the same attributable pay date for a participant are posted on the same business day, the amount removed from the participant's account and used to offset TSP administrative expenses or returned to the employing agency will be determined separately for each adjustment. Earnings and losses for erroneous contributions made on different dates will not be netted against each other. In addition, for a negative adjustment for any attributable pay date, gains and losses from different sources of contributions or different TSP Funds will not be netted against each other. Instead, for each attributable pay date each source of contributions and each TSP Fund will be treated separately for purposes of these calculations. The amount computed by application of the

rules in this section will be removed from the participant's account pro rata from all funds, by source, based on the allocation of the participant's account among the TSP Funds when the transaction is posted; and

(2) If there is insufficient money in the same source of contributions to cover the amount to be removed or the amount of the requested adjustment, the negative adjustment record will be rejected.

35. Amend § 1605.13 by revising paragraphs (a)(2)(ii), (a)(3), (b)(3), and (d) to read as follows:

§ 1605.13 Back pay awards and other retroactive pay adjustments.

(a) * * *

(2) * * *

(ii) Instead of making contributions for the period of separation in accordance with the reinstated contribution election, the participant may submit a new contribution election if he or she would have been eligible to make such an election but for the erroneous separation.

(3) All contributions made under this paragraph (a) and associated breakage will be invested according to the participant's contribution allocation on the posting date. Breakage will be calculated using the G Fund share prices in accordance with § 1605.2 unless otherwise required by the employing agency or the court or other tribunal with jurisdiction over the back pay case.

(b) * * *

(3) All contributions under this paragraph (b) and associated breakage will be posted to the participant's account based on the participant's contribution allocation on the posting date. Breakage will be calculated in accordance with § 1605.2.

* * * * *

(d) *Prior withdrawal of TSP account.* If a participant has withdrawn his or her TSP account other than by purchasing an annuity, and the separation from Federal service upon which the withdrawal was based is reversed, resulting in reinstatement of the participant without a break in service, the participant will have the option to restore the amount withdrawn to his or her TSP account. The right to restore the withdrawn funds will expire if the participant does not provide notice to the Board within 90 days of reinstatement. If the participant returns the funds that were withdrawn, the number of shares purchased will be determined by using the share price of the applicable investment fund on the posting date. No breakage will be incurred on any restored funds.

* * * * *

36. Amend § 1605.14 by removing the word ''excess'' from the last sentence of paragraph (a)(1) and by revising paragraphs (b)(4), (b)(5), and (c)(3) to read as follows:

§ 1605.14 Misclassified retirement system coverage.

* * * * *

(b) * * *

(4) If the retirement coverage correction is a FERCCA correction, the employing agency must submit makeup employee contributions on late payment records. The participant is entitled to breakage on contributions from all three sources. Breakage will be calculated pursuant to § 1605.2. If the retirement coverage correction is not a FERCCA correction, the employing agency must submit makeup employee contributions on current payment records; in such cases, the employee is not entitled to breakage. Agency makeup contributions may be submitted on either current or late payment records; and

(5) If employee contributions were made up before [the date Office of Personnel Management (OPM) implemented its regulations on FERCCA correction], and the correction is considered to be a FERCCA correction, OPM may calculate pursuant to its regulations a dollar amount to replicate breakage, and transmit the dollar amount to the employing agency for transmission to the TSP record keeper.

(c) * * *

(3) The TSP will deem a participant to be separated from Federal service for all TSP purposes and the employing agency must submit an employee data record to reflect separation from Federal service. If the participant has an outstanding loan, it will be subject to the provisions of 5 CFR 1655.13. The participant may make a TSP post-employment withdrawal election pursuant to 5 CFR part 1650, subpart B, and the withdrawal will be subject to the provisions of 5 CFR 1650.60(b).

* * * * *

37. Amend § 1605.16 by revising paragraphs (a) and (b) to read as follows:

§ 1605.16 Claims for correction of employing agency errors; time limitations.

(a) *Agency's discovery of error.* Upon discovery of an error made within the past six months involving the correct or timely remittance of payments to the TSP (other than a retirement system misclassification error, as covered in paragraph (c) of this section), an employing agency must promptly correct the error on its own initiative. If the error was made more than six months before its discovery, the agency may exercise sound discretion in deciding whether to correct it, but, in any event, the agency must act promptly in doing so.

(b) *Participant's discovery of error.* If an agency fails to discover an error of which a participant has knowledge involving the correct or timely remittance of a payment to the TSP (other than a retirement system misclassification error as covered by paragraph (c) of this section), the participant may file a claim for correction of the error with his or her employing agency without a time limit. The agency must promptly correct any such error for which the participant files a claim within six months of its occurrence; the correction of any such error for which the participant files a claim after that time is in the agency's sound discretion.

* * * * *

Subpart C—Board or Record Keeper Errors

38. Revise § 1605.21 to read as follows:

§ 1605.21 Plan-paid breakage and other corrections.

(a) *Plan-paid breakage.* (1) Subject to paragraph (a)(3) of this section, if, because of an error committed by the Board or the TSP record keeper, a participant's account is not credited or charged with the investment gains or losses that he or she would have received had the error not occurred, the participant's TSP account will be so credited.

(2) Errors warranting the crediting of breakage under paragraph (a)(1) of this section include, but are not limited to:

(i) Delay in crediting contributions or other monies to a participant's account;

(ii) Improper issuance of a loan or withdrawal payment to a participant or beneficiary which requires the money to be restored to the participant's account; and

(iii) Investment of all or part of a participant's account in the wrong investment fund(s).

(3) A participant will not be entitled to breakage under paragraph (a)(1) of this section if the participant had the use of the money on which the investment gains would have accrued.

(4) If the participant continued to have a TSP account, or would have continued to have a TSP account but for the Board or TSP record keeper error, the TSP will compute gains or losses under paragraph (a)(1) of this section for the relevant period based upon the

investment funds in which the affected monies would have been invested had the error not occurred. If the participant did not have, and should not have had, an account in the TSP during this period, then the TSP will use the G Fund rate of return for the relevant period and return the monies to the participant.

(b) *Other corrections.* The Executive Director may, in his discretion and consistent with the requirements of applicable law, correct any other errors not specifically addressed in this section, including payment of breakage, if the Executive Director determines that the correction would serve the interests of justice and fairness and equity among all participants of the TSP.

39. Amend § 1605.22 by revising paragraph (c)(2) to read as follows:

§ 1605.22 Claims for correction of Board or TSP record keeper errors; time limitations.

* * * * *

(c) * * *

(2) For errors involving contribution allocations or interfund transfers of which a participant or beneficiary has knowledge, he or she may file a claim for correction with the Board or TSP record keeper no later than 30 days after the TSP provides the participant with a transaction confirmation reflecting the error or makes available on its Web site a participant statement detailing the error. The Board or TSP record keeper must promptly correct such errors.

* * * * *

Subpart D—Miscellaneous Provisions

40. Amend § 1605.31 by revising paragraphs (b), (c)(1) and (d) to read as follows:

§ 1605.31 Contributions missed as a result of military service.

(a) * * *

(b) *Missed employee contributions.* An employee who separates or enters nonpay status to perform military service may be eligible to make up TSP contributions when he or she is reemployed or restored to pay status in the civilian service. Eligibility for making up missed employee contributions will be determined in accordance with the rules specified at 5 CFR part 1620, subpart E. Missed employee contributions must be made up in accordance with the rules set out in § 1605.11(c) and 5 CFR 1620.42.

(c) * * *

(1) The employee is entitled to receive the agency automatic (1%) contributions that he or she would have received had the employee remained in civilian service or pay status. Within 60 days of the employee's reemployment or restoration to pay status, the employing agency must calculate the agency automatic (1%) makeup contributions and report those contributions to the record keeper.

* * * * *

(d) *Breakage.* The employee is entitled to breakage on agency contributions made under paragraph (c) of this section. The employee will elect to have the calculation based on either the contribution allocation(s) on file for the participant during the period of military service or the G Fund; the participant must make this election at the same time his or her makeup schedule is established pursuant to § 1605.11(c).

41. Remove and reserve part 1606.

PART 1620—EXPANDED AND CONTINUING ELIGIBILITY

42. The authority citation for part 1620 is revised to read as follows:

Authority: 5 U.S.C. 8474(b)(5) and (c)(1).

Subpart C also issued under 5 U.S.C. 8440a(b)(7), 8440b(b)(8), and 8440c(b)(8).

Subpart D also issued under sec. 1043(b) of Pub. L. 104–106, 110 Stat. 186, and sec. 7202(m)(2) of Pub. L. 101–508, 104 Stat. 1388.

Subpart E also issued under 5 U.S.C. 8432b(1) and 8440e.

Subpart A—General

43. Amend § 1620.1 by removing '', waives open season rules,'' from the third sentence.

44. Revise § 1620.2 to read as follows:

§ 1620.2 Definitions.

The definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

Subpart B—Cooperative Extension Service, Union, and Intergovernmental Personnel Act Employees

45. Amend § 1620.12 by revising the third sentence to read as follows:

§ 1620.12 Employing authority contributions.

* * * The employing authority can commence or terminate employer contributions at any time after providing all affected employees with notice of a decision to commence or terminate such contributions at least 45 days before the beginning of the applicable election period. * * *

46. Revise the Subpart C heading to read as follows:

Subpart C—Justices and Judges

47. Amend § 1620.20 by adding the word ''judge'' to paragraphs (a)(2) and (b) after the word ''magistrate''.

48. Amend § 1620.21 by adding the word ''judge'' to paragraph (b)(2) after the word ''magistrate'', and by revising paragraph (a) to read as follows:

§ 1620.21 Contributions.

(a) An individual covered under this subpart can make contributions to the TSP from basic pay in the amount described at 5 CFR 1600.22(a)(1). Unless stated otherwise in this subpart, he or she is covered by the same rules that apply to a CSRS participant in the TSP.

* * * * *

49. Amend § 1620.22 by adding the word ''judge'' to paragraph (a)(2)(ii) after the word ''magistrate''.

50. Amend § 1620.23 by revising paragraph (b) to read as follows:

§ 1620.23 Spousal rights.

* * * * *

(b) A current or former spouse of a bankruptcy judge, a United States magistrate judge, or a judge of the United States Court of Federal Claims, possesses the rights described at 5 U.S.C. 8435 and 8467 if the judge is covered under this subpart.

Subpart D—Nonappropriated Fund Employees

51. Remove and reserve § 1620.33.

Subpart E—Uniformed Services Employment and Reemployment Rights Act (USERRA)—Covered Military Service

52. Revise § 1620.42 to read as follows:

§ 1620.42 Processing TSP contribution elections.

(a) *Current contribution election.* If the employee entered nonpay status with a valid contribution election on file, the agency must immediately reinstate that election for current contributions when the employee returns to pay status, unless the employee files a new contribution election. If the employee separated to perform military service, he or she must make a new contribution election to begin current contributions.

(b) *Makeup contribution election.* Upon reemployment or return to pay status, an employee has 60 days to elect to make up missed contributions. An employee's right to make retroactive TSP contributions will expire if an election is not made within 60 days of the participant's reemployment or return to pay status.

(c) *Makeup contributions.* Makeup contributions will be processed as follows:

(1) If the employee had a valid contribution election on file when he or she separated or entered nonpay status to perform military service, that election form will be reinstated for purposes of determining the makeup contributions, unless the employee submits a new contribution election which he or she otherwise could have made but for the performance of military service.

(2) An employee who terminated contributions within two months of entering military service also will be eligible to make a retroactive contribution election to be effective on the date the contributions were terminated.

53. Revise § 1620.43 to read as follows:

§ 1620.43 Agency payments to record keeper; agency ultimately responsible.

(a) *Agency making payments to record keeper.* The current employing agency is responsible for making payments to the record keeper for all contributions, regardless of whether some of that expense is ultimately chargeable to a prior employing agency.

(b) *Agency ultimately chargeable with expense.* The agency that reemployed the participant is ordinarily the agency ultimately chargeable with the expense of agency contributions and the breakage attributable to them. However, if an employee changed agencies during the period between the date of reemployment and October 13, 1994, the employing agency as of October 13, 1994, is the agency ultimately chargeable with the expense.

(c) *Reimbursement by agency ultimately chargeable with expense.* If the agency that made the payments to the record keeper for agency contributions is not the agency ultimately chargeable for that expense, the agency that made the payments to the record keeper may, but is not required to, obtain reimbursement from the agency ultimately chargeable with the expense.

54. Amend § 1620.45 by revising paragraphs (a)(1), (a)(2), (c)(2) and (d) to read as follows:

§ 1620.45 Suspending TSP loans, restoring post-employment withdrawals, and reversing taxable distributions.

(a) * * *

(1) Interest will accrue on the loan balance during the period of suspension. When the employee returns to civilian pay status, the employing agency will resume the deduction of loan payments from the participant's basic pay and the TSP will reamortize the loan (which will include interest accrued during the period of military service). The maximum loan repayment term will be extended by the employee's period of military service. Consequently, when the employee returns to pay status, the TSP record keeper must receive documentation to show the beginning and ending dates of military service.

(2) The TSP may close the loan account and declare it to be a taxable distribution if the TSP does not receive documentation that the employee entered into nonpay status. However, the taxable distribution can be reversed in accordance with paragraph (c) of this section.

* * * * *

(c) * * *

(2) A taxable loan distribution can be reversed either by reinstating the loan or by repaying it in full. The TSP loan can be reinstated only if the employee agrees to repay the loan within the maximum loan repayment term plus the length of military service, and if, after reinstatement of the loan, the employee will have no more than two outstanding loans, only one of which is a residential loan; and

* * * * *

(d) *Breakage.* Employees will not receive breakage on amounts returned to their accounts under this section.

55. Amend § 1620.46 by revising paragraphs (b), (d) and (e) to read as follows:

§ 1620.46 Agency responsibilities.

* * * * *

(b) *Agency records; procedure for reimbursement.* The agency making payments to the record keeper for all contributions and attributable breakage will obtain from prior employing agencies whatever information is necessary to make accurate payments. If a prior employing agency is ultimately chargeable under § 1620.43(b) for all or part of this expense, the agency making the payments to the record keeper will determine the procedure to follow in order to collect amounts owed to it by the agency ultimately chargeable with the expense.

* * * * *

(d) *Agency automatic (1%) contributions.* Employing agencies must calculate the agency automatic (1%) contributions for all reemployed (or restored) FERS employees and report those contributions to the record keeper within 60 days of reemployment.

(e) *Forfeiture restoration.* When notified by an employee that a forfeiture of the agency automatic (1%) contributions occurred after the employee separated to perform military service, the employing agency must complete and file the appropriate paper TSP form with the TSP record keeper in accordance with the form's instructions to have those funds restored.

* * * * *

PART 1640—PERIODIC PARTICIPANT STATEMENTS

56. The authority citation for part 1640 continues to read as follows:

Authority: 5 U.S.C. 8439(c)(1) and (c)(2), 5 U.S.C. 8474(b)(5) and (c)(1).

57. Amend § 1640.3 by revising paragraph (f)(3) to read as follows:

§ 1640.3 Statement of individual account.

* * * * *

(f) * * *

(3) The account balance and activity in each TSP Fund, including the dollar amount of the transaction, the share price, and the number of shares; and

* * * * *

58. Amend § 1640.4 by revising paragraphs (a)(5) and (b)(2) to read as follows:

§ 1640.4 Account transactions.

(a) * * *

(5) Transfers among TSP Funds;

* * * * *

(b) * * *

(2) TSP Funds affected;

* * * * *

59. Amend § 1640.5 by revising the section heading and the first sentence of the introductory language to read as follows:

§ 1640.5 TSP Fund information.

The Board will provide to each participant four (4) times each calendar year a statement concerning each of the TSP Funds. * * *

* * * * *

PART 1645—CALCULATION OF SHARE PRICES

60. The authority citation for part 1645 continues to read as follows:

Authority: 5 U.S.C. 8439(a)(3) and 8474.

61. Revise § 1645.2 to read as follows:

§ 1645.2 Posting of transactions.

Contributions, loan payments, loan disbursements, withdrawals, interfund transfers, and other transactions will be posted in dollars and in shares by source and by TSP Fund to the appropriate individual account by the TSP record keeper, using the share price for the date the transaction is posted.

62. Revise § 1645.3 to read as follows:

§ 1645.3 Calculation of total net earnings for each TSP Fund.

(a) Each business day, net earnings will be calculated separately for each TSP Fund.

(b) Net earnings for each fund will equal:

(1) The sum of the following items, if any, accrued since the last business day:

(i) Interest on money of that fund which is invested in the Government Securities Investment Fund;

(ii) Interest on other short-term investments of the fund;

(iii) Other income (such as dividends, interest, or securities lending income) on investments of the fund; and

(iv) Capital gains or losses on investments of the fund, net of transaction costs.

(2) Minus the accrued administrative expenses of the fund, determined in accordance with § 1645.4.

(c) The net earnings for each TSP fund determined in accordance with paragraph (b) of this section will be added to the residual net earnings for that fund from the previous business day, as described in § 1645.5(b), to produce the total net earnings. The total net earnings will be used to calculate the share price for that business day.

63. Revise § 1645.4 to read as follows:

§ 1645.4 Administrative expenses attributable to each TSP Fund.

A portion of the administrative expenses accrued during each business day will be charged to each TSP Fund. A fund's respective portion of administrative expenses will be determined as follows:

(a) Accrued administrative expenses (other than those described in paragraph (b) of this section) will be reduced by accrued forfeitures and accrued earnings on forfeitures, abandoned accounts, and unapplied deposits;

(b) Investment management fees and other accrued administrative expenses attributable only to a particular fund will be charged solely to that fund.

(c) The amount of accrued administrative expenses not covered by forfeitures under paragraph (a) of this section, and not described in paragraph (b) of this section, will be charged on a pro rata basis to all TSP Funds, based on the respective fund balances on the last business day of the prior month end.

64. Revise § 1645.5 to read as follows:

§ 1645.5 Calculation of share prices.

(a) *Calculation of share price.* The share price for each TSP Fund for each business day will apply to all sources of contributions for that fund. The total net earnings (as computed under § 1645.3) for each fund will be divided by the total fund basis (as computed under § 1645.6) for that fund. The resulting number, computed to ten decimal places, represents the incremental change for the current business day in the value of that fund from the last business day. The share price for that fund for the current business day is the sum of the incremental change in the share price for the current business day plus the share price for the prior business day, truncated to two decimal places.

(b) *Residual net earnings.* When the total net earnings for each business day for each TSP Fund are divided by the total fund basis in that fund, there will be residual net earnings attributable to the truncation described in paragraph (a) of this section that will not be included in the incremental change in the share price of the fund for that business day. The residual net earnings that are not included in the incremental share price for the fund may be added to the earnings for that fund on the next business day.

65. Revise § 1645.6 to read as follows:

§ 1645.6 Basis for calculation of share prices.

The total fund basis for a TSP Fund will be the sum of the number of shares in all individual accounts from all sources of contributions in that fund as of the opening of business on each business day.

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

66. The authority citation for part 1650 continues to read as follows:

Authority: 5 U.S.C. 8531, 8433, 8434, 8435, 8474(b)(5) and 8474(c)(1).

