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Rules and Regulations

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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.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1033

[Docket No. AO–166–A72; DA–05–01–A]

Milk in the Mideast Marketing Area; Order Amending the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, an interim final rule concerning pooling standards of the Mideast Federal milk order. More than the required number of producers for the Mideast marketing area approved the issuance of the final order amendments.

DATES: *Effective Date:* May 1, 2006.

FOR FURTHER INFORMATION CONTACT: Gino Tosi, Associate Deputy Administrator for Order Formulation and Enforcement, USDA/AMS/Dairy Programs, STOP 0231–Room 2971, 1400 Independence Avenue, SW., Washington, DC 20250–0231, (202) 690–1366, e-mail: *gino.tosi@usda.gov.*

SUPPLEMENTARY INFORMATION: This document adopts as a final rule, without change, an interim final rule concerning pooling standards of the Mideast Federal milk order. Specifically, this decision adopts provisions that will: (1) Prohibit the ability to simultaneously pool the same milk on the Mideast Federal milk order and on a marketwide equalization pool administered by another government entity; (2) Lower the diversion limit standards; and (3) Increase the performance standards for supply plants.

This administrative rule is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

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

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The Act provides that the District Court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Department's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $750,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees.

For the purposes of determining which dairy farms are ''small businesses,'' the $750,000 per year criterion was used to establish a marketing guideline of 500,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

During March 2005, the month during which the hearing occurred, there were 9,767 dairy producers pooled on, and 36 handlers regulated by, the Mideast order. Approximately 9,212 producers, or 94.3 percent, were considered small businesses based on the above criteria. Of the 36 handlers regulated by the Mideast order, approximately 26 handlers, or 72.2 percent, were considered small businesses.

The adoption of the proposed pooling standards serve to revise established criteria that determine the producer milk that has a reasonable association with and consistently serves the fluid needs of the Mideast milk marketing area. Criteria for pooling are established on the basis of performance levels that are considered adequate to meet the Class I fluid needs and, by doing so, determine those that are eligible to share in the revenue that arises from the classified pricing of milk. Criteria for pooling are established without regard to the size of any dairy industry organization or entity. The criteria established are applied in an equal fashion to both large and small businesses and do not have any different economic impact on small entities as opposed to large entities. Therefore, the amendments will not have a significant economic impact on a substantial number of small entities.

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). It was determined that these amendments would have no impact on reporting, recordkeeping, or other compliance requirements because they would remain identical to the current requirements. No new forms are proposed and no additional reporting requirements would be necessary.

This action does not require additional information collection that requires clearance by the Office of Management and Budget (OMB) beyond currently approved information collection. The primary sources of data used to complete the forms are routinely used in most business transactions. Forms require only a minimal amount of

information, which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than the industry average.

Prior documents in this proceeding:

Notice of Hearing: Issued February 14, 2005; published February 17, 2005 (70 FR 8043).

Amendment to Public Hearing on Proposed Rulemaking: Issued March 1, 2005; published March 3, 2005 (70 FR 10337).

Tentative Partial Decision: Issued July 21, 2005; published July 27, 2005 (70 FR 43335).

Interim Final Rule: Issued September 20, 2005; published September 26, 2005 (70 FR 56111).

Final Partial Decision: Issued January 17, 2006; published January 23, 2006 (71 FR 3435).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Mideast order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to the Mideast order:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900), a public hearing was held in regard to certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Mideast marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof it is found that:

(1) The Mideast order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feed, available supplies of feed, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the order, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The Mideast order, as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

The amendments to these orders are known to handlers. A final partial decision containing the proposed amendments to these orders was issued on January 17, 2006. An interim final rule adopting these pooling standards on an interim basis was issued on September 20, 2005.

The changes that result from these amendments will not require extensive preparation or substantial alteration in the method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making these order amendments effective May 1, 2006. It would be contrary to the public interest to delay the effective date of these amendments for 30 days after their publication in the **Federal Register**. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559.)

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk that is marketed within the specified marketing area to sign a proposed marketing agreement tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of the order amending the Mideast order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended;

(3) The issuance of the order amending the Mideast order is favored by at least two-thirds of the producers who were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1033

Milk marketing orders.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Mideast marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby further amended, as follows:

PART 1033—MILK IN THE MIDEAST MARKETING AREA

The interim final rule amending 7 CFR part 1033 which was published at 70 FR 56111 on September 26, 2005, is adopted as a final rule without change.

Dated: April 17, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–3775 Filed 4–19–06; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150–AH88

Implementation of the Nuclear Export and Import Provisions of the Energy Policy Act of 2005

AGENCY: Nuclear Regulatory Commission

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations that govern the export and import of nuclear equipment and material to implement provisions of the Energy Policy Act of 2005 signed into law on August 8, 2005. This amendment will facilitate exports to specified countries of high-enriched uranium for medical isotope production in reactors that are either utilizing low-enriched uranium (LEU) fuel or have agreed to convert to the use of LEU fuel. In addition, this final rule revises the definition of byproduct material to include discrete sources of radium-226, accelerator-produced radioactive material, and discrete sources of naturally occurring radioactive material. Finally, the rule will require specific licenses for exports and imports of radium-226 that meet the threshold values of the International Atomic Energy Agency's Code of Conduct on the Safety and Security of Radioactive Sources.

DATES: This final rule will become effective August 7, 2006.

ADDRESSES: Copies of the final rule and related documents may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Public File Area O1F21, Rockville, Maryland. These documents are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/*

adams.html. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For further information contact the PDR reference staff at 1 (800) 387–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.* the final rule and related documents are also available on the NRC's rulemaking Web site at *http://ruleforum.linl.gov.* Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; e-mail *cag@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Brooke G. Smith, International Policy Analyst, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2347, e-mail *bgs@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary and Background

The purpose of this final rule is to amend the Commission's regulations at 10 CFR part 110, ''Export and Import of Nuclear Equipment and Material,'' to implement sections 630, 651(d), and 651(e) of the energy Policy Act of 2005 (EPAct), which was signed into law on August 8, 2005.

Section 630, ''Medical Isotope Production,'' of the EPAct, amended section 134 of the Atomic Energy Act of 1954, as amended (AEA), to facilitate the timely export to a ''Recipient Country'' of high-enriched uranium (HEU) for medical isotope production in reactors that are either utilizing low-enriched uranium (LEU) fuel or have agreed to convert to the use of LEU fuel. A ''Recipient Country'' is defined in section 630 as Canada, Belgium, France, Germany, and the Netherlands. The EPAct also requires the Commission to review and impose, via license conditions or other appropriate means, physical protection requirements that are applicable to the transportation and storage of HEU for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

Specifically, before issuing licenses authorizing the export of HEU in the form of fuel or targets for the production of medical isotopes to Canada, Belgium, France, Germany, and the Netherlands, the Commission must find that the Recipient Country has provided the