Subpart A—General

67. Amend § 1650.1 by removing from paragraph (b) the definitions of ''Eligible employer plan'' and Traditional IRA''.

68. Revise § 1650.4 to read as follows:

§ 1650.4 Certification of truthfulness.

By signing a TSP withdrawal form, electronically or on paper, the participant certifies, under penalty of perjury, that all information provided to the TSP during the withdrawal process is true and complete, including statements concerning the participant's marital status and, where applicable, the spouse's address at the time the application is filed or the current spouse's consent to the withdrawal.

69. Add a new § 1650.6 to read as follows:

§ 1650.6 Deceased participant.

(a) The TSP will cancel a pending withdrawal request if it processes a written notice that a participant is deceased. The TSP will also cancel an annuity purchase made on or after the participant's date of death but before annuity payments have begun, and the annuity vendor will return the funds to the TSP.

(b) If the TSP processes a withdrawal request before being notified that a participant is deceased, the funds cannot be returned to the TSP.

Subpart B—Post-Employment Withdrawals

70. Amend § 1650.11 by adding a new paragraph (c) to read as follow:

§ 1650.11 Withdrawal elections.

* * * * *

(c) If a participant's vested account balance is less than $200 when he or she separates from Federal service, the TSP will automatically pay the balance to the participant at his or her TSP address of record. The participant will not be eligible for any other payment option or be allowed to remain in the TSP.

71. Amend § 1650.17 by revising paragraph (a) to read as follows and by removing the word ''final'' from the last sentence of paragraph (c) and adding in its place the word ''fixed'':

§ 1650.17 Changes and cancellation of a withdrawal request.

(a) *Before processing.* A pending withdrawal request can be cancelled if the cancellation is processed before the TSP processes the withdrawal request. However, the TSP processes withdrawal requests each business day and those that are entered into the record keeping system by 12:00 noon eastern time will ordinarily be processed that night; those entered after 12:00 noon eastern time will be processed the next business day. Consequently, a cancellation request must be received and entered into the system before the cut-off for the day the withdrawal request is submitted for processing in order to be effective to cancel the withdrawal.

* * * * *

Subpart C—Procedures for Post-Employment Withdrawals

72. Amend § 1650.24 by revising the first sentence to read as follows:

§ 1650.24 How to obtain a post-employment withdrawal.

To request a post-employment withdrawal, a participant must submit to the TSP record keeper a properly completed paper TSP post-employment

withdrawal request form or use the TSP Web site to initiate a request. * * *

73. Remove and reserve § 1650.25.

Subpart E—Procedures for In-Service Withdrawals

74. Amend § 1650.41 by revising the first sentence to read as follows:

§ 1650.41 How to obtain an age-based withdrawal.

To request an age-based withdrawal, a participant must submit to the TSP record keeper a properly completed paper TSP age-based withdrawal request form or use the TSP Web site to initiate a request. * * *

75. Amend § 1650.42(a) by revising the first sentence to read as follows:

§ 1650.42 How to obtain a financial hardship withdrawal.

(a) To request a financial hardship withdrawal, a participant must submit to the TSP record keeper a properly completed paper TSP hardship withdrawal request form or use the TSP Web site to initiate a request. * * *

* * * * *

76. Remove and reserve § 1650.43.

Subpart G—Spousal Rights

77. Amend § 1650.63 by revising paragraph (a) introductory text to read as follows:

§ 1650.63 Executive Director's exception to the spousal notification requirement.

(a) Whenever this subpart requires the Executive Director to give notice of an action to the spouse of a CSRS participant, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be determined. A request for such an exception must be submitted to the TSP record keeper on the appropriate TSP paper form, accompanied by the following:

* * * * *

PART 1651—DEATH BENEFITS

78. The authority citation for part 1651 continues to read as follows:

Authority: 5 U.S.C. 8424(d), 8432(j), 8433(e), 8435(c), 8474(b)(5) and 8474(c)(1).

79. Amend § 1651.2 by revising paragraphs (b) and (d) to read as follows:

§ 1651.2 Entitlement to funds in a deceased participant's account.

* * * * *

(b) *TSP withdrawals.* If the TSP processes a notice that a participant has died, it will cancel any pending request by the participant to withdraw his or her account. The TSP will also cancel an annuity purchase made on or after the participant's date of death but before annuity payments have begun, and the annuity vendor will return the funds to the TSP. The funds designated by the participant for the withdrawal will be paid as a death benefit in accordance with paragraph (a) of this section, unless the participant elected to withdrawal his or her account in the form of an annuity, in which case the funds designated for the purchase of the annuity will be paid as described below:

(1) If the participant requested a single life annuity with no cash refund or 10-year certain feature, the TSP will pay the funds as a death benefit in accordance with paragraph (a) of this section.

(2) If the participant requested a single life annuity with a cash refund or 10-year certain feature, the TSP will pay the funds as a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of the TSP withdrawal request form, or as a death benefit in accordance with paragraph (a) of this section if no beneficiary designated on the withdrawal request survives the participant.

(3) If the participant requested a joint life annuity without additional features, the TSP will pay the funds as a death benefit to the joint life annuitant if he or she survives the participant, or as a death benefit in accordance with paragraph (a) of this section if the joint life annuitant does not survive the participant.

(4) If the participant requested a joint life annuity with a cash refund or 10-year certain feature, the TSP will pay the funds as a death benefit to the joint life annuitant if he or she survives the participant, or as a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of the TSP withdrawal request form, if the joint life annuitant does not survive the participant, or as a death benefit in accordance with paragraph (a) of this section if neither the joint life annuitant nor any designated beneficiary survives the participant.

(5) If a participant dies after annuity payments have begun, the annuity vendor will make or stop the payments in accordance with the annuity method selected.

* * * * *

(d) *Investment of a TSP account upon notice of death.* If a participant dies with any portion of his or her TSP account in a TSP Fund other than the G Fund, the TSP will transfer the entire account into the G Fund after it processes a notice that the participant has died, or a death code from the participant's employing agency reporting the participant's death. The account will accrue earnings at the G Fund rate in accordance with 5 CFR part 1645 until it is paid under this part.

80. Revise § 1651.3 to read as follows:

§ 1651.3 Designation of beneficiary.

(a) *Filing requirements.* To designate a beneficiary of a TSP account, a participant must complete and file a TSP designation of beneficiary form with the TSP record keeper. A participant may designate more beneficiaries than the TSP form accommodates by attaching additional pages to the TSP designation of beneficiary form in accordance with the instructions on the form. A valid TSP designation of beneficiary remains in effect until it is properly canceled or changed as described in § 1651.4.

(b) *Eligible beneficiaries.* Any individual, firm, corporation, or legal entity, including the U.S. Government, may be designated as a beneficiary. Any number of beneficiaries can be named to share the death benefit. A beneficiary may be designated without the knowledge or consent of the beneficiary or the knowledge or consent of the participant's spouse.

(c) *Validity requirements.* To be valid, a TSP designation of beneficiary form must be:

(1) Received by the TSP record keeper on or before the date of the participant's death; and

(2) Signed by the participant and two witnesses. The participant must either sign the form in the presence of the witnesses or acknowledge his signature on the form to the witnesses. If the participant attaches an additional page or pages to the designation of beneficiary form, each additional page must be signed and witnessed in the same manner (by the same witnesses) as the form itself, and must follow the format of the TSP designation of beneficiary form. A witness must be age 21 or older. A witness designated as a beneficiary will not be entitled to receive a death benefit payment; if a witness is the only named beneficiary, the designation of beneficiary is invalid. If more than one beneficiary is named, the share of the witness beneficiary will be allocated among the remaining beneficiaries pro rata.

(d) *Will.* A participant cannot use a will to designate a TSP beneficiary.

81. Revise § 1651.4 to read as follows:

§ 1651.4 How to change or cancel a designation of beneficiary.

(a) *Change.* To change a designation of beneficiary, the participant must submit to the TSP record keeper a new TSP designation of beneficiary form meeting the requirements of § 1651.3 to the TSP record keeper. If the TSP receives more than one valid TSP designation of beneficiary form, it will honor the form with the latest date signed by the participant. A participant may change a TSP beneficiary at any time, without the knowledge or consent of any person, including his or her spouse.

(b) *Cancellation.* A participant may cancel all prior designations of beneficiaries by sending the TSP record keeper either a new valid designation of beneficiary form meeting the requirements of § 1651.3, or a letter. If the participant uses a letter to cancel a designation of beneficiary, it must be signed and witnessed in the same manner as a TSP designation of beneficiary form; it must explicitly state that all prior designations are canceled; and the TSP record keeper must receive it on or before the date of the participant's death.

(c) *Will.* A participant cannot use a will to change or cancel a TSP designation of beneficiary.

82. Revise § 1651.10 to read as follows:

§ 1651.10 Deceased and non-existent beneficiaries.

(a) *Designated beneficiary dies before participant.* The share of any designated beneficiary who predeceases the participant will be paid pro rata to the participant's other designated beneficiary or beneficiaries. If no designated beneficiary survives the participant, the account will be paid according to the order of precedence set forth in § 1651.2(a).

(b) *Trust designated as beneficiary but not in existence.* If a participant designated a trust or other entity as a beneficiary and the entity does not exist on the date of the participant's death, or is not created by will or other document that is effective upon the participant's death, the amount designated to the entity will be paid in accordance with the rules of paragraph (a) of this section, as if the trust were a beneficiary that predeceased the participant.

(c) *Non-designated beneficiary dies before participant.* If a beneficiary other than a beneficiary designated on a TSP designation of beneficiary form dies before the participant, the beneficiary's share will be paid equally to other living beneficiaries bearing the same relationship to the participant as the deceased beneficiary. However, if the deceased beneficiary is a child of the participant, payment will be made to the deceased child's descendants, if any. If there are no other beneficiaries bearing the same relationship or, in the case of children, there are no descendants of deceased children, the deceased beneficiary's share will be paid to the person(s) next in line according to the order of precedence.

(d) *Beneficiary dies after participant but before payment.* If a beneficiary dies after the participant, the beneficiary's share will be paid to the beneficiary's estate. A copy of a beneficiary's certified death certificate is required in order to establish that the beneficiary has died.

83. Revise § 1651.13 to read as follows:

§ 1651.13 How to apply for a death benefit.

The TSP has created a paper form that a potential beneficiary must use to apply for a TSP death benefit. The TSP must receive this form before a death benefit can be paid. Any individual can file this form with the TSP record keeper. The individual submitting the form must attach a copy of a certified death certificate of the participant to the form. The TSP record keeper's acceptance of this form does not entitle the applicant to benefits.

84. Amend § 1651.14 by revising paragraphs (b), (c) and (g) to read as follows:

§ 1651.14 How payment is made.

* * * * *

(b) *Payment.* Payment is made separately to each entitled beneficiary. The TSP will send the payment to the address that is provided on the participant's TSP designation of beneficiary form unless the TSP receives written notice of a more recent address. All beneficiaries must provide the TSP record keeper with a taxpayer identification number; *i.e.*, Social Security number (SSN), employee identification number (EIN), or individual taxpayer identification number (ITIN), as appropriate.

(c) *Payment to the participant's spouse.* The spouse of the participant may request that the TSP transfer all or a portion of the payment to a traditional IRA or eligible employer plan (including the spouse's TSP account, if he or she already has one). A transfer to a spouse's TSP account is permitted only if the spouse is not receiving monthly payments from the account. In order to request such a transfer, a spouse must use the transfer form provided by the TSP.

* * * * *

(g) If a death benefit payment is returned as undeliverable, the TSP record keeper will attempt to locate the beneficiary by writing to his or her TSP database address. If the beneficiary does not respond within 60 days, the TSP will forfeit the death benefit payment to the Plan. The beneficiary can claim the forfeited funds, although they will not be credited with TSP investment returns.

* * * * *

85. Amend § 1651.16 by revising the last sentence of paragraph (c) to read as follows:

§ 1651.16 Missing and unknown beneficiaries.

* * * * *

(c) * * * The TSP may require the beneficiary to apply for the death benefit with a TSP form and submit proof of identity and relationship to the participant.

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING TSP ACCOUNTS

86. The authority citation for part 1653 continues to read as follows:

Authority: 5 U.S.C. 8435, 8436(b), 8437(e)(3), 8467, 8474(b)(5) and 8474(c)(1).

Subpart A—Retirement Benefits Court Orders

87. Amend § 1653.5 by revising paragraphs (a), (d) and (e) to read as follows:

§ 1653.5 Payment.

(a) Payment pursuant to a qualifying retirement benefits court order ordinarily will be made 60 days after the date of the TSP decision letter. This is intended to permit the payee sufficient time to consider decisions about tax withholding, payment by EFT, and transfer options. An earlier distribution may be made as follows:

(1) If the payee is the current or former spouse of the participant, the payee can request to receive the payment sooner than 60 days by making a tax withholding election, by requesting a payment by EFT, or by requesting a transfer of all or a portion of the payment to a traditional IRA or eligible employer plan. The TSP decision letter will provide the forms a payee must use to choose one of these payment options.

(2) If the payee is someone other than the current or former spouse of the participant, the participant can request a disbursement sooner than 60 days by making a tax withholding election on forms provided to the participant with the TSP decision letter.

(3) If the court order makes an award to multiple payees, a disbursement may be made earlier than 60 days only if requests for expedited payment are received from all of the payees.

(4) In no event will payment be made earlier than 31 days after the date of the TSP decision letter.

* * * * *

(d) Payment will be made *pro rata* from all TSP Funds in which the account is invested, based on the balance in each fund on the date payment is made, and from both tax-deferred and tax-exempt balances, if any. The TSP will not honor provisions of a court order that require payment to be made from specific TSP Funds or contribution sources. A court order may, however, specify a particular payment from the tax-exempt balance of a uniformed services TSP account.

(e) Payment will be made only to the person or persons specified in the court order.

(1) If payment is made to the current or former spouse of the participant, the distribution will be reported to the Internal Revenue Service (IRS) as income to the payee. If the court order specifies a third-party mailing address for the payment, the TSP will mail to the address specified any portion of the payment that is not transferred to a traditional IRA or eligible employer plan.

(2) If the payment is made to anyone other than the current or former spouse of the participant, the payment is taxable to the participant and is subject to Federal income tax withholding by the participant. The participant can elect the amount to be withheld by filing with the TSP the forms provided to the participant with the decision letter. The tax withholding will be taken from the payee's entitlement and the gross amount of the payment (*i.e.*, the net payment distributed to the payee plus the amount withheld from the payment for taxes) will be reported to the IRS as income to the participant.

* * * * *

PART 1655—LOAN PROGRAM

88. The authority citation for part 1655 continues to read as follows:

Authority: 5 U.S.C. 8433(g) and 8474.

89. Amend § 1655.1 by revising the definition of ''Date of application'' in paragraph (b) to read as follows:

§ 1655.1 Definitions.

* * * * *

(b) * * *

Date of application means the day on which the TSP record keeper receives the loan application, either electronically or on the TSP Web site or on a paper TSP form.

* * * * *

90. Amend § 1655.2 by revising paragraph (c) to read as follows:

§ 1655.2 Eligibility for loans.

* * * * *

(c) The participant is eligible to contribute to the TSP (or would be eligible to contribute but for the suspension of the participant's contributions because he or she obtained a financial hardship in-service withdrawal);

* * * * *

91. Amend § 1655.9 by revising paragraphs (b) and (c) to read as follows:

§ 1655.9 Effect of loans on individual account.

* * * * *

(b) The loan principal will be disbursed from that portion of the account represented by employee contributions and attributable earnings, pro rata from each TSP Fund in which the account is invested and pro rata from tax-deferred and tax-exempt balances.

(c) Loan payments, including both principal and interest, will be credited to the participant's individual account. Loan payments will be credited to the appropriate TSP Fund in accordance with the participant's most recent contribution allocation.

92. Amend § 1655.10 by revising paragraph (a) to read as follows:

§ 1655.10 Loan application process.

(a) Any participant may apply for a loan by submitting a completed TSP loan application form to the TSP record keeper.

* * * * *

93. Amend § 1655.12 by revising paragraph (a)(1) to read as follows:

§ 1655.12 Loan agreement.

(a) * * *

(1) If the participant submits a paper loan application, the TSP record keeper will mail the loan agreement, and other information as appropriate, to the participant.

* * * * *

PART 1690—THRIFT SAVINGS PLAN

94. The authority citation for part 1690 continues to read as follows:

Authority: 5 U.S.C. 8474.

Subpart A—General

95. Amend § 1690.1:

a. By removing the definitions of ''Open season'' and ''Investment fund'';

b. By adding a new definition of ''TSP Fund'' to read as follows; and

c. By revising the definitions of ''Account balance'', ''Contribution allocation'', ''Share'', ''Share price'', and ''TSP record keeper'' to read as follows:

§ 1690.1 Definitions.

* * * * *

Account balance means the sum of the dollar balances for each source of contributions in each TSP Fund for an individual account. The dollar balance in each fund on a given day is the product of the total number of shares in that fund multiplied by the share price for the fund on that day.

* * * * *

Contribution allocation means the participant's apportionment of his or her future contributions, loan payments, and transfers or rollovers from eligible employer plans or traditional IRAs among the TSP Funds.

* * * * *

Share means a portion of a TSP Fund. Transactions are posted to accounts in shares at the share price of the date the transaction is posted. The number of shares for a transaction is calculated by dividing the dollar amount of the transaction by the share price of the appropriate date for the fund in question. The number of shares is computed to four decimal places.

Share price means the value of a share in a TSP Fund. The share price is calculated separately for each fund for each business day. The share price includes the cumulative net earnings or losses for each fund through the date the share price is calculated.

* * * * *

TSP Fund means an investment fund established pursuant to 5 U.S.C. 8438 and an investment allocation fund established pursuant to 5 CFR part 1601, subpart E.

TSP record keeper means the entities the Board engages to perform record keeping services for the Thrift Savings Plan.

* * * * *

Subpart B—Miscellaneous

96. Add a new § 1690.14 to read as follows:

§ 1690.14 Checks made payable to the Thrift Savings Plan.

(a) *Accord and satisfaction.* The TSP does not agree to accept more than the total amount due by negotiating an instrument such as a check, share draft or money order with a restrictive legend on it (such as ''payment in full'' or ''submitted in full satisfaction of claims''), or by negotiating an

instrument that is conditionally tendered to the TSP with an offer of compromise.

(b) *TSP payment address.* The TSP has established an address for the receipt of specified TSP payments. The TSP will not answer correspondence mailed to that payment address.

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Monday,
April 25, 2005

Part IV

Securities and Exchange Commission

17 CFR Part 240

Definition of Nationally Recognized Statistical Rating Organization; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 33–8570; 34–51572; IC–26834; File No. S7–04–05]

RIN 3235–AH28

Definition of Nationally Recognized Statistical Rating Organization

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Proposed rule.

SUMMARY: The Commission is publishing for comment a proposed new rule under the Securities Exchange Act of 1934 (''Exchange Act''), which would define the term ''nationally recognized statistical rating organization'' (''NRSRO''). The proposed definition contains three components that must each be met in order for a credit rating agency to be an NRSRO. The Commission is also providing interpretations of the proposed definition of the term ''NRSRO.'' Defining the term ''NRSRO'' and providing interpretations of the definition would increase transparency with regard to the NRSRO concept.

DATES: Comments should be received on or before June 9, 2005.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/proposed.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–04–05 on the subject line; or
- Use the Federal eRulemaking Portal *(http://www.regulations.gov).* Follow the instructions for submitting comments.

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 S7–04–05. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/proposed.shtml).* Comments are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, at (202) 942–0132; Thomas K. McGowan, Assistant Director, at (202) 942–4886; Randall W. Roy, Branch Chief, at (202) 942–0798; Mark M. Attar, Special Counsel, at (202) 942–0766; or Rachael Grad, Attorney, at (202) 942–0183, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

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I. Introduction

In June 2003, the Commission issued a concept release (the ''2003 Concept Release'') soliciting public comment on various issues regarding credit rating agencies, including whether credit ratings should continue to be used for regulatory purposes under the federal securities laws, and, if so, the process of determining whose credit ratings should be used and the level of oversight to apply to such credit rating agencies.[1] To address certain issues raised in response to the 2003 Concept Release, particularly with regard to the clarity of whether a credit rating agency is an NRSRO, the Commission is proposing to define the term ''NRSRO'' in new Exchange Act Rule 3b–10, and to provide interpretations of that definition. The Commission notes that this proposal is intended only to address the meaning of the term ''NRSRO'' as it is used by the Commission; it does not attempt to address many of the broader issues raised in response to the 2003 Concept Release.

II. The Development of the NRSRO Concept

A. Background

Since 1975, the Commission has relied in several significant regulatory areas on credit ratings by rating agencies that the markets have recognized as credible. These ''nationally recognized statistical rating organizations,'' or ''NRSROs,'' have typically sought a level of comfort regarding their status as NRSROs through the no-action letter process.[2] To date, nine firms have been identified as NRSROs by the Commission staff. However, during the 1990s, several credit rating agencies consolidated so that there are currently five such NRSROs: A.M. Best Company, Inc. (''A.M. Best''), Dominion Bond Rating Service Limited (''DBRS''); Fitch,

[1] Securities Act Release No. 33–8236), 68 FR 35258 (June 12, 2003). The 2003 Concept Release was intended to assist the Commission in addresing issues identified in its January 24, 2003 report on credit rating agencies, which was required by Congress under Section 702 of the Arbanes-Oxley Act of 2002. *See report on the Role and Function of Credit Rating AGencies in the operation of the Securities Markets, As Required by Seciton 7029b) of the Sarbanes-Oxley Act of 2002,* U.S. Securities and Exchange Commission, January 2003.

[2] *See, e.g.,* Letter from Annette L. Nazareth, Director, Division of Market Regulation, Commission, to Mari-Anne Pisarri, Pickard and Djinis LLP (February 24, 2003). For a more detailed description of the no-action letter process, *see also* Section III.E.

Inc. (''Fitch''); Moody's Investors Service Inc. (''Moody's''); and the Standard & Poor's Division of the McGraw Hill Companies, Inc. (''S&P'').

Although the Commission originated the use of the term ''NRSRO'' for use in its rules and regulations, ratings by NRSROs today are used as benchmarks in federal and state legislation, rules issued by financial and other regulators, foreign regulatory schemes, and private financial contracts. Many of these uses specifically refer to the term ''NRSRO'' as used in the Commission's rules and regulations. However, the Commission has never defined the term ''NRSRO.''

B. History of the NRSRO Concept

The term ''NRSRO'' was originally adopted by the Commission in 1975 solely for use in determining capital charges on different grades of debt securities under Exchange Act Rule 15c3–1, the Commission's ''net capital rule.'' [3] The use of this term enabled the Commission to distinguish between investment grade and non-investment grade paper in a reasonably objective fashion. The net capital rule requires broker-dealers, when computing net capital, to deduct from their net worth certain percentages of the market value of their proprietary securities positions. These deductions, often referred to as ''haircuts,'' are intended to provide a margin of safety against losses that might be incurred by broker-dealers as a result of market fluctuations in the prices of, or lack of liquidity in, their proprietary positions. The Commission determined that it was appropriate to apply a lower haircut to securities held by a broker-dealer that were rated ''investment grade'' by a credit rating agency of national repute, because those securities typically were more liquid and less volatile in price than securities that were not so highly rated.[4]

Over time, as marketplace and regulatory reliance on credit ratings increased, the Commission's use of the NRSRO concept as a proxy for regulatory determinations of liquidity and creditworthiness became more widespread.[5] Several rules and regulations issued by the Commission pursuant to the Securities Act of 1933,[6] the Exchange Act,[7] and the Investment Company Act of 1940,[8] utilize the term ''NRSRO'' and cross-reference to the net capital rule. For example, Rule 2a–7 under the Investment Company Act of 1940 limits money market funds to investing in only high quality short-term instruments, and NRSRO ratings can be used as benchmarks for establishing minimum quality investment standards. Under Rule 2a–7, a money market fund is limited to investing in securities rated by an NRSRO in the two highest ratings categories for short-term debt (or unrated securities of similar quality), and there are limitations on the amount of securities the fund can hold that are not rated in the highest rating category (or are not unrated securities of similar quality).[9] In addition, in regulations adopted by the Commission under the Securities Act of 1933, offerings of certain nonconvertible debt, preferred securities, and asset-backed securities that are rated investment grade by at least one NRSRO can be registered on Form S–3—the Commission's ''short-form'' registration statement—without the issuer satisfying a minimum public float test.[10]

In addition, Congress has incorporated the term ''NRSRO'' into a wide range of legislation.[11] For example, when Congress defined the term ''mortgage related security'' in Section 3(a)(41) of the Exchange Act,[12] as part of the Secondary Mortgage Market Enhancement Act of 1984,[13] it required, among other things, that such securities be rated in one of the two highest rating categories by at least one NRSRO.

Finally, a number of other federal, state, and foreign laws and regulations today use the term ''NRSRO.'' For example, the U.S. Department of Education uses ratings from NRSROs to set standards of financial responsibility for institutions that wish to participate in student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended.[14] In addition, several state insurance codes rely on NRSRO ratings in determining appropriate investments for insurance companies.[15] The term ''NRSRO'' also has been used in foreign jurisdictions.[16]

In 1975, when NRSRO ratings first were incorporated in the net capital rule, the Commission staff determined that the ratings of S&P, Moody's, and Fitch were used nationally, and that the staff would raise no questions if these firms were utilized as NRSROs for purposes of the net capital rule.[17] Since 1975, the Commission staff has issued NRSRO no-action letters [18] to six additional credit rating agencies: (1) Duff and Phelps, Inc.; [19] (2) McCarthy, Crisanti & Maffei, Inc.; [20] (3) IBCA Limited and its subsidiary, IBCA, Inc.; [21]

[3] *See* Adoption of Amendments to Rule 15c3–1 and Adoption of Alternative Net Capital Requirement for Certain Brokers and Dealers, Release No. 34–11497 (June 26, 1975), 40 FR 29795 (July 16, 1975).

[4] *See, e.g.,* 17 CFR 240.15c3–1(c)(2)(vi)(E), (F), and (H).

[5] The NRSRO concept is currently used in the following Commission rules: 17 CFR 228.10(e), 229.10(c), 230.134(a)(14), 230.436(g), 239.13, 239.32, 239.33, 240.3a1–1(b)(3), 240.10b–10(a)(8), 240.15c3–1(c)(2)(vi)(E), (F) and (H), 240.15c3–3a(b)(1)(i)(C), 240.15c3–1f(d), 240.15c3–3a, Item 14, Note G, 242.101(c)(2), 242.102(d), 242.300(k)(3) and (*1*)(3), 270.2a–7(a)(10), 270.3a–7(a)(2), 270.5b–3(c), and 270.10f–3(a)(3).

[6] *See* Regulation S–B (17 CFR 228.10) and Regulation S–K (17 CFR 229.10); Rule 134 (17 CFR 230.134); Rule 436 (17 CFR 230.436); Form S–3 (17 CFR 239.13); Form F–2 (17 CFR 239.32); and Form F–3 (17 CFR 239.33).

[7] *See* Rule 3a1–1 (17 CFR 240.3a1–1); Rule 10b–10 (17 CFR 240.10b–10); Rules 101 and 102 of Regulation M (17 CFR 242.101 and 242.102, respectively); and Rule 300 of Regulation ATS (17 CFR 242.300).

[8] *See* Rule 2a–7 (17 CFR 270.2a–7); Rule 3a–7 (17 CFR 270.3a–7); Rule 5b–3 (17 CFR 270.5b–3); and Rule 10f–3 (17 CFR 270.10f–3).

[9] Under Rule 2a–7 (17 CFR 270.2–7), NRSRO ratings are minimum requirements; fund advisers must also make an independent determination that the security presents ''minimal credit risks.''

[10] Form S–3 (17 CFR 239.13).

[11] *See, e.g.,* 15 U.S.C. 78c(a)(41) (defining the term ''mortgage related security''); 15 U.S.C. 78c(a)(53)(A) (defining the term ''small business related security''); and 15 U.S.C. 80a–6(a)(5)(A)(iv)(I) (exempting certain companies from the provisions of the Investment Company Act of 1940); Gramm-Leach-Bliley Act, Pub. L. 106–102 (1999); Transportation Equity Act for the 21st Century, Pub. L. 105–178 (1998); Reigle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325 (1994); Department of Commerce, Justice, and State, The Judiciary, and Related Agencies Appropriations Act, FY2001, Pub. L. 106–553 (2000); Higher Education Amendments of 1992, Pub. L. 102–325 (1992); Housing and Community Development Act of 1992, Pub. L. 102–550 (1992); Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242 (1991); and Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101–72 (1989).

[12] 15 U.S.C. 78c(a)(41).

[13] Pub. L. 98–440, 101, 98 Stat. 1689 (1984).

[14] 20 U.S.C. 1070 *et seq.* and 42 U.S.C. 2751 *et seq.*, 34 CFR 668.15(b)(7)(ii) and (8)(ii).

[15] For example, the California Insurance Code relies on NRSRO ratings in allowing California-incorporated insurers to invest excess funds in certain types of investments. *See* Cal. Ins. Code 1192.10.

[16] *See, e.g.,* National Instrument 71–101, The Multijurisdicitional Disclosure System (Oct. 1, 1998) (Can.).

[17] *See, e.g.,* Letter from Gregory C. Yadley, Staff Attorney, Division of Market Regulation, Commission, to Ralph L. Gosselin, Treasurer, Coughlin & Co., Inc. (November 24, 1975).

[18] For a discussion of the no-action letter process, *see* Section III.E.

[19] *See* Letter from Nelson S. Kibler, Assistant Director, Division of Market Regulation, Commission, to John T. Anderson, Esquire, Lord, Bissell & Brook, on behalf of Duff & Phelps, Inc. (February 24, 1982).

[20] *See* Letter from Michael A. Macchiaroli, Assistant Director, Division of Market Regulation, Commission, to Paul McCarthy, President, McCarthy, Crisanti & Maffei, Inc. (September 13, 1983).

[21] *See* Letter from Michael A. Macchiaroli, Assistant Director, Division of Market Regulation, Commission, to Robin Monro-Davies, President, IBCA Limited (November 27, 1990) and Letter from Michael A. Macchiaroli, Assistant Director, Division of Market Regulation, Commission, to David L. Lloyd, Jr., Dewey Ballentine, Bushby, Palmer & Wood (October 1, 1990).

(4) Thomson BankWatch, Inc.;[22] (5) DBRS;[23] and (6) A.M. Best.[24] With the exception of A.M. Best and DBRS, each of these additional firms has since merged with or been acquired by other NRSROs, resulting in five NRSROs at present.

The Commission has not adopted a definition of the term ''NRSRO.'' However, through experience from the no-action process, the Commission staff has developed a number of criteria that it considers when reviewing NRSRO no-action requests. As a result, under current practice, the Commission staff reviews a credit rating agency's operations, position in the marketplace, and other specific factors to determine whether to grant a no-action letter.

In determining whether to issue an NRSRO no-action letter, the Commission staff has considered the single most important factor to be whether the credit rating agency is ''nationally recognized'' in the United States as an issuer of credible and reliable ratings by the predominant users of securities ratings. The notion of ''national recognition'' was designed to help ensure that credit ratings used for regulatory purposes under Commission rules are credible and can reasonably be relied upon by the marketplace. Also reviewed in connection with the no-action letter process is a credit rating agency's operational capability and ratings process. Included within this assessment are: (1) The organizational structure of the credit rating agency; (2) the credit rating agency's financial resources; (3) the size and quality of the credit rating agency's staff; (4) the credit rating agency's independence from the companies it rates; (5) the credit rating agency's rating procedures; and (6) whether the credit rating agency has internal procedures to prevent the misuse of nonpublic information and whether those procedures are followed.

C. Commission Reviews of Credit Rating Agencies

1. 1994 Concept Release

Over the years, the Commission has reviewed a number of issues regarding credit rating agencies, including their regulatory oversight. In 1994, the Commission issued a concept release soliciting public comment on the Commission's use of NRSRO ratings (the ''1994 Concept Release'').[25] Due to the expanded role played by credit ratings in Commission rules and regulations, a number of domestic and foreign credit rating agencies at that time had sought NRSRO no-action letters. Also, concerns had been expressed that Commission rules and regulations did not define the term ''NRSRO,'' and that there was no formal mechanism for monitoring the activities of NRSROs. As a result, the Commission solicited public comment on the appropriate role of credit ratings in the federal securities laws, and the need to establish formal procedures for identifying NRSROs and monitoring their activities. Most commenters supported the continued use of the NRSRO concept and recommended that the Commission adopt a formalized process for identifying NRSROs.[26]

2. 1997 Rule Proposal

As a response to the 1994 Concept Release, the Commission, in 1997, proposed to amend the net capital rule to define the term ''NRSRO.''[27] The proposed amendments set forth criteria to be considered by the Commission in recognizing credit rating agencies as NRSROs, and would have established an NRSRO application process for credit rating agencies.

Although commenters generally supported the Commission's attempt to define the requirements necessary for a credit rating agency to be identified as an NRSRO, the Commission did not act upon the 1997 rule proposal described above as a result of, among other things, the initiation of broad-based Commission and Congressional reviews of credit rating agencies.

3. Recent Reviews of Credit Rating Agencies

More recently, the Commission has pursued several approaches to conduct a thorough and meaningful study of the use of credit ratings in the federal securities laws, the process of determining which credit ratings should be used for regulatory purposes, and the level of oversight to apply to credit rating agencies. Commission efforts included discussions with credit rating agencies and market participants, including buy-side firms,[28] formal examinations of each of the NRSROs, and public hearings that offered a broad cross-section of market participants the opportunity to communicate their views on credit rating agencies and their role in the capital markets.

a. NRSRO Examinations

On March 19, 2002, the Commission issued an Order directing investigation, pursuant to Section 21(a) of the Exchange Act, into the role of credit rating agencies in the U.S. securities markets.[29] The purpose of the Order was to ascertain facts, conditions, practices, and other matters relating to the role of credit rating agencies in the U.S. securities markets, and to aid the Commission in assessing whether to continue to use credit ratings in its rules and regulations under the federal securities laws and, if so, the categories of acceptable credit ratings and the appropriate level of regulatory oversight.

The Commission's examination of the NRSROs revealed several concerns, including those relating to: (i) Potential conflicts of interest caused by payment by issuers to NRSROs for their ratings; (ii) exacerbation of those conflicts of interest due to the marketing by the NRSROs of ancillary services to issuers, such as pre-rating assessments and corporate consulting; (iii) the potential for the NRSROs, given their substantial power in the marketplace, to improperly pressure issuers to pay for ratings; (iv) the potential for the NRSROs, given their substantial power in the marketplace, to improperly pressure issuers to purchase ancillary services; (v) the effectiveness of the NRSROs' existing policies and procedures designed to protect confidential information; and (vi) difficulties in the Commission's examinations of NRSROs from, among other things, the lack of recordkeeping requirements tailored to NRSRO activities, the NRSROs' assertions that the document retention and production requirements of the Investment Advisers Act of 1940 are inapplicable to the credit rating business, and their claims that the First Amendment shields the NRSROs from producing certain documents to the Commission.

[22] *See* Letter from Michael A. Macchiaroli, Assistant Director, Division of Market Regulation, Commission, to Gregory A. Root, President, Thomson BankWatch, Inc. (August 6, 1991) and Letter from Michael A. Macchiaroli, Associate Director, Division of Market Regulation, Commission, to Lee Pickard, Pickard and Djinis LLP (January 25, 1999).

[23] *See supra* note 2.

[24] *See* Letter from Mark M. Attar, Special Counsel, Division of Market Regulation, Commission, to Arthur Snyder, President, A.M. Best (March 3, 2005).

[25] *See* Nationally Recognized Statistical Rating Organizations, Release No. 34–34616 (August 31, 1994), 59 FR 46314 (September 7, 1994).

[26] *See, e.g.*, Letter from Walter J. Schroeder, President, DBRS, to Jonathan G. Katz, Secretary, Commission (December 20, 1994).

[27] *See* Capital Requirements for Brokers or Dealers Under the Securities Exchange Act of 1934, Release No. 34–39457 (December 17, 1997), 62 FR 68018 (December 30, 1997).

[28] Retail investor participation in the debt markets often takes place indirectly through buy-side firms, such as investment companies.

[29] *See* Order In the Matter of the Role of Rating Agencies in the U.S. Securities Markets Directing Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934, and Designating Officers for Such Designation (March 19, 2002).

b. Credit Rating Agency Hearings

The Commission's broad-based study of credit rating agencies included public hearings held on November 15 and 21, 2002, that addressed credit rating agencies operating in U.S. securities markets.[30] Panel participants represented various views, including those of credit rating agencies, broker-dealers, buy-side firms, issuers, and the academic community.

Topics addressed during the hearings included the current role and functioning of credit rating agencies, information flow in the credit rating process, concerns regarding credit rating agencies (*e.g.*, potential conflicts-of-interest), and the regulatory treatment of credit rating agencies (including concerns regarding potential barriers to entry).

Most hearing participants favored the regulatory use of credit ratings issued by NRSROs as a simple, efficient benchmark of credit quality, and suggested that regulatory standards for NRSROs were necessary for this concept to have meaning and reliability.[31]

Many participants expressed concern about the existing NRSRO no-action letter process.[32] Suggestions to improve the process included (i) that the Commission should specify the information credit rating agencies should provide when requesting NRSRO no-action letters; and (ii) that the Commission review the staff's work in evaluating satisfaction of the NRSRO criteria.[33] Some suggested that NRSRO no-action requests be completed in a more timely fashion and some noted that the Commission might promote competition in the credit rating industry by explicitly permitting credit rating agencies that specialize in particular sectors to receive NRSRO no-action letters.[34]

Some ratings users and issuers suggested that the Commission consider more substantive regulation of credit rating agencies (*e.g.*, to address potential conflicts of interest), and engage in more active oversight of them (*e.g.*, monitoring compliance with the NRSRO criteria).[35]

Concerns were raised by hearing participants regarding the special access of subscribers to credit rating agency personnel, particularly given the exclusion from Regulation FD available for disclosures to credit rating agencies.[36] While the larger credit rating agencies make ratings and the basic rating rationale available simultaneously to subscribers and non-subscribers, subscribers may also have direct access to credit rating agency analysts.[37] Because of this direct access, there is a greater risk that nonpublic material information may be communicated to subscribers.

c. Report Under the Sarbanes-Oxley Act of 2002

Coincident with these Commission initiatives, Congress in Section 702 of the Sarbanes-Oxley Act of 2002, required that the Commission conduct a study of credit rating agencies and submit a report on that study to the President and Congress (the ''Report''). The Commission submitted the Report to the President and Congress on January 24, 2003.[38] The Report addressed, among other things, each of the topics identified for Commission study in Section 702, including the role of credit rating agencies and their importance to the securities markets, impediments faced by credit rating agencies in performing that role, measures to improve information flow to the market from credit rating agencies, barriers to entry into the credit rating business, and conflicts of interest faced by credit rating agencies.[39]

d. The 2003 NRSRO Concept Release

To further assist the Commission in addressing issues identified in the Report, the Commission published the 2003 Concept Release on June 4, 2003, seeking comment on a number of issues relating to credit rating agencies. These issues included whether credit ratings should continue to be used for regulatory purposes under the federal securities laws, and, if so, the process of determining whose credit ratings should be used, and the level of oversight to apply to such credit rating agencies. Issues discussed during the Commission's two days of public hearings on credit rating agencies were also addressed in the 2003 Concept Release.

Most of the 46 commenters responding to the 2003 Concept Release supported retention of the NRSRO concept. They generally represented that, among other things, eliminating the NRSRO concept would be disruptive to the capital markets,[40] and would be costly and complicated to replace.[41] Only four commenters supported elimination of the concept,[42] and there was limited discussion of regulatory alternatives.[43]

Most commenters supported improving the clarity of the process for identifying NRSROs to the extent credit ratings continue to be relied upon in Commission rules. Specifically, commenters generally supported the Commission's suggestions to specify more detail in what credit rating agencies need to provide to obtain an NRSRO no-action letter.[44] Some also generally supported greater transparency regarding the NRSRO concept, for example, by identifying

[30] The Current Role and Function of Credit Rating Agencies in the Operation of the Securities Markets, Hearings Before the U.S. Securities and Exchange Commission (November 15 and 21, 2002) (''SEC Hearing on Credit Rating Agencies''). Full hearing transcripts are available on the Commission's Web site at *http://www.sec.gov/spotlight/ratingagency.htm* [hereinafter ''SEC Hearing Transcript'']

[31] *See, e.g.*, SEC Hearing Transcript, *supra* note 30 (November 15, 2002) (testimony of Gregory A. Root, Executive Vice President, DBRS).

[32] *See, e.g.*, Written Statement of Paul Saltzman, Executive Vice President and General Counsel, The Bond Market Association), SEC Hearing on Credit Rating Agencies, *supra* note 30 (November 21, 2002).

[33] *Id.*

[34] *See, e.g.*, Written Statement of Yasuhiro Harada, Senior Executive Managing Director, Rating and Investment Information, Inc., SEC Hearing on Credit Rating Agencies, *supra* note 30 (November 21, 2002).

[35] *See, e.g.*, Written Statement of Amy Lancellotta, Senior Counsel, Investment Company Institute, SEC Hearing on Credit Rating Agencies, *supra* note 30 (November 21, 2002).

[36] *See, e.g.*, SEC Hearing Transcript, *supra* note 30 (November 15, 2002) (testimony of Malcolm S. Macdonald, Vice President—Finance and Treasurer, Ford Motor Company). *See also* Selective Disclosure and Insider Trading, Release No. 34–43154 (August 15, 2000), 65 FR 51716 (August 24, 2000). Generally, Regulation FD prohibits an issuer of securities, or persons acting on behalf of the issuer, from communicating material nonpublic information to certain enumerated persons—in general, securities market professionals or others who may use the information for trading—unless the information is publicly disclosed. When Regulation FD was adopted, the Commission exempted credit rating agencies—not just NRSROs—from Regulation FD, on the condition that the material nonpublic information is communicated to a credit rating agency solely for the purpose of developing a credit rating and that the rating is publicly available. In addition to the specific rating agency exemption in Regulation FD, credit rating agencies may be able to avail themselves of the exemption for ''persons who expressly agree to maintain the disclosed information in confidence.'' 17 CFR 243.100(b)(2)(ii).

[37] *Id.*

[38] *See supra* note 1.

[39] Sarbanes-Oxley Act of 2002, Pub. L. 107–204, Section 702(b), 116 Stat. 745 (2002).

[40] *See, e.g.*, Letter from Leo C. O'Neill, President, Standard & Poor's, to Jonathan G. Katz, Secretary, Commission (July 28, 2003).

[41] *See, e.g.*, Letter from Gregory V. Serio, Superintendent, New York Insurance Department, Chair, NAIC Rating Agency Working Group, National Association of Insurance Commissioners, to Commission (July 28, 2003).

[42] *See, e.g.*, Letter from Lawrence J. White, Professor of Economics, Stern School of Business, New York University, to Commission (July 25, 2003).

[43] *See, e.g.*, Letter from Frank Partnoy, University of San Diego School of Law, to Jonathan G. Katz, Secretary, Commission (July 28, 2003).

[44] *See, e.g.*, Letter from Barbara Roper, Director of Investor Protection, Consumer Federation of America, to Jonathan G. Katz, Secretary, Commission (July 28, 2003).

NRSROs through Commission action versus the existing no-action letter process.[45]

A few commenters represented that the current NRSRO criteria, as set forth in the 2003 Concept Release, create barriers to entry for new entrants and that the standards for determining NRSRO status should be lowered.[46] Others disagreed and represented that the current NRSRO criteria should not be diluted.[47] Most commenters supported NRSRO criteria designed to limit conflicts of interest in the credit rating business.[48] There was also general support for recognizing credit rating agencies that confine their activities to a limited sector of the debt market[49] or a limited geographic area.[50]

Most commenters supported the concept of regulatory oversight of NRSROs, at a minimum, to determine whether a credit rating agency continues to meet the NRSRO criteria on an ongoing basis.[51] Commenters also recommended that NRSROs should be subject to periodic Commission examinations.[52]

D. International Initiatives

In recent years, there have also been several international initiatives involving credit rating agencies. In February 2003, the Technical Committee of the International Organization of Securities Commissions (''IOSCO''),[53] of which the Commission is a member, created a task force to study issues concerning credit rating agencies, and in September 2003 IOSCO published ''Principles Regarding the Activities of Credit Rating Agencies,''[54] a set of high-level objectives for regulators, credit rating agencies, and other market participants. In February 2004, the IOSCO Technical Committee formed a Chairmen's Task Force for the purpose of developing a voluntary code of conduct for credit rating agencies providing guidance on ways credit rating agencies could implement the Principles in practice, leading to the December 2004 publication by IOSCO of a ''Code of Conduct Fundamentals for Credit Rating Agencies.''[55] The Code, among other things, addresses how credit rating agencies can protect their analytical independence, eliminate or manage conflicts of interest, and help ensure the confidentiality of nonpublic information shared with them by issuers.

III. Discussion

A. Background

The Commission is proposing to define the term ''NRSRO'' in new Exchange Act Rule 3b–10. The proposed definition would be composed of three components, which the Commission preliminarily believes to be the most important criteria in determining whether an entity's ratings should be relied upon for purposes of the securities laws and Commission rules and regulations. In addition, the Commission is providing interpretations of the proposed definition.

Specifically, the Commission is proposing to define the term ''NRSRO'' as an entity (i) that issues publicly available credit ratings that are current assessments of the creditworthiness of obligors with respect to specific securities or money market instruments; (ii) is generally accepted in the financial markets as an issuer of credible and reliable ratings, including ratings for a particular industry or geographic segment, by the predominant users of securities ratings; and (iii) uses systematic procedures designed to ensure credible and reliable ratings, manage potential conflicts of interest, and prevent the misuse of nonpublic information, and has sufficient financial resources to ensure compliance with those procedures.

The components of the proposed definition are designed to determine those credit rating agencies whose ratings are sufficiently reliable to be used for a variety of regulatory purposes, such as for purposes of the net capital rule. For example, the principal purposes of the net capital rule are to protect customers and other market participants from broker-dealer failures and to enable those firms that fall below the minimum net capital requirements to liquidate in an orderly fashion without the need for a formal proceeding or financial assistance from the Securities Investor Protection Corporation. The net capital rule requires different minimum levels of capital based upon the nature of the firm's business and whether the broker-dealer handles customer funds or securities. In relying on credit ratings believed to be sufficiently reliable, the Commission is using those ratings as a means to evaluate the liquidity as well as the creditworthiness of certain securities held by a broker-dealer in establishing a sufficient capital cushion.

B. Proposed Definition of the Term ''NRSRO''

1. The First Component

The first component of the proposed NRSRO definition would limit the definition to entities that issue publicly available credit ratings that are current assessments of the creditworthiness of obligors with respect to specific securities or money market instruments.

a. Publicly Available Credit Ratings

In the 2003 Concept Release, the Commission inquired whether it should address concerns that certain credit rating agencies make their ratings available only to paid subscribers and that it would be inappropriate to require users of credit ratings to subscribe for a fee to an NRSRO's services to obtain ratings for regulatory purposes. The majority of commenters agreed that credit rating agencies whose ratings are used for regulatory purposes under the Commission's rules and regulations should agree to make public dissemination of their ratings on a widespread basis at no cost.[56]

Commenters generally represented that the publication of credit ratings (i) enhances the transparency and efficiency of the market, (ii) helps prevent potential selective disclosure of material nonpublic information obtained by a credit rating agency under Regulation FD, and (iii) and allows for

[45] *See, e.g.*, Letter from Steven C. Nelson, Director of Taxable Money Market Research, Fidelity Investments Money Management, Inc., to Jonathan G. Katz, Secretary, Commission (July 25, 2003).

[46] *See, e.g.*, Letter from LACE Financial Corp. (July 25, 2003).

[47] *See, e.g.*, Letter from Grace Hinchman, Senior Vice President, Public Affairs, Financial Executives International, to Jonathan G. Katz, Secretary, Commission (July 25, 2003).

[48] *See, e.g.*, Letter from John M. Ramsey, Senior Vice President and Regulatory Counsel, The Bond Market Association, to Jonathan G. Katz, Secretary, Commission (July 28, 2003).

[49] *See, e.g.*, Letter from Jeffrey P. Neubert, President and CEO, The New York Clearing House Association L.L.C., to Jonathan G. Katz, Secretary, Commission (July 31, 2003).

[50] *See, e.g.*, Letter from Naohiko Matsuo, Director for International Financial Markets, Financial Services Agency, Government of Japan, to Jonathan G. Katz, Secretary, Commission (July 25, 2003).

[51] *See, e.g.*, Letter from Amy B.R. Lancellotta, Senior Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, Commission (July 28, 2003).

[52] *See, e.g., supra* note 41.

[53] IOSCO consists of 175 securities market regulators that have agreed to cooperate in order to promote high standards of regulation and to maintain efficient and sound domestic and international securities markets.

[54] ''IOSCO Statement of Principles Regarding the Activities of Credit Rating Agencies,'' The Technical Committee, IOSCO (September 25, 2003). *See also* ''Report on the Activities of Credit Rating Agencies,'' The Technical Committee, IOSCO (September 2003).

[55] *See* ''Code of Conduct Fundamentals for Credit Rating Agencies,'' The Technical Committee of IOSCO (December 2004).

[56] *See, e.g.*, Letter from Denise Voigt Crawford, Securities Commissioner, Texas State Securities Board, to Jonathan G. Katz, Secretary, Commission (July 28, 2003).

ratings comparability.[57] The commenters also said that a credit rating should not be considered to be ''publicly disseminated'' if access to it is not readily available on a widespread basis.[58]

One commenter noted that a credit rating agency should not be required to disclose ratings to the public when there is a specific prior agreement between the credit rating agency and an issuer as to certain prescribed conditions for not publishing the issuer's rating (*e.g.*, in the case of ''private'' ratings, in which a credit rating agency agrees to provide its rating of an issuer only to the issuer).[59] Another commenter suggested that NRSROs should permit others, such as publishers of financial information, to freely distribute new rating information without limitations.[60] One commenter also cautioned the Commission against involving itself in the determination of an NRSRO's pricing models.[61] This commenter represented that NRSROs should be allowed to charge whatever price the market will bear.[62] Another commenter expressed concern that requiring NRSROs to publish their credit ratings at no cost may result in higher prices for issuers and others who pay for an NRSRO's services.[63]

In response to these comments, the Commission is proposing that, in order to meet the definition of the term ''NRSRO,'' a credit rating agency must issue credit ratings that are publicly available. The Commission is also interpreting ''publicly available,'' as used in the definition, to mean that credit ratings used for regulatory purposes under Commission rules must be disseminated on a widespread basis at no cost. In this context, the rating could be published in a readily accessible manner on the credit rating agency's internet Web site. The Commission believes that it is important for credit ratings used for regulatory purposes to be publicly available, as public availability—at no cost—should assure wide dissemination of ratings and provide the opportunity for the marketplace to judge the credibility and reliability of an entity's credit ratings.

This approach is consistent with the views of most commenters that it would be inappropriate to require users of credit ratings to subscribe for a fee to an NRSRO's services to obtain credit ratings for regulatory purposes. The Commission notes that in proposing to define the term ''NRSRO'' as an entity that makes its credit ratings publicly available, the public availability reference only would apply to the credit rating itself (*i.e.*, the rating symbol), and not to other information otherwise developed by the credit rating agency (*e.g.*, the credit rating agency's rating rationale). This approach should not result in NRSROs charging higher fees for their services because it would not require a credit rating agency to make available at no cost the analysis underlying its rating.[64] The Commission notes that this approach is also consistent with the current practices of many credit rating agencies, including each of the current NRSROs, that already publish their credit ratings on a widespread basis at no cost.

Questions: How should it be determined whether an NRSRO is making its credit ratings readily available on a widespread basis? Should our rule specify the manner and methods that must be used to distribute ratings? Should internet posting itself be sufficient?

b. Issue-Specific Credit Opinions

The Commission is aware that credit rating agencies often issue different types of credit ratings that can reflect, among other things, the creditworthiness of specific securities or obligations, or the general creditworthiness of specific entities. Because the Commission's regulatory use of the term ''NRSRO'' primarily relates to credit ratings on specific securities or obligations, the Commission, in its proposed definition of the term ''NRSRO,'' is limiting the availability of the NRSRO concept to entities that issue such ratings.

The Commission is proposing to clarify this element of the proposed NRSRO definition because credit rating agencies that do not issue credit ratings on specific securities, but instead issue credit ratings on the general creditworthiness of specific entities, have requested NRSRO no-action relief. The risk of loss on different debt instruments of the same issuer can vary considerably depending on the terms written into a security's legal documentation. Therefore, applying a single ''issuer'' rating to all of an issuer's outstanding debt instruments could be misleading, in the context of the regulatory use of NRSRO ratings, and have adverse regulatory implications.

Questions: Should a credit rating agency that does not rate specific securities or money market instruments be included in the definition of NRSRO? If so, under what circumstances?

c. Current Credit Opinions

The proposed definition also attempts to ensure that only ''current'' credit ratings—meaning that such ratings are actively monitored and updated appropriately on a continuous basis—be used for regulatory purposes under the federal securities laws. The Commission believes that credit ratings used for regulatory purposes should be actively monitored on a continuous basis and confirmed, upgraded, or downgraded, if and when necessary. The Commission's reliance on credit ratings from a credit rating agency that are not current, and thus, may not even reflect the credit rating agency's own view as to the creditworthiness of a security, could interfere with the intended regulatory uses of the NRSRO rating.

The first component of the proposed definition would require a credit rating agency to issue credit ratings that are ''current assessments'' of the creditworthiness of specific securities or money market instruments. This component may help to ensure that persons relying on a rating for regulatory purposes in Commission rules and regulations can have confidence, at any given time, that the rating reflects the credit rating agency's current view.

Under the proposed definition, the Commission would interpret ''current assessments'' to mean that a credit rating agency's published credit ratings reflect its opinion as to the creditworthiness of a security or money

[57] *See, e.g.*, Letter from Raymond McDaniel, President, Moody's, to Jonathan G. Katz, Secretary, Commission (July 28, 2003).

[58] *Id.*

[59] *See, e.g.*, Letter from Yasuhiro Harada, Executive Vice President, Rating and Investment Information, Inc., to Jonathan G. Katz, Secretary, Commission (July 28, 2003).

[60] *See, e.g.*, Letter from David Colling, Product Director, ABS Reports (UK) Limited), to Jonathan G. Katz, Secretary, Commission (July 31, 2003).

[61] *See, e.g.*, Letter from James A. Kaitz, President and CEO, Association for Financial Professionals, to Jonathan G. Katz, Secretary, Commission (July 28, 2003).

[62] *Id.*

[63] *See, e.g.*, Letter from Richard Raeburn, Chief Executive, and John Grout, Technical Director, The Association of Corporate Treasurers, United Kingdom, to Jonathan G. Katz, Secretary, Commission (August 8, 2003).

[64] In connection with the Commission's review of issues concerning credit rating agencies, commenters have consistently represented that they typically subscribe to a rating agency's services primarily to understand the analysis underlying the rating agency's ratings—not solely for the credit rating itself. For example, during the Commission's 2002 credit rating agency hearings, representatives of users of credit ratings (*e.g.*, from mutual fund companies and broker-dealers) indicated that they review research that is done by credit rating agencies to assess credit risk for the securities they purchase within their portfolios. *See, e.g.*, SEC Hearing Transcript, *supra* note 30 (November 15, 2002) (testimony of Deborah A. Cunningham, Senior Vice President and Senior Portfolio Manager, Federated Investors, Inc., and testimony of Cynthia L. Strauss, Director of Taxable Bond Research, Fidelity Investments Money Management, Inc.).

market instrument as of the time the rating was issued and until the rating is changed or withdrawn. Under this interpretation, a credit rating agency could meet the ''current assessments'' element of the proposed definition if it has and follows procedures designed to ensure that its ratings are reviewed and, if necessary, updated on the occurrence of material events, including significant sector or issue-specific events. By including in the NRSRO definition that a credit rating agency's ratings need to be ''current assessments,'' the Commission is responding to comments received in response to the 2003 Concept Release that a requirement that NRSRO ratings be kept ''current'' is desirable.[65]

Further, although the Commission is proposing to define the term ''NRSRO'' to require an NRSRO's ratings to be current, the Commission is not proposing to prescribe a specific time period within which an NRSRO's ratings would need to be updated. Specifying a time period within which a credit rating agency must update or affirm a rating might be problematic because the appropriate time period for responding to a material event may vary considerably based on, for example, the complexity of an issuer or the specific security being rated. Accordingly, it may be appropriate for a credit rating agency to have the flexibility to respond to material events relating to its ratings on a case-by-case basis. This approach responds to comments that the Commission should not set detailed standards as to when a rating agency should update its ratings.[66]

Questions: Should the Commission provide additional interpretation regarding what it means for a credit rating agency's credit ratings to be ''current assessments''? Should the Commission specify the time period? Will the proposed rule's provisions provide sufficient assurance to the markets that ratings are current?

2. The Second Component

a. General Acceptance in the Financial Markets

As discussed above, the notion that a credit rating agency be ''nationally recognized'' for purposes of the NRSRO concept was designed to ensure that credit ratings used for regulatory purposes are credible and reliable, and are reasonably relied upon by the marketplace. Responding to most commenters to the 2003 Concept Release that NRSRO status should be based primarily on a credit rating agency's wide acceptance in the marketplace, the second proposed component of the ''NRSRO'' definition focuses on whether a credit rating agency is generally accepted in the financial markets as an issuer of credible and reliable ratings by the predominant users of securities ratings.

The Commission is proposing that the second component of the NRSRO definition require a credit rating agency to be generally accepted in the financial markets. Such acceptance would reflect the markets' belief in the credibility and reliability of the ratings provided by the credit rating agency and should provide some level of assurance to those relying on ratings with regard to the dependability and consistency of the ratings for a variety of regulatory purposes. For example, net capital calculations and haircuts that are determined through use of these credit ratings are more likely to be reliable than those determined without the use of such ratings and, thus, could be more likely to protect customers and other market participants from harm in the event of a broker-dealer failure.

Further, linking the evaluation of a credit rating agency's ratings to the views of the predominant users of securities ratings would be helpful. Predominant users generally include financial market participants who hold large inventories of proprietary debt securities, preferred stock, and commercial paper, such as broker-dealers, mutual funds, pension funds, and insurance companies. These firms—given their large inventories of rated fixed income securities—generally have developed sophisticated internal credit rating departments which rate issuers and counterparties. However, they also rely on external ratings from credit rating agencies to compare against and test their internal rating and analysis. Given the importance of credit ratings to the business of these market participants, and to the stability of the financial markets as a whole, the Commission believes that incorporating their views into the definition of NRSRO provides a certain level of credibility and reliability to NRSRO ratings.

The Commission proposes that a credit rating agency could meet the second component of the NRSRO definition through a variety of objective means. For example, in appropriate circumstances, a credit rating agency could do so through statistical data that demonstrates market reliance on the credit rating agency's ratings (*e.g.*, market movements in response to ratings changes). A credit rating agency also might be able to satisfy the second component if authorized officers of users of securities ratings representing a substantial percentage of the relevant market attest that the credit rating agency's ratings are credible and actually relied on by the users.

Questions: How else could the Commission define the term ''NRSRO'' in order for users of a credit rating agency's ratings to determine whether such ratings are credible and are reasonably relied upon by the marketplace? Are the approaches discussed above useful for determining whether a credit rating agency meets the second component of the proposed definition? Are there other types of information that would be appropriate? For example, should the fact that a credit rating agency has many subscribers support a finding that the credit rating agency satisfies the second component? What types of statistical data could be relied on to determine if a credit rating agency's credit ratings are relied on by the marketplace? What standards should be considered to assess such statistical data? Should the views of issuers be a relevant consideration in determining whether a credit rating agency meets the second component of the NRSRO definition?

b. Limited Coverage NRSROs

Commenters at both the Commission's credit rating agency hearings and responding to the 2003 Concept Release generally supported the idea that the definition of the term ''NRSRO'' could include credit rating agencies that confine their activities to limited sectors of the debt market or to limited (or largely non-U.S.) geographic areas. While several commenters suggested that the Commission distinguish between full- and limited-coverage NRSROs,[67] others represented that credit rating agencies should only be able to meet the definition as full-coverage NRSROs because, in their view, it would be difficult for limited coverage NRSROs to provide a full and accurate assessment of credit risks without a broader expertise in credit risk assessment.[68]

Based on the staff's experience in issuing no-action letters to credit rating agencies, a credit rating agency that has developed a general acceptance in the financial markets for a limited sector of the debt market or a limited geographic area could meet the NRSRO definition. As noted in Section II.B., NRSRO no-action letters have been provided to

[65] *See, e.g.*, *supra* note 63.

[66] *See, e.g.*, *supra* note 59.

[67] *Id.*

[68] *See, e.g.*, Letter from Jonathan C. Conley, Federated Investment Management Company, to Jonathan G. Katz, Secretary, Commission (July 28, 2003).

such firms in the past. In these instances, even though the credit rating agencies were generally accepted in the financial markets for a limited sector of the debt market or a limited geographic area, their market acceptance was based on the credibility and reliably of their ratings. Accordingly, the regulatory use of those ratings in Commission rules and regulations was appropriate and consistent with the purposes underlying the NRSRO concept.

Questions: Should a credit rating agency that is recognized by the financial marketplace for issuing credible and reliable ratings within a limited sector or geographic area meet the NRSRO definition only for its ratings within such sector or geographic area, or more broadly? If a credit rating agency meets the NRSRO definition only with respect to its ratings within a particular sector or geographic area, would the NRSRO classification interfere with the credit rating agency's ability to expand its business? How should ratings from such an NRSRO be identified so that broker-dealers and other users of NRSRO ratings for regulatory purposes can determine which credit ratings from the NRSRO may be used for regulatory purposes? We noted above that commenters mentioned that it would be difficult for limited coverage NRSROs to provide a full and accurate assessment of credit risks without a broader expertise in credit risk assessment. We request further comment on this view given our proposal to permit limited coverage NRSROs.

3. The Third Component

The third proposed component of the NRSRO definition is designed to ensure that to meet the definition of the term ''NRSRO,'' a credit rating agency uses systematic procedures designed to ensure credible and reliable ratings, manage conflicts of interest, and prevent the misuse of nonpublic information. It also addresses the need for credit rating agencies to have sufficient financial resources to ensure compliance with such procedures, if they are to meet the definition.

The Commission preliminarily believes that including in the proposed definition the requirement that an entity use systematic rating procedures in producing credit ratings should help to ensure that NRSRO ratings are based on a thorough credit analysis of issuers and their financial obligations. This type of analysis should, in turn, assist the credit rating agency in producing credible and reliable ratings, which as discussed above, would further the purposes underlying the regulatory uses of NRSRO ratings.

The Commission preliminarily believes that the following would be important for assessing whether a credit rating agency meets the third component of the proposed definition: (i) The experience and training of a firm's rating analysts (pertaining to the analysts' ability to understand and analyze relevant information); (ii) the average number of issues covered by analysts (relevant to whether analysts are capable of continuously monitoring and assessing relevant developments relating to their ratings); (iii) the information sources reviewed and relied upon by the credit rating agency and how the integrity of information utilized in the ratings process is verified (relating to the extent and quality of information upon which a firm's ratings are based); (iv) the extent of contacts with the management of issuers, including access to senior level management and other appropriate parties (pertaining to, among other things, the quality and credibility of an issuer's management and to attempt to better understand the issuer's financial and operational condition); (v) the organizational structure of the credit rating agency (to demonstrate, among other things, the firm's independence from the companies it rates and from potential conflicts of interest that may result from related businesses or those of an affiliate); (vi) how the credit rating agency identifies and manages or proscribes conflicts of interest affecting its ratings business; (vii) how the credit rating agency monitors and enforces compliance with its procedures designed to prohibit the misuse of material, nonpublic information; and (viii) the financial resources of the credit rating agency (regarding whether, among other things, a credit rating agency has sufficient financial resources to ensure that it maintains appropriate staffing levels to continuously monitor the issuers whose securities it rates and to operate independently of economic pressures or control from the companies it rates and from subscribers).

a. Analyst Experience and Training

There was no consensus among commenters to the 2003 Concept Release as to whether the experience and training of a credit rating agency's staff should be a factor in determining whether a credit rating agency is an NRSRO. Similarly, there was no consensus as to whether the Commission should include in an NRSRO definition minimum standards for the training and qualifications of the credit rating agency's credit analysts.

Several commenters indicated that the competency of a credit rating agency's staff should be a relevant consideration in connection with being an NRSRO, and that experience and training of a credit rating agency's staff are of particular importance.[69] Several commenters suggested that, to be an NRSRO, a credit rating agency should develop minimum standards for training and qualification of its analysts, and that compliance with such standards should be verified when assessing whether a credit rating agency is an NRSRO.[70] There was also support among commenters that an NRSRO should take steps to verify whether members of its staff have been subject to disciplinary action by a financial (or other) regulatory authority.[71]

While several commenters were of the view that minimum training standards for NRSROs would be appropriate, a few indicated that oversight of training methods would add little value to the NRSRO concept.[72] One commenter recommended that NRSROs should be required to disclose staff qualifications and staff size on a periodic basis.[73] Several commenters also represented that credit rating agencies with staffing deemed inadequate by the marketplace would quickly be rejected by investors and issuers.[74]

The Commission is not proposing to require that a credit rating agency satisfy specified minimum experience and training requirements to meet the proposed definition of the term ''NRSRO.'' A credit rating agency with an inadequately trained and inexperienced staff would likely encounter difficulties meeting the second and third components of the proposed definition. However, the Commission currently believes that to meet the proposed definition of the term ''NRSRO,'' a credit rating agency should have procedures designed to ensure that its analysts are competent—that is, that they are able to identify, understand, and analyze information relevant to the issuers whose securities they rate. A credit rating agency should also have procedures designed to examine the backgrounds of its analysts and other members of its staff.

[69] *See, e.g.*, Letter from Mark Roemer, Finance Strategies, Siemens AG, to Commission (July 28, 2003).

[70] *See, e.g.*, Letter from William M. Wells, Chief Financial Officer, Bunge Limited, to Commission (July 28, 2003).

[71] *See, e.g.*, Letter from Joseph E. Cantwell, President, Cantwell & Company, to Commission (July 22, 2003).

[72] *Id.*

[73] *See, e.g.*, Letter from Cate Long, Multiple-Markets, to Commission (July 28, 2003).

[74] *See, e.g.*, *supra* note 61.

The Commission believes that analyst experience and training is an important consideration with regard to the NRSRO concept because credit ratings relied upon by the marketplace typically result from thorough and competent credit analysis employed by a credit rating agency's analysts. For example, if a credit rating agency's rating procedures require an analyst to evaluate an issuer's financial statements, the ability of the analyst to understand and analyze those financial statements depends on the analyst's experience and training in financial analysis. If the credit rating agency's rating procedures do not require such experience and training, it follows that the credit rating agency would not have systematic procedures designed to ensure credible and reliable ratings, and that it would be inappropriate to rely on the credit rating agency's ratings for providing limited exemptions or privileges in Commission rules.

While the Commission is not proposing to require NRSROs to disclose staff qualifications and size on a periodic basis, as suggested by commenters, such disclosures on a voluntary basis could assist users of a credit rating agency's ratings in assessing whether the credit rating agency uses systematic procedures designed to ensure credible and reliable ratings.

Questions: The Commission recognizes that the evaluation of an analyst's experience would involve a degree of subjectivity. The Commission requests comment on the appropriate subjective criteria that a credit rating agency should use in assessing the experience and training of an analyst to meet the proposed NRSRO definition. In addition, what objective criteria are relevant? What level of importance should be given to the subjective and objective criteria? How can a credit rating agency in seeking to meet the proposed NRSRO definition demonstrate that it has adequate procedures designed to ensure that its analysts are competent? What factors should a credit rating agency consider in evaluating the background of its analysts and other members of its staff?

b. Number of Ratings Per Analyst

While there was little support for the Commission to condition NRSRO status on an entity's meeting standards for a maximum average number of issues covered per analyst, there was support for requiring NRSROs to disclose the number of credit analysts they employ and the average number of issues rated or otherwise followed by those analysts.[75]

Commenters generally shared the view that the number of analysts and number of issues rated per analyst are best left to the credit rating agencies.[76] They also generally agreed that strong incentives exist for credit rating agencies to monitor the quality of their analysis due to the constant scrutiny from both issuers and investors.[77] Further, they agreed that analysts must maintain reasonable workloads for their analytical quality to remain high.[78] Concern was also expressed that setting such standards would involve the Commission too deeply into the business practices of credit rating agencies and that they could potentially create barriers to NRSRO status.[79]

Based on the views of commenters, the Commission is not proposing that a credit rating agency must have specific limits on the number of securities rated per analyst to meet the definition of the term ''NRSRO.'' However, as a preliminary matter, the Commission is concerned that a credit rating agency's ratings may become less reliable as the number of issues rated per analyst increases. This appears more significant to the extent an analyst rates securities of issuers with complex business models operating in a variety of industries.

Due to this concern, and the Commission's preliminary belief that credit ratings used for regulatory purposes should be the result of a competent and thorough analysis, a credit rating agency should be able to demonstrate to users of its securities ratings that its analysts are capable of continuously monitoring and assessing relevant developments relating to their ratings. Thus, the number of ratings per analyst could be an important consideration for users of securities ratings in assessing under the third component of the proposed definition whether a credit rating agency uses systematic procedures designed to ensure credible and reliable ratings.

While the Commission is not proposing to require credit rating agencies to disclose the number of credit analysts they employ and the average number of issues rated or otherwise followed by those analysts, as suggested by commenters, it may be that disclosures such as these would assist users of a credit rating agency's ratings in assessing whether the credit rating agency uses systematic procedures designed to ensure credible and reliable ratings.

Questions: Is the concern that a credit rating agency's ratings may become less reliable as the number of issues rated per analyst increase valid? If so, what type of workload is reasonable for the analytical quality of a credit rating agency's ratings to remain high? Should the Commission specify minimum standards for a credit rating agency's analysts to continuously monitor and assess relevant developments relating to their ratings so that users of the credit rating agency's ratings can determine whether the credit rating agency meets the NRSRO definition? If a credit rating agency relies primarily on quantitative models to develop credit ratings, how can such a firm's ratings reflect a thorough analysis of the specific credit characteristics of a particular security? Should the Commission require credit rating agencies to disclose the number of credit analysts they employ and the average number of issues rated or otherwise followed by those analysts, as suggested by commenters?

c. Information Sources Used in the Ratings Process

The process of rating a particular issuer's securities typically begins with collecting relevant financial information about the issuer. Relevant financial information often includes an issuer's recent past financial performance and current financial condition. This information generally is obtained directly from the issuer in the form of audited and unaudited financial statements. In some instances, credit rating agencies rely on third parties that collect the information and disseminate it through proprietary data feeds. Generally, these vendors download or otherwise obtain public financial information (*e.g.*, from 10–K's and 10–Q's) and repackage such information into data feeds to subscribers.

The reliability of a credit rating agency's ratings depends, in part, on the integrity of the information upon which the credit rating agency bases its ratings. Therefore, the Commission believes that, to meet the third component of the NRSRO definition, credit rating agencies should have controls in place to reasonably assess the integrity of the information sources they rely on in their ratings process.[80] For example, if a credit rating agency is relying on quantitative financial results, such as an issuer's quarterly earnings, provided by

[75] *See, e.g., supra* note 73.

[76] *See, e.g., supra* note 70.

[77] *Id.*

[78] *See, e.g., supra* note 71.

[79] *See, e.g., supra* note 40.

[80] We do not intend here to suggest that a credit rating agency must audit or otherwise ensure the accuracy of an issuer's financial condition.

a third-party vendor, the credit rating agency should have a process designed to test the integrity of the vendor's information. This could include cross-checking a sample of the earnings reports against other sources such as audit reports, Commission filings (*e.g.*, a 10–K or 10–Q), or by contacting the issuer.

Questions: Should a credit rating agency be required to test in some way the integrity of information provided directly by issuers (both public and nonpublic) and through third party vendors? Are there other appropriate objective methods for determining whether a credit rating agency has reasonably tested the integrity of the information on which it bases its ratings?

d. Contacts With Management

In the 2003 Concept Release, the Commission inquired whether it should limit the credit ratings that can be used for regulatory purposes in Commission rules to credit rating agencies that regularly contact senior management of an issuer. A number of commenters indicated that obtaining senior management's views enhances a credit rating agency's ability to assess the quality and credibility of an issuer's management and to attempt to better understand the issuer's operational and financial condition.[81] Others, however, indicated that it is possible to perform a high quality credit analysis when sufficient publicly available information exists on an issuer.[82] It was noted by commenters that requiring contact with issuer management could act as a barrier to entry for smaller credit rating agencies that cannot compel issuers to engage in a dialogue.[83] Other commenters indicated that issuer management would be less inclined to talk to credit rating agencies issuing lower ratings.[84]

The Commission's proposed definition of the term ''NRSRO'' does not explicitly limit the definition of the term ''NRSRO'' to entities that systematically contact an issuer's senior management. Nonetheless, it could be important for a credit rating agency whose credit ratings will be used for regulatory purposes to involve in the rating process, when possible, an issuer's senior management, or, in the case of issuers of asset-backed securities, other appropriate parties.[85]

Question: In designing and implementing systematic procedures to ensure credible and reliable ratings, should a credit rating agency seeking to meet the definition of NRSRO address how and the extent to which it involves an issuer's senior management in the rating process? To meet the proposed NRSRO definition, should a credit rating agency's procedures require that the credit rating agency request an issuer's senior management to participate in the credit rating agency's rating process without incurring a fee?

e. Organizational Structure

Commenters generally agreed that organizational structure is an appropriate factor to consider when evaluating whether a rating agency is an NRSRO. Commenters indicated that credit rating agencies typically structure their businesses to ensure that their ratings have been thoroughly analyzed, reviewed, and approved by independent and relevant persons within a credit rating agency's organization, and that because of this, it would be appropriate to consider a credit rating agency's organizational structure when evaluating a credit rating agency's status as an NRSRO.[86] Several commenters also believed that this would enable the Commission to better identify and potentially minimize conflicts of interest issues at NRSROs.[87]

Some commenters believed that NRSROs should consent to limiting their business to issuing credit ratings because it would be useful to prevent NRSROs from engaging in activities that raise conflicts of interest issues.[88] Others disagreed, however, indicating that it is not necessary or in investors' best interests to preclude an NRSRO from being part of a larger business organization that has the ability to offer financial strength and stability and can support the level of investment necessary to continually enhance their ratings operations.[89]

For the reasons discussed above, the Commission preliminarily believes that a credit rating agency's organizational structure would be relevant to determine whether the credit rating agency meets the definition of NRSRO. For example, such structure should include a process for ensuring that credit ratings are analyzed, reviewed, and approved at all appropriate levels within the credit rating agency's organizational structure. Further, the organizational structure of a credit rating agency can also be designed to avoid or minimize potential conflicts of interest and prevent the misuse of nonpublic information (*e.g.*, through firewalls separating ratings services and analysts from affiliated businesses).

Though the Commission is not defining the term ''NRSRO'' to exclude a credit rating agency from being part of a larger business organization, certain affiliated businesses of a credit rating agency could interfere with the credit rating agency's ability to meet the proposed NRSRO definition. For example, a credit rating agency that is affiliated with an entity that underwrites securities rated by the credit rating agency would have a difficult time meeting the third component regarding procedures to manage conflicts of interest.

Questions: Would information on a credit rating agency's organizational structure be useful to users of ratings? If so, what information would be useful?

f. Conflicts of Interest

Conflicts of interest may arise in a number of areas within a credit rating agency. For example, commenters to the 2003 Concept Release indicated that reliance on issuer fees by a credit rating agency could lead to conflicts of interest and the potential for rating inflation.[90] Commenters also represented that conflicts of interest can arise when credit rating agencies offer consulting or other advisory services to the entities they rate.[91] In addition, during the Commission's 2002 credit rating agency hearings, hearing participants indicated that a credit rating agency's subscribers could be given preferential access to rating analysts and, as a result, inappropriately may learn of potential rating actions or other nonpublic information. The Commission notes that conflicts may arise as well when a person associated with a credit rating agency (*e.g.*, an employee) also is associated with or has an interest in an issuer that is being rated.

As noted above, investors rely on credit ratings directly and through investor protection regulation that uses the NRSRO concept. Given this reliance, an investor could be harmed if a rating is unduly influenced by a person with

[81] *See, e.g., supra* note 69.

[82] *See, e.g., supra* note 40.

[83] *See, e.g.,* Letter from LACE Financial Corp. (July 25, 2003).

[84] *See, e.g.,* Letter from Sean J. Egan, Managing Director, Egan-Joens Ratings Co., to Jonathan G. Katz, Secretary, SEC (July 28, 2003).

[85] For instance, we would expect ratings on securities issued by asset-backed issuers to involve, as appropriate, the senior personnel of their depositor and servicer.

[86] *See, e.g., supra* note 41.

[87] *See, e.g.*, Letter from Olivier Raingeard, to Commission (July 27, 2003).

[88] *See, e.g.*, Letter from Takashi Kanasaki, Managing Director, Japan Credit Rating Agency, Ltd., to Jonathan G. Katz, Secretary, Commission (July 14, 2003).

[89] *See, e.g., supra* note 40.

[90] *See, e.g., supra* note 84.

[91] *Id.*

a vested interest in the level of the rating.

In responding to the 2003 Concept Release, most commenters supported the idea of conditioning NRSRO status on a credit rating agency implementing procedures to address conflicts of interest in its business.[92] We believe that concerns about conflicts of interest are valid and have therefore proposed, as part of the definition of the term ''NRSRO,'' that an entity must use systematic procedures designed to manage potential conflicts of interest. To satisfy this part of the definition, a credit rating agency should, at a minimum, be able to identify the types of conflicts of interest that arise in its business, its procedures designed to address and minimize or avoid those conflicts of interest, and how the firm monitors and verifies compliance with those procedures. The Commission believes that it is necessary for an NRSRO to take these steps to address conflicts of interest because credit ratings may be unduly influenced by obligors, subscribers, or other interested persons if conflicts of interest are not handled appropriately.

Further, if a credit rating agency has adopted procedures to address conflicts arising, for example, between its ratings business and its affiliated advisory business, then such procedures, if followed, would reduce the risk that obligors will be unduly pressured into purchasing advisory services in order to maintain their credit rating.[93] Questions: What specific conflicts of interest should be addressed in a credit rating agency's procedures and how should they be addressed? Should a credit rating agency that engages in activities that present potential or actual conflicts of interest be excluded from the definition of NRSRO? Alternatively, is it sufficient for a credit rating agency to impose and implement safeguards to prevent potential conflicts of interest from affecting the quality and independence of its credit ratings? Are there other practices that raise concerns similar to those raised by conflicts of interest, for example, those referred to in footnote 93 regarding unsolicited ratings, that should be addressed in a credit rating agency's procedures?

g. Misuse of Information

Some credit rating agencies, as part of their analysis, maintain contact with senior management of the issuers they rate. In the course of these contacts, an issuer may provide an analyst with nonpublic information such as contemplated business transactions or estimated financial information. There is a potential that this information could be used by a credit rating analyst or others for improper purposes. In fact, the Commission recently brought an insider trading action against a former analyst of a credit rating agency.[94] The Commission, in that case, alleged that the analyst obtained information about two proposed transactions and tipped that information to others.[95]

As this example shows, there is the risk that persons exposed to such material, nonpublic information may trade on it. In fact, the Commission staff, as part of its 2002 NRSRO examinations discussed above in Section II, identified as a potential concern, among other things, the effectiveness of the NRSROs' existing policies and procedures designed to protect confidential information.[96] In light of this concern, the Commission posed a number of questions in the 2003 Concept Release to solicit comment on the protection of nonpublic information. For example, the Commission asked whether NRSRO recognition should be conditioned on a credit rating agency having internal procedures to prevent the misuse of nonpublic information.[97] Commenters generally acknowledged the importance of protecting nonpublic information provided by issuers.[98] They explained that nonpublic information greatly assists credit rating agencies in issuing credible and reliable ratings and pointed out that if credit rating agencies had a track record of failing to protect such information, issuers would stop providing such information.[99]

The Commission believes that for a credit rating agency to meet the proposed definition of the term ''NRSRO,'' it should have policies and procedures that are designed to effectively protect nonpublic information provided by issuers. Accordingly, under the third component of the proposed NRSRO definition, a credit rating agency would be required to adopt and implement procedures designed to prohibit the misuse of material, nonpublic information obtained during the credit rating process. The Commission believes that to meet this component of the NRSRO definition, a credit rating agency should adopt procedures governing the receipt and use of nonpublic information that applies to all employees.

Question: As discussed above, to meet the third component of the NRSRO definition, should a credit rating agency demonstrate that it has systematic procedures designed to prevent the misuse of material nonpublic information? What types of procedures are reasonable for a credit rating agency to protect material nonpublic information? Should a credit rating agency have personnel dedicated specifically to verifying employees' compliance with such procedures? Should persons performing this function provide ongoing training of employees and act as a resource to answer questions as they arise? Should the procedures provide for a system by which employees can report violations of the controls in place to protect nonpublic information or other inappropriate activities? The Commission encourages commenters to provide information on appropriate procedures for receiving and adequately securing material nonpublic information.

h. Financial Resources

There was no consensus among commenters to the 2003 Concept Release as to whether a credit rating agency's financial resources should be considered by the Commission as a condition for NRSRO recognition. Several commenters supported the evaluation of a credit rating agency's financial resources as a condition, particularly to ensure that NRSROs maintain financial independence from rated issuers and subscribers.[100] One commenter suggested that such a

[92] *See, e.g.*, Letter from Charles D. Brown, General Counsel, Fitch Ratings, to Jonathan G. Katz, Secretary, SEC (July 28, 2003).

[93] A separate area of concern arises when credit rating agencies issue unsolicited ratings. These are ratings that are not initiated at the request of the issuer. Specifically, one concern with unsolicited ratings is that they will be used by a credit rating agency to obtain business from issuers. For example, a credit rating agency could conceivably issue an unsolicited rating and send it to the issuer along with a fee schedule for its rating services. *See, e.g.*, Letter from James I. Kaplan, Associate General Counsel, Northern Trust Corporation, to Jonathan G. Katz, Secretary, Commission (July 28, 2003). Moreover, the rating agency improperly might issue a lower than warranted rating in order to increase the issuer's incentive to purchase the rating service. We believe that unsolicited ratings raise sufficient concerns such that a credit rating agency should have procedures designed to avoid employing improper practices with respect to unsolicited ratings and to monitor and verify compliance with those procedures.

[94] Commission v. Rick A. Marano, William Marano and Carl Loizzi, Civil Action No. 04 CV 5828 (*Judge* Kimba Wood) (S.D.N.Y. July 27, 2004), available on the SEC Web site at *http://www.sec.gov/litigation/litreleases/lr18799.htm.*

[95] *Id.*

[96] *See supra* note 28.

[97] *See supra* note 1.

[98] *See, e.g., supra* note 59.

[99] *See, e.g., supra* note 40.

[100] *See, e.g.*, Letter from Walter Schroeder, President, Dominion Bond Rating Service Limited, to Jonathan G. Katz, Secretary, Commission (August 5, 2003).

condition be used to ensure that an NRSRO does not receive more than a small portion of revenue from any particular issuer or customer,[101] and another suggested that NRSROs be required to disclose information relating to their financial resources.[102] One commenter also stated that it would be prejudicial to investors if securities they purchased, based in part on credit ratings, ceased to be rated because the credit rating agencies that rated them no longer existed.[103]

Commenters that opposed the use of financial resources as an NRSRO criterion generally represented that meeting a mandated level of capital or financial resources does not assure the credibility or reliability of a credit rating agency's ratings and, accordingly, the Commission should instead focus on such credibility and reliability.[104]

The Commission is not proposing to specify minimum financial requirements as part of the definition of the term ''NRSRO.'' The Commission anticipates that the financial resources necessary to support an NRSRO would vary based on the size and scope of the credit rating agency's business. The Commission has proposed, however, that in order for a credit rating agency to meet the definition of the term ''NRSRO,'' it would be required to have sufficient financial resources to ensure that it is able to comply with its procedures. For example, to meet the definition, a credit rating agency would need to have sufficient financial resources to ensure that it maintains appropriate staffing levels to continuously monitor the issuers it rates. Further, a credit rating agency with sufficient financial resources is less likely to be subject to conflicts of interest as described above because of its financial independence from subscribers and issuers it rates.

Questions: Should a credit rating agency make its audited financial statements readily available to users of securities ratings in order for such users to assess whether a credit rating agency has sufficient financial resources to satisfy the third component? What other types of financial information could a credit rating agency make available to users of securities ratings for purposes of the third component? Should a credit rating agency provide users of securities ratings with information relating to the percentage of revenue it receives from particular issuers or subscribers as compared to the credit rating agency's total revenues? Should a credit rating agency establish procedures to limit the percentage of revenues it receives from a single issuer or subscriber? How else can it be determined that a credit rating agency is financially independent of both subscribers and rated issuers?

i. Standardized Rating Symbols

Several commenters responded to the Commission's request on whether NRSROs should use uniform rating symbols to reduce the risk of marketplace confusion. Commenters generally supported the idea of uniform rating symbols by NRSROs, indicating that such standardization would be particularly helpful if the number of NRSROs increase.[105] However, one credit rating agency indicated that mandated uniformity of rating symbols could mislead investors into assuming that all NRSRO credit ratings are comparable and involve the same analytical judgments, ratings criteria, and methodologies.[106] Another commenter suggested that rather than establish uniform rating symbols, the Commission should require each NRSRO to annually disclose the definition and historic default rates for the rating symbols it uses.[107]

The Commission is not proposing to standardize the use of rating symbols by NRSROs. While the symbols used by an NRSRO to distinguish securities of varying risks may technically differ both in form and in meaning from those used by other NRSROs (*e.g.*, S&P's lowest investment grade rating category for corporate debt securities is ''BBB'' and Moody's is ''Baa''), the similarities in NRSROs'' rating symbols (including the symbols previously used by entities that received NRSRO no-action letters but no longer exist) suggests the existence of a market-based standard.

Similarly, there appears to be an existing market-based standard for credit rating agencies to have a consistent number of rating categories for distinguishing securities of varying risks. This latter standard is important for purposes of the NRSRO concept because a number of Commission rules referencing the term ''NRSRO'' also reference the NRSRO's levels of rating categories. For example, paragraph (c)(2)(vi)(F) of the net capital rule sets forth regulatory capital charges for proprietary positions of broker-dealers in nonconvertible debt securities rated in ''one of the four highest rating categories'' by at least two NRSROs.

Questions: Should the Commission continue to rely on existing market-based standards for rating symbols and rating categories, or should specific standards be incorporated into the definition of the term ''NRSRO''? If the latter, what standards are appropriate?

C. Statistical Models

In the 2003 Concept Release, the Commission inquired whether credit rating agencies that solely use statistical models and no other qualitative inputs should be able to qualify as NRSROs. There was a general consensus among commenters that computerized statistical models may be helpful in the credit rating process, but that a credit rating agency that solely uses statistical models should not qualify as an NRSRO.[108] Most commenters responding to this question identified limitations with regard to the use of such models for providing in-depth credit analysis.[109] One commenter stated that the Commission staff does not have the expertise to evaluate the types of models used by most credit rating agencies.[110]

However, one commenter noted that purely quantitative credit models have gained acceptance by credit risk managers in recent years, and that such models should be further considered before restricting NRSRO status to companies who do not solely rely on statistical models.[111]

Although commenters were generally of the view that credit rating agencies that rely solely on statistical models should not qualify as NRSROs, the Commission, in proposing to define the term ''NRSRO,'' is not precluding through this proposed definition the possibility that a credit rating agency with a more quantitative business model than the current NRSROs could meet the definition of NRSRO. Accordingly, the proposed definition of the term ''NRSRO'' and the interpretations to the definition contained in this release should not be construed as excluding a credit rating agency that significantly relies on quantitative statistical models in developing credit ratings.

Questions: Should a credit rating agency that relies solely or primarily on statistical models be able to meet the proposed NRSRO definition? If so, under what circumstances? The Commission also requests comment on guidelines for assessing the relevance and reliability of statistical models used in the ratings process.

[101] *See, e.g., supra* note 63.
[102] *See, e.g., supra* note 73.
[103] *See, e.g., supra* note 70.
[104] *See, e.g., supra* note 87.
[105] *See, e.g., supra* note 73.
[106] *See, e.g., supra* note 40.
[107] *See, e.g., supra* note 61.
[108] *See, e.g., supra* notes 59, 73, and 92.
[109] *See, e.g., supra* note 88.
[110] *See, e.g., supra* note 84.
[111] *See, e.g., supra* note 41.

D. Provisional NRSRO Status

In the past, a number of observers have criticized the regulatory use of the NRSRO concept—particularly the ''national recognition'' requirement—as creating a substantial barrier to entry. In essence, these critics contend that important users of securities ratings have a regulatory incentive to obtain ratings issued by NRSROs, and that without NRSRO status new entrants encounter great difficulties achieving the ''national recognition'' necessary to obtain an NRSRO no-action letter.

For example, the U.S. Department of Justice (''DOJ''), commenting on the Commission's 1997 rule proposal, opposed the use of the ''national recognition'' requirement because, in its view, that criterion likely creates a ''nearly insurmountable barrier to new entry into the market for NRSRO services.'' [112] DOJ believed that, while the historical dominance of Moody's and S&P had eroded in recent years for certain types of securities ratings, the overall level of market power they retained continued to be a competitive concern. To ameliorate entry barriers, DOJ suggested the Commission consider giving ''provisional'' NRSRO status (for the first 12 to 18 months of existence) to newly-formed credit rating affiliates of established, well-capitalized firms that have reputations for quality financial analysis in the investment community (*e.g.*, investment banks, commercial banks, insurance companies, consulting firms, or accounting firms). DOJ also recommended the Commission consider ''provisional'' NRSRO status for foreign rating agencies, and indicated they might initially specialize in rating U.S. companies with substantial operations abroad.

In response to these concerns, the Commission, in the 2003 Concept Release, sought comment on whether to consider a ''provisional'' NRSRO status for credit rating agencies that comply with NRSRO recognition criteria but lack national recognition. Most commenters generally did not support the concept of ''provisional'' NRSROs.

Commenters supporting provisional NRSROs indicated that permitting them could promote competition among credit rating agencies by facilitating the entry of high-quality but lesser-known credit rating agencies.[113] One commenter stated that credit rating agencies that provide quality ratings but are not national in nature could be provisional NRSROs,[114] while another commenter represented that it would support a time-limited provisional NRSRO status if the Commission retains the ''widely accepted'' criterion.[115]

Commenters opposing the idea of provisional NRSROs represented that permitting two classes of NRSROs would likely cause marketplace confusion,[116] and that permitting provisional NRSROs would have little, if any, effect on a credit rating agency's ability to compete with the larger NRSROs.[117] Several commenters also indicated that certain investors likely would not use ratings from ''provisional'' NRSROs for regulatory purposes because securities purchased based on a provisional NRSRO's ratings would possibly have to be sold if the provisional NRSRO failed to continue to meet the definition.[118]

The Commission has considered the responses to the 2003 Concept Release and has decided at present against creating a ''provisional'' NRSRO status. The Commission's use of the term ''NRSRO'' is intended to reflect the fact that the marketplace views a credit rating agency's ratings as credible and reliable. Without such assurance as to the quality of the ratings issued by a credit rating agency, it may be inappropriate to rely upon a credit rating agency's ratings as a proxy for credit quality in regulation.

The Commission understands that the rationale for permitting provisional NRSROs is to promote competition in the credit rating industry. To this end, defining the term ''NRSRO'' to include credit rating agencies that confine their activities to limited sectors of the debt market or to limited (or largely non-U.S.) geographic areas may be a more reasonable approach that attempts to address the concerns raised by commenters and preserve the Commission's intended regulatory objectives. The Commission also notes with respect to the competitive concerns raised by commenters that since the term ''NRSRO'' was first used in the mid-1970's, several credit rating agencies have been able to enter the credit rating business and achieve the requisite level of market acceptance to receive NRSRO no-action letters.

Question: Does the Commission's proposed NRSRO definition and approach for promoting competition address the competitive concerns raised by commenters' supporting provisional NRSROs?

E. Staff No-Action Process

In the 2003 Concept Release, the Commission asked a series of procedural questions regarding the NRSRO concept. Across the board, commenters strongly supported Commission action to enhance the clarity of the process. However, a number of commenters also raised concerns about the extent of the Commission's legal authority to regulate or impose requirements on NRSROs.[119] In the absence of Congressional action, we are proposing to adopt a comprehensive definition of the term ''NRSRO,'' which we believe to be an appropriate balance within the confines of the Commission's existing legal authority.

As noted above, the Commission has never adopted a definition of the term. The Commission preliminarily believes that the proposed components of the NRSRO definition, discussed in detail above, would be a significant step forward in providing greater clarity in determining whether an entity's ratings should be relied on as NRSRO ratings for purposes of the securities laws, and Commission rules and regulations. An entity that meets the proposed definition would be an NRSRO.

While we believe that adopting a definition of NRSRO could help address commenters' concerns regarding transparency, we understand that credit rating agencies might desire to continue to seek staff no-action letters in order to provide some measure of certainty to those entities relying on ratings provided by credit rating agencies. As such, and in light of the long-standing reliance by broker-dealers, issuers, investors and others on the existing staff no-action process, if we were to adopt a definition of NRSRO, we plan to continue to make our staff available to provide no-action letters as appropriate to those entities that choose to seek it. The continued provision of staff no-action letters, where appropriate, is intended to provide more certainty.

Currently, a credit rating agency initiates the no-action letter process by requesting a no-action letter that will state that the Commission staff will not recommend enforcement action against persons who use the firm's credit ratings for purposes of the Commission's net capital rule. Upon receipt of such a request, the Commission staff typically sends a letter to the credit rating agency requesting detailed information

[112] *See* Comments of the United States Department of Justice in the Matter of: File No. S7–33–97 Proposed Amendments to Rule 15c3–1 under the Securities Exchange Act of 1934 (March 6, 1998).

[113] *See, e.g., supra* note 87.

[114] *See, e.g., supra* note 41.

[115] *See, e.g., supra* note 63.

[116] *See, e.g., supra* note 100.

[117] *See, e.g., supra* note 61.

[118] *Id.*

[119] *See, e.g., supra* note 40.

regarding the criteria discussed above. After receiving this detailed information, the Commission staff meet with the credit rating agency for an on-site meeting. During this meeting, the credit rating agency's senior management, analysts, and other persons who are knowledgeable about the firm's policies and procedures are interviewed. The Commission staff also contacts and interviews references provided by the credit rating agency and others to assess, among other things, the references' use of the credit rating agency's ratings, whether they believe the credit rating agency issues credible and reliable ratings, and how the credit rating agency compares to other credit rating agencies.[120] The Commission staff then determines whether the credit rating agency meets the NRSRO criteria and either issues the requested no-action letter, or informs the credit rating agency of its decision not to so issue a letter.[121]

There was strong support in response to the 2003 Concept Release for the Commission to establish a time period to serve as a goal for acting on requests for NRSRO status.[122] Some commenters addressing this issue thought that the process for seeking NRSRO status should include deadlines once a credit rating agency has submitted all required information, and that such a time period could enhance the market's perception of the NRSRO process and afford greater certainty to a credit rating agency as to when a ruling will be made on its request.[123]

Some commenters believed that the Commission should act on a request for a no-action letter within 90 to 120 days after an entity has submitted all required information.[124] Some commenters noted, however, that flexibility should exist if circumstances arise and an additional investigation needs to be conducted.[125] Several commenters stated that credit rating agencies that do not obtain no-action letters should be notified as to why so that they can improve their operations in the specified areas and increase their chances of submitting a successful request in the future.[126]

In this regard, we would expect that no-action requests would be considered by the staff, and resolved, in a timely fashion.[127] The Commission believes that, if it were to adopt a definition of the term ''NRSRO,'' the staff should be able to act on NRSRO no-action requests within 90 days after a credit rating agency has submitted all necessary information.[128]

Like any staff no-action position, the staff's views on whether an entity meets the definition of NRSRO would be conditioned on the facts and representations made by the entity.[129] Of course, if the facts and circumstances upon which the staff relied to provide its guidance change, the staff position may no longer be applicable. In this regard, given the changing market conditions in this context, we understand that the staff will include expiration dates in NRSRO no-action letters that it issues. In addition, the staff's views on issues may change from time-to-time, in light of reexamination, new considerations, or changing conditions that indicate that its earlier views are not longer in keeping with the objectives of the proposed NRSRO rule or with the regulatory use of NRSRO ratings.

IV. General Request for Comment

The Commission seeks comment generally on all aspects of proposed Exchange Act Rule 3b–10. In addition to the specific requests for comment found throughout this release, the Commission invites general comments on the proposed definition and the interpretations. The Commission also seeks comment on whether to expand the text of the proposed rule to include the interpretations of the components discussed in this release, or other interpretations. Furthermore, the Commission invites interested persons to submit written comments and data on any aspects of the proposed rule.

V. Paperwork Reduction Act

Proposed Rule 3b–10 would not impose a new ''collection of information'' within the meaning of the Paperwork Reduction Act of 1995.[130]

VI. Consideration of the Costs and Benefits of the Proposed Rule

The Commission is sensitive to the costs and benefits that result from its rules. We have identified certain costs and benefits of the proposed rule and request comment on all aspects of this cost-benefit analysis, including identification and assessment of any costs and benefits not discussed in the analysis. The Commission requests data to quantify the costs and the value of the benefits identified. The Commission seeks estimates and views regarding these costs and benefits from market participants who might be impacted by the proposed rule, including credit rating agencies, independent credit analysts, broker-dealers, mutual fund companies, securities issuers, and investors.

A. Benefits

The proposed rule would define the term ''NRSRO'' and thereby enhance the use of the NRSRO concept in Commission rules and regulations. Specifically, it would provide greater clarity to determine whether credit rating agencies are NRSROs. This would also assist credit rating agencies that are currently NRSROs in understanding how they can continue to meet the definition. For credit rating agencies that are not currently NRSROs, the definition would provide a better

[120] These interviews have been useful indicators of a credit rating agency's marketplace recognition, and the Commission anticipates that, in connection with the no-action process, the staff will continue to interview references and other predominant users of securities ratings in determining which credit rating agencies should receive a no-action letter.

[121] When issuing an NRSRO no-action letter, the Commission staff has consistently conditioned such letters on credit rating agencies not representing in any of their ratings, marketing, or similar literature that the Commission considers the credit rating agency to be an NRSRO. *See, e.g., supra* note 2.

[122] *See, e.g.*, Letter from Andrew Fight to Jonathan G. Katz, Secretary, Commission (July 25, 2003).

[123] *See, e.g., supra* note 56.

[124] *See, e.g., supra* note 46.

[125] *See, e.g., supra* note 61.

[126] *See, e.g., supra* note 100.

[127] As part of this process, the Commission staff will inform the Commission promptly upon receipt of a request for a no-action letter from a credit rating agency.

[128] The information provided to the staff by a credit rating agency to obtain a no-action letter will be accorded confidential treatment to the extent permitted by law. However, it is the responsibility of the credit rating agency to request confidentiality under the appropriate Commission rules. *See* 17 CFR 200.83.

[129] *See generally* 17 CFR 202.2. No-action requests should be directed to an appropriate officer of the Commission's staff. *Id.* The no-action letter process is an informal procedure that permits the public to request the views of the Commission staff on issues or activity that may raise compliance issues under federal securities law. In a no-action letter, the Commission staff states that it will not recommend enforcement action to the Commission with respect to identified rules or statutory provisions if the requesting party acts in accordance with specific facts and representations made in its letter. In some instances, the Commission staff will state that it is not able to give such assurance. The Commission takes the position that no-action letters do not constitute Commission precedent and do not bind subsequent Commission action. Although informal guidance from Commission staff assists the public in understanding how to comply with the Commission's rules and policies, the Commission reserves the right to act contrary to staff advice. *See* Informal Guidance Program for Small Entities, Release No. 33–7407 (March 27, 1997), 62 FR 15604 (April 4, 1997); and Procedures for Rendering Informal Advice, Release No. 33–6253 (October 28, 1980), 45 FR 72644 (November 3, 1980). *See also* 17 CFR 202.1(d) (''In certain instances an informal statement of the views of the Commission may be obtained. The staff, upon request or on its own motion, will generally present questions to the Commission which involve matters of substantial importance and where the issues are novel or highly complex, although the granting of a request for an informal statement by the Commission is entirely within its discretion.'').

[130] 44 U.S.C. 3501 *et seq.*

understanding of the enhancements necessary to meet the definition. This could reduce concerns related to barriers to entry for credit rating agencies seeking to become NRSROs. Moreover, concerns about barriers to entry also could be reduced by the interpretations of the proposed definition that would recognize credit rating agencies with an expertise in a particular industry or geographic region. This component could be particularly beneficial to smaller credit rating agencies in their efforts to meet the proposed definition of NRSRO.

By lowering the barriers to entry identified above, the proposed rule could potentially increase the number of NRSROs. Issuers would be provided with more choices in terms of selecting NRSROs to rate their debt securities, which could lower their costs for this service. The greater competition in the market for credit ratings and analysis could provide for more credible and reliable ratings. Greater competition also could stimulate innovation in the technology and methods of analysis for issuing credit ratings, which could further lower barriers to entry.

As previously noted, the NRSRO concept was first used by the Commission for the purposes of determining capital charges for broker-dealers with respect to their proprietary debt securities. Broker-dealers benefited from this use of the NRSRO concept in that it provided a simple regulatory benchmark. At the same time, the NRSRO concept benefited customers and counterparties of broker-dealers by linking the capital charge (and, consequently, the broker-dealers' capital adequacy) to a rating that is recognized by the marketplace as reliable and credible. These benefits would continue under the proposed rule.

The benefit of the NRSRO concept as a regulatory benchmark and the beneficial impact of the proposed definition is indicated by its use in various other Commission rules and regulations; namely, Regulation S–B,[131] Regulation S–K,[132] Securities Act Rule 134 (''Communications not deemed a prospectus''),[133] Securities Act Rule 436 (''Consents requires in special cases''),[134] Form S–3,[135] Form F–2,[136] Form F–3,[137] Exchange Act Rule 3a1–1 (''Exemption from the definition of ''Exchange'' under the Section 3(a)(1) of the Act''),[138] Exchange Act Rule 10b–10 (''Confirmation of transactions''),[139] Exchange Rule 15c3–1 (''Net capital requirements for brokers or dealers''),[140] Exchange Act Rule 15c3–1a (''Options''),[141] Exchange Act Rule 15c3–1f (''Optional market and credit risk requirements for OTC derivatives dealers''),[142] Exchange Act Rule 15c3–3a (''Exhibit A—formula for determination reserve requirement of brokers and dealers under § 240.15c3–3''),[143] Rule 101 of Regulation M under the Exchange Act (''Activities by distribution participants''),[144] Rule 102 of Regulation M under the Exchange Act (''Activities by issuers and selling security holders during a distributions''),[145] Rule 300 of Regulation ATS under the Exchange Act (''Definitions''),[146] Investment Company Act Rule 2a–7 (''Money market funds''),[147] Investment Company Act Rule 3a–7 (''Issuers of asset-backed securities''),[148] Investment Company Act Rule 5b–3 (''Acquisition of repurchase agreement or refunded security treated as acquisition of underlying securities''),[149] and Investment Company Act Rule 10f–3 (''Exemption for the acquisition of securities during the existence of an underwriting or selling syndicate'').[150] The concept also has been used in federal statutes, state laws, and foreign laws and regulations.[151] The importation of a market assessment of creditworthiness into a regulation benefits the affected entities by linking a regulatory requirement to a market determined benchmark. Thus, the proposed rule would result in the benefits described above by codifying the meaning of the term NRSRO.

B. Costs

The proposed rule would impose some costs on existing NRSROs. They could incur some costs in evaluating themselves against the proposed definition, and in seeking renewal of their no-action letters, should the Commission adopt a definition of NRSRO. However, in this regard, we note that the proposed definition of ''NRSRO'' is generally consistent with the criteria historically used by the Commission staff to identify NRSROs for purposes of no-action relief under the Commission's net capital rule.

The proposed definition would not impose direct costs on credit rating agencies that do not currently meet the proposed definition of ''NRSRO,'' since these entities would not be within its scope. A non-NRSRO credit rating agency likely would incur costs if it sought to become an NRSRO, or needed to enhance its activities and operations to meet the NRSRO definition. An entity that is recognized nationally by the predominant users of credit ratings as issuing credible and reliable ratings generally would meet the proposed definition of ''NRSRO'' or would be able to meet the definition with little incremental cost. Accordingly, a credit rating agency seeking to meet the definition of ''NRSRO'' would not incur costs beyond those that normally would be expended to gain acceptance in the marketplace, on a national level, as a credit rating agency that is recognized as issuing credible ratings. As such, the Commission does not believe that the proposed definition would increase costs for a rating agency seeking to be an NRSRO.

The Commission also notes that the internet permits credit rating agencies to publish their ratings to a worldwide audience—*i.e.*, make the ratings publicly available—for a minimal cost. Thus, a credit rating agency could meet this component of the proposed definition without incurring substantial costs. Moreover, under the proposed definition, a credit rating agency could become an NRSRO if it is generally accepted in the financial markets as an issuer of credible and reliable ratings for a particular industry or geographic segment. This could make it easier for a smaller entity, with a specific ratings expertise, to become an NRSRO. As such, over time, the proposed definition could reduce costs by making it easier for a credit rating agency that focuses on a particular geographic area or sector to be an NRSRO.

The Commission seeks comment on the costs that would be incurred by a non-NRSRO credit rating agency to meet the proposed definition. As mentioned above, to assist the Commission in evaluating the costs and benefits that may result from the proposed rule, the Commission requests comment on the potential costs and benefits identified in the release, as well as any other costs or benefits that may result from the proposed rule. In particular, the Commission requests comments on the potential costs for any modification to

[131] 17 CFR 228.10.
[132] 17 CFR 229.10.
[133] 17 CFR 230.134.
[134] 17 CFR 230.436.
[135] 17 CFR 239.13.
[136] 17 CFR 239.32.
[137] 17 CFR 239.33.
[138] 17 CFR 240.3a1–1.
[139] 17 CFR 240.10b–10.
[140] 17 CFR 240.15c3–1.
[141] 17 CFR 240.15c3–1a.
[142] 17 CFR 240.15c3–1f.
[143] 17 CFR 240.15c3–3a.
[144] 17 CFR 242.101.
[145] 17 CFR 242.102.
[146] 17 CFR 242.300.
[147] 17 CFR 270.2a–7.
[148] 17 CFR 270.3a–7.
[149] 17 CFR 270.5b–3.
[150] 17 CFR 270.10f–3.
[151] *See, e.g., supra* notes 14, 15, and 16.

both computer systems and surveillance mechanisms and for information gathering, management, and recordkeeping systems or procedures, as well as any potential benefits resulting from the proposals for registrants, issuers, investors, brokers or dealers, other securities industry professionals, regulators, and others. The commenters should provide analysis and data to support their views on the costs and benefits.

The Commission has found that opinions differ regarding the critical elements for success in the credit rating business (*e.g.*, staff, experience, capital), and this may lead to varying views on the precise nature and extent of the costs and benefits. The Commission poses the following questions regarding the proposed rule: What are the costs for an entity to operate as a credit rating agency that is recognized on a national level by the predominant users of credit ratings as issuing credible and reliable ratings? What are the costs for an entity to enter into the credit rating business with respect to rating securities within a specific industry or geographic segment? What additional costs would such an entity incur to achieve national recognition?

In answering these questions, commenters should provide detailed information on, or estimates of, the costs associated with maintaining an office, a staff, and the necessary communications and information systems and equipment as well as costs related to publishing credit ratings. We also seek comment on whether costs related to technology have significantly increased in recent years.

VII. Consideration on Burden and Promotion of Efficiency, Competition, and Capital Formation

Section 3(f) of the Exchange Act requires the Commission, whenever it engages in rulemaking and must consider or determine if an action is necessary or appropriate in the public interest, to consider whether the action would promote efficiency, competition, and capital formation.[152] In addition, Section 23(a)(2) of the Exchange Act requires the Commission, when making rules under the Exchange Act, to consider the impact that such rules would have on competition.[153] Exchange Act Section 23(a)(2) prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The Commission preliminarily believes that the proposed definition of ''NRSRO'' would not impose any burdens on efficiency, capital formation and competition and would, in fact, promote these interests. The proposed definition would provide greater clarity to the process by which credit rating agencies become NRSROs. This would also assist credit rating agencies that are currently NRSROs in understanding how they could meet the proposed definition. For credit rating agencies that are not currently NRSROs, the definition would provide a better understanding of the enhancements necessary to meet the proposed definition. This could reduce concerns regarding barriers to entry for credit rating agencies seeking to become NRSROs. Moreover, concerns about barriers to entry also could be reduced by the component of the proposed definition that would recognize credit rating agencies with an expertise in a particular industry or geographic region. This component could be particularly beneficial to smaller credit rating agencies in their efforts to meet the proposed NRSRO definition.

By lowering any barriers to entry discussed above, the proposed rule could potentially increase the number of NRSROs. Issuers could be provided with more choices in terms of selecting NRSROs to rate their debt securities, which would lower their costs for this service. The greater competition in the market for credit ratings and analysis could provide for more credible and reliable ratings. Greater competition also could stimulate innovation in the technology and methods of analysis for issuing credit ratings, which could further lower barriers to entry.

The Commission believes the resulting increased clarity from the proposed definition could have some positive impact on capital formation. As noted in the Benefits Section in Section VI., a number of Commission rules and regulations use the NRSRO concept. For example, certain regulations provide safe harbors to small businesses issuing securities and to all issuers in making non-financial statements in securities registrations.[154] The NRSRO concept also is used in defining which debt securities can be held by a money market fund.[155] In addition, as noted throughout, the NRSRO concept is used in the broker-dealer capital rule. Finally, states, foreign governments, and private entities use the NRSRO concept as well. The proposed definition, by codifying a component of the NRSRO concept, would provide clarity to its use in these rules and regulations which all relate in some respects to the issuance of debt securities. Accordingly, the proposed definition could assist in the underwriting and making of markets in corporate debt.

While we believe the proposed definition could lower any barriers to entry and promote competition, we recognize that some market participants have argued that the NRSRO concept impedes competition by creating unreasonable barriers to entry. There is a widespread view that one of the most significant natural barriers into the credit rating business is the current dominance of a few highly-regarded, well-capitalized rating agencies that pioneered the industry many decades ago. This view may, in part, be a consequence of the fact that, until the mid-1970s, only a handful of firms (primarily three of the five current NRSROs) issued credit ratings on securities. These firms developed substantial brand names during the period when they were the only entities issuing securities ratings. Since the mid-1970's, however, there has been a steady increase in the number of credit rating agencies operating in the U.S. and internationally, so that today it is estimated that there are more than 100 active credit rating agencies worldwide.[156]

It should be noted that this growth in the number of entities issuing securities ratings began after the Commission started using the NRSRO concept for regulatory purposes. The expansion suggests a growing interest among market participants for advice about credit quality, and that new entrants are able to develop a following for their credit judgments. The Commission staff also has provided no-action letters to several small credit rating agencies since it began using the NRSRO concept for regulatory purposes.[157] Several of

[152] 15 U.S.C. 78c(f).

[153] 15 U.S.C. 78w(a)(2).

[154] *See, e.g.*, 17 CFR 228.10 and 17 CFR 229.10.

[155] 17 CFR 270.2a–7.

[156] *See* Credit Ratings and Complementary Sources of Credit Quality Information, Basel Committee on Banking Supervision Working Papers (August 2000), at 14 (''[I]n September 1999, it was believed that there might be some 130 [rating] agencies world-wide, although industry sources indicated this number was closer to 150.''). *See also* SEC Hearing Transcript, *supra* note 30, (November 21, 2003) (testimony of Gay Huey Evans, Director, Markets and Exchanges Division, The Financial Services Authority) (''There are [approximately] 150 [rating] agencies in total around the world and they vary in size and scope.'').

[157] Duff & Phelps, Inc. began issuing credit ratings in 1974 and became an NRSRO in 1982. McCarthy Crisanti & Maffei began issuing credit ratings in 1975 and became an NRSRO by 1983. IBCA Limited and IBCA Inc. began issuing credit ratings in 1978

Continued

these entities received no-action letters within five or six years of the date they began issuing securities ratings. The Commission preliminarily believes this may demonstrate that the proposed ''NRSRO'' definition could be met by small firms and, accordingly, appears to indicate that the proposed definition would not act as an unreasonable barrier to their meeting the definition of NRSRO.

The Commission believes that, at this time, eliminating the NRSRO concept would not be prudent, nor in the interest of investors and securities market participants. For example, the concept provides an easily ascertainable and non-arbitrary regulatory benchmark for broker-dealers to compute their capital charges.[158] At the same time, it provides that broker-dealers will use credit ratings that are recognized by the marketplace as credible and reliable and issued by entities that have adequate financial resources and operational capability. These assurances enhance a broker-dealer's capital adequacy and, thereby, protect customers and counterparties. Users of credit ratings and others generally agree there must be substantive threshold standards for being an NRSRO for the term to have meaning.[159] In essence, the proposed NRSRO definition is meant to reflect the fact that the marketplace views a rating agency's ratings as credible and reliable.

The Commission requests comment on all aspects of this analysis and, in particular, on whether the proposed NRSRO definition would place a burden on competition.

VIII. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or ''SBREFA,''[160] we must advise the Office of Management and Budget as to whether the proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results or is likely to result in: (1) An annual effect on the economy of $100 million or more (either in the form of an increase or a decrease); (2) a major increase in costs or prices for consumers or individual industries; or (3) significant adverse effect on competition, investment or innovation.

If a rule is ''major,'' its effectiveness will generally be delayed for 60 days pending Congressional review. We request comment on the potential impact of the proposed rule on the economy on an annual basis. Commenters are requested to provide empirical data and other factual support for their view to the extent possible.

IX. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (''RFA''), the Commission hereby certifies that proposed Rule 3b–10, would not, if adopted, have a significant economic impact on a substantial number of small entities. Under the RFA, the term ''small entity'' shall have the same meaning as the RFA defined term ''small business.'' According to section 601(3) of the RFA, ''the term 'small business' has the same meaning as the term 'small business concern' under section 3 of the Small Business Act (15 U.S.C. 632), unless an agency, after consultation with the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' If the agency has not defined the term for a particular purpose, the Small Business Act states that ''a small business concern * * * shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation.'' The Commission has not defined the term ''small entity'' in the context of NRSROs for purposes of the RFA. Therefore, for purposes of this rulemaking, the Commission is using the broader definition of ''small business concern'' as defined in the Small Business Act.

Currently, there are five credit rating agencies that we believe would meet the proposed definition of ''NRSRO.'' Only two of the NRSROs are independently owned and operated. However, the two independently owned NRSROs are dominant in their respective fields as one has earned a national reputation for issuing ratings on insurance companies and the other on Canadian issuers. Accordingly, there are no small entities that currently would meet the proposed definition of NRSRO.

As noted above, it has been estimated there are between 100 and 150 entities that issue credit ratings or credit analysis.[161] It is likely that a substantial number of these credit rating agencies are small entities. The proposed definition could have an impact on one of these small credit rating agencies if it sought to become an NRSRO. However, in this regard, the proposed definition of NRSRO would closely track the current process under which the staff issues no-action letters. Thus, while the proposed definition may impact a small credit rating agency, such impact would likely be small.

For the above reasons, the Commission certifies that proposed Rule 3b–10 would not have a significant economic impact on a substantial number of small entities. The Commission requests comments regarding this certification. The Commission requests that commenters describe the nature of any impact on small businesses and provide empirical data to support the extent of the impact.

X. Statutory Authority

Pursuant to the Securities Act of 1933, and particularly Sections 7, 10, and 19 thereof, 15 U.S.C. 77g, 77j, and 77s, the Exchange Act, and particularly Sections 3(b), 15, 17, and 23 thereof, 15 U.S.C. 78c(b), 78o(c)(3), 78q, and 78w, the Investment Company Act of 1940, and particularly Sections 6c and 38a thereof, 15 U.S.C. 80a–6, 80a–36, the Commission proposes to adopt § 240.3b–10 of Title 17 of the Code of Federal Regulations in the manner set forth below.

Text of Proposed Rule

List of Subjects in 17 CFR Part 240

Brokers, Fraud, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II, of the Code of Federal Regulations is proposed to be amended as follows.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

2. Section 240.3b–10 is added to read as follows:

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and 1985, respectively, and were designated together as an NRSRO in 1990. Thomson BankWatch, Inc. entered the credit rating business in 1974 and became an NRSRO in 1991. A.M. Best began issuing credit ratings in 1999 and became an NRSRO in 2005.

[158] *See, e.g.*, Letter from Cheryl Kallem, Chair, SIA Capital Committee, to Jonathan G. Katz, Secretary, Commission (July 28, 2003).

[159] *See, e.g.*, SEC Hearing Transcript, *supra* note 30 (November 15, 2002) (testimony of Frank A. Fernandez, Senior Vice President, Chief Economist and Director of Research, The Securities Industry Association and testimony of Gregory A. Root, Executive Vice President, Dominion Bond Rating Service Limited).

[160] Pub. L. No. 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

[161] *See supra* note 156.

§ 240.3b–10 Definition of ''nationally recognized statistical rating organization.''

The term *nationally recognized statistical rating organization* means any entity that:

(a) Issues publicly available credit ratings that are current assessments of the creditworthiness of obligors with respect to specific securities or money market instruments;

(b) Is generally accepted in the financial markets as an issuer of credible and reliable ratings, including ratings for a particular industry or geographic segment, by the predominant users of securities ratings; and

(c) Uses systematic procedures designed to ensure credible and reliable ratings, manage potential conflicts of interest, and prevent the misuse of nonpublic information, and has sufficient financial resources to ensure compliance with those procedures.

Dated: April 19, 2005.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 05–8158 Filed 4–22–05; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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0–299	(869–056–00045–6)	40.00	Jan. 1, 2005
300–799	(869–056–00046–4)	60.00	Jan. 1, 2005
800–End	(869–056–00047–2)	42.00	Jan. 1, 2005
16 Parts:			
0–999	(869–056–00048–1)	50.00	Jan. 1, 2005
1000–End	(869–056–00049–9)	60.00	Jan. 1, 2005
17 Parts:			
1–199	(869–052–00050–7)	50.00	Apr. 1, 2004
200–239	(869–052–00051–5)	58.00	Apr. 1, 2004
240–End	(869–052–00052–3)	62.00	Apr. 1, 2004
18 Parts:			
1–399	(869–052–00053–1)	62.00	Apr. 1, 2004
400–End	(869–052–00054–0)	26.00	Apr. 1, 2004
19 Parts:			
1–140	(869–052–00055–8)	61.00	Apr. 1, 2004
141–199	(869–052–00056–6)	58.00	Apr. 1, 2004
200–End	(869–052–00057–4)	31.00	Apr. 1, 2004
20 Parts:			
1–399	(869–052–00058–2)	50.00	Apr. 1, 2004
400–499	(869–052–00059–1)	64.00	Apr. 1, 2004
500–End	(869–052–00060–9)	63.00	Apr. 1, 2004
21 Parts:			
1–99	(869–052–00061–2)	42.00	Apr. 1, 2004
100–169	(869–052–00062–1)	49.00	Apr. 1, 2004
170–199	(869–052–00063–9)	50.00	Apr. 1, 2004
200–299	(869–052–00064–7)	17.00	Apr. 1, 2004
300–499	(869–052–00065–5)	31.00	Apr. 1, 2004
500–599	(869–052–00066–3)	47.00	Apr. 1, 2004
600–799	(869–052–00067–1)	15.00	Apr. 1, 2004
800–1299	(869–052–00068–0)	58.00	Apr. 1, 2004
1300–End	(869–052–00069–8)	24.00	Apr. 1, 2004
22 Parts:			
1–299	(869–052–00070–1)	63.00	Apr. 1, 2004
300–End	(869–052–00071–0)	45.00	Apr. 1, 2004
23	(869–052–00072–8)	45.00	Apr. 1, 2004
24 Parts:			
0–199	(869–052–00073–6)	60.00	Apr. 1, 2004
200–499	(869–052–00074–4)	50.00	Apr. 1, 2004
500–699	(869–052–00075–2)	30.00	Apr. 1, 2004
700–1699	(869–052–00076–1)	61.00	Apr. 1, 2004
1700–End	(869–052–00077–9)	30.00	Apr. 1, 2004
25	(869–052–00078–7)	63.00	Apr. 1, 2004
26 Parts:			
§§ 1.0–1–1.60	(869–052–00079–5)	49.00	Apr. 1, 2004
§§ 1.61–1.169	(869–052–00080–9)	63.00	Apr. 1, 2004
§§ 1.170–1.300	(869–052–00081–7)	60.00	Apr. 1, 2004
§§ 1.301–1.400	(869–052–00082–5)	46.00	Apr. 1, 2004
§§ 1.401–1.440	(869–052–00083–3)	62.00	Apr. 1, 2004
§§ 1.441–1.500	(869–052–00084–1)	57.00	Apr. 1, 2004
§§ 1.501–1.640	(869–052–00085–0)	49.00	Apr. 1, 2004
§§ 1.641–1.850	(869–052–00086–8)	60.00	Apr. 1, 2004
§§ 1.851–1.907	(869–052–00087–6)	61.00	Apr. 1, 2004
§§ 1.908–1.1000	(869–052–00088–4)	60.00	Apr. 1, 2004
§§ 1.1001–1.1400	(869–052–00089–2)	61.00	Apr. 1, 2004
§§ 1.1401–1.1503–2A	(869–052–00090–6)	55.00	Apr. 1, 2004
§§ 1.1551–End	(869–052–00091–4)	55.00	Apr. 1, 2004
2–29	(869–052–00092–2)	60.00	Apr. 1, 2004
30–39	(869–052–00093–1)	41.00	Apr. 1, 2004
40–49	(869–052–00094–9)	28.00	Apr. 1, 2004
50–299	(869–052–00095–7)	41.00	Apr. 1, 2004

Title	Stock Number	Price	Revision Date
300–499	(869–052–00096–5)	61.00	Apr. 1, 2004
500–599	(869–052–00097–3)	12.00	[5]Apr. 1, 2004
600–End	(869–052–00098–1)	17.00	Apr. 1, 2004
27 Parts:			
1–199	(869–052–00099–0)	64.00	Apr. 1, 2004
200–End	(869–052–00100–7)	21.00	Apr. 1, 2004
28 Parts:			
0–42	(869–052–00101–5)	61.00	July 1, 2004
43–End	(869–052–00102–3)	60.00	July 1, 2004
29 Parts:			
0–99	(869–052–00103–1)	50.00	July 1, 2004
100–499	(869–052–00104–0)	23.00	July 1, 2004
500–899	(869–052–00105–8)	61.00	July 1, 2004
900–1899	(869–052–00106–6)	36.00	July 1, 2004
1900–1910 (§§ 1900 to 1910.999)	(869–052–00107–4)	61.00	July 1, 2004
1910 (§§ 1910.1000 to end)	(869–052–00108–2)	46.00	[8]July 1, 2004
1911–1925	(869–052–00109–1)	30.00	July 1, 2004
1926	(869–052–00110–4)	50.00	July 1, 2004
1927–End	(869–052–00111–2)	62.00	July 1, 2004
30 Parts:			
1–199	(869–052–00112–1)	57.00	July 1, 2004
200–699	(869–052–00113–9)	50.00	July 1, 2004
700–End	(869–052–00114–7)	58.00	July 1, 2004
31 Parts:			
0–199	(869–052–00115–5)	41.00	July 1, 2004
200–End	(869–052–00116–3)	65.00	July 1, 2004
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869–052–00117–1)	61.00	July 1, 2004
191–399	(869–052–00118–0)	63.00	July 1, 2004
400–629	(869–052–00119–8)	50.00	[8]July 1, 2004
630–699	(869–052–00120–1)	37.00	[7]July 1, 2004
700–799	(869–052–00121–0)	46.00	July 1, 2004
800–End	(869–052–00122–8)	47.00	July 1, 2004
33 Parts:			
1–124	(869–052–00123–6)	57.00	July 1, 2004
125–199	(869–052–00124–4)	61.00	July 1, 2004
200–End	(869–052–00125–2)	57.00	July 1, 2004
34 Parts:			
1–299	(869–052–00126–1)	50.00	July 1, 2004
300–399	(869–052–00127–9)	40.00	July 1, 2004
400–End	(869–052–00128–7)	61.00	July 1, 2004
35	(869–052–00129–5)	10.00	[6]July 1, 2004
36 Parts			
1–199	(869–052–00130–9)	37.00	July 1, 2004
200–299	(869–052–00131–7)	37.00	July 1, 2004
300–End	(869–052–00132–5)	61.00	July 1, 2004
37	(869–052–00133–3)	58.00	July 1, 2004
38 Parts:			
0–17	(869–052–00134–1)	60.00	July 1, 2004
18–End	(869–052–00135–0)	62.00	July 1, 2004
39	(869–052–00136–8)	42.00	July 1, 2004
40 Parts:			
1–49	(869–052–00137–6)	60.00	July 1, 2004
50–51	(869–052–00138–4)	45.00	July 1, 2004
52 (52.01–52.1018)	(869–052–00139–2)	60.00	July 1, 2004
52 (52.1019–End)	(869–052–00140–6)	61.00	July 1, 2004
53–59	(869–052–00141–4)	31.00	July 1, 2004
60 (60.1–End)	(869–052–00142–2)	58.00	July 1, 2004
60 (Apps)	(869–052–00143–1)	57.00	July 1, 2004
61–62	(869–052–00144–9)	45.00	July 1, 2004
63 (63.1–63.599)	(869–052–00145–7)	58.00	July 1, 2004
63 (63.600–63.1199)	(869–052–00146–5)	50.00	July 1, 2004
63 (63.1200–63.1439)	(869–052–00147–3)	50.00	July 1, 2004
63 (63.1440–63.8830)	(869–052–00148–1)	64.00	July 1, 2004
63 (63.8980–End)	(869–052–00149–0)	35.00	July 1, 2004
64–71	(869–052–00150–3)	29.00	July 1, 2004
72–80	(869–052–00151–1)	62.00	July 1, 2004
81–85	(869–052–00152–0)	60.00	July 1, 2004
86 (86.1–86.599–99)	(869–052–00153–8)	58.00	July 1, 2004
86 (86.600–1–End)	(869–052–00154–6)	50.00	July 1, 2004
87–99	(869–052–00155–4)	60.00	July 1, 2004
100–135	(869–052–00156–2)	45.00	July 1, 2004
136–149	(869–052–00157–1)	61.00	July 1, 2004
150–189	(869–052–00158–9)	50.00	July 1, 2004
190–259	(869–052–00159–7)	39.00	July 1, 2004
260–265	(869–052–00160–1)	50.00	July 1, 2004
266–299	(869–052–00161–9)	50.00	July 1, 2004
300–399	(869–052–00162–7)	42.00	July 1, 2004
400–424	(869–052–00163–5)	56.00	[8]July 1, 2004
425–699	(869–052–00164–3)	61.00	July 1, 2004
700–789	(869–052–00165–1)	61.00	July 1, 2004
790–End	(869–052–00166–0)	61.00	July 1, 2004
41 Chapters:			
1, 1–1 to 1–10		13.00	[3]July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3]July 1, 1984
3–6		14.00	[3]July 1, 1984
7		6.00	[3]July 1, 1984
8		4.50	[3]July 1, 1984
9		13.00	[3]July 1, 1984
10–17		9.50	[3]July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3]July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3]July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3]July 1, 1984
19–100		13.00	[3]July 1, 1984
1–100	(869–052–00167–8)	24.00	July 1, 2004
101	(869–052–00168–6)	21.00	July 1, 2004
102–200	(869–052–00169–4)	56.00	July 1, 2004
201–End	(869–052–00170–8)	24.00	July 1, 2004
42 Parts:			
1–399	(869–052–00171–6)	61.00	Oct. 1, 2004
400–429	(869–052–00172–4)	63.00	Oct. 1, 2004
430–End	(869–052–00173–2)	64.00	Oct. 1, 2004
43 Parts:			
1–999	(869–052–00174–1)	56.00	Oct. 1, 2004
1000–end	(869–052–00175–9)	62.00	Oct. 1, 2004
44	(869–052–00176–7)	50.00	Oct. 1, 2004
45 Parts:			
1–199	(869–052–00177–5)	60.00	Oct. 1, 2004
200–499	(869–052–00178–3)	34.00	Oct. 1, 2004
500–1199	(869–052–00179–1)	56.00	Oct. 1, 2004
1200–End	(869–052–00180–5)	61.00	Oct. 1, 2004
46 Parts:			
1–40	(869–052–00181–3)	46.00	Oct. 1, 2004
41–69	(869–052–00182–1)	39.00	Oct. 1, 2004
70–89	(869–052–00183–0)	14.00	Oct. 1, 2004
90–139	(869–052–00184–8)	44.00	Oct. 1, 2004
140–155	(869–052–00185–6)	25.00	Oct. 1, 2004
156–165	(869–052–00186–4)	34.00	Oct. 1, 2004
166–199	(869–052–00187–2)	46.00	Oct. 1, 2004
200–499	(869–052–00188–1)	40.00	Oct. 1, 2004
500–End	(869–052–00189–9)	25.00	Oct. 1, 2004
47 Parts:			
0–19	(869–052–00190–2)	61.00	Oct. 1, 2004
20–39	(869–052–00191–1)	46.00	Oct. 1, 2004
40–69	(869–052–00192–9)	40.00	Oct. 1, 2004
70–79	(869–052–00193–8)	63.00	Oct. 1, 2004
80–End	(869–052–00194–5)	61.00	Oct. 1, 2004
48 Chapters:			
1 (Parts 1–51)	(869–052–00195–3)	63.00	Oct. 1, 2004
1 (Parts 52–99)	(869–052–00196–1)	49.00	Oct. 1, 2004
2 (Parts 201–299)	(869–052–00197–0)	50.00	Oct. 1, 2004
3–6	(869–052–00198–8)	34.00	Oct. 1, 2004
7–14	(869–052–00199–6)	56.00	Oct. 1, 2004
15–28	(869–052–00200–3)	47.00	Oct. 1, 2004
29–End	(869–052–00201–1)	47.00	Oct. 1, 2004

Title	Stock Number	Price	Revision Date
49 Parts:			
1–99	(869–052–00202–0)	60.00	Oct. 1, 2004
100–185	(869–052–00203–8)	63.00	Oct. 1, 2004
186–199	(869–052–00204–6)	23.00	Oct. 1, 2004
200–399	(869–052–00205–4)	64.00	Oct. 1, 2004
400–599	(869–052–00206–2)	64.00	Oct. 1, 2004
600–999	(869–052–00207–1)	19.00	Oct. 1, 2004
1000–1199	(869–052–00208–9)	28.00	Oct. 1, 2004
1200–End	(869–052–00209–7)	34.00	Oct. 1, 2004
50 Parts:			
1–16	(869–052–00210–1)	11.00	Oct. 1, 2004
17.1–17.95	(869–052–00211–9)	64.00	Oct. 1, 2004
17.96–17.99(h)	(869–052–00212–7)	61.00	Oct. 1, 2004
17.99(i)–end and 17.100–end	(869–052–00213–5)	47.00	Oct. 1, 2004
18–199	(869–052–00214–3)	50.00	Oct. 1, 2004
200–599	(869–052–00215–1)	45.00	Oct. 1, 2004
600–End	(869–052–00216–0)	62.00	Oct. 1, 2004
CFR Index and Findings Aids	(869–052–00049–3)	62.00	Jan. 1, 2004
Complete 2005 CFR set		1,342.00	2005
Microfiche CFR Edition:			
Subscription (mailed as issued)		325.00	2005
Individual copies		4.00	2005
Complete set (one-time mailing)		325.00	2004
Complete set (one-time mailing)		298.00	2003

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2004, through January 1, 2005. The CFR volume issued as of January 1, 2004 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2004. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2004. The CFR volume issued as of July 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2002, through July 1, 2004. The CFR volume issued as of July 1, 2002 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2003, through July 1, 2004. The CFR volume issued as of July 1, 2003 should be retained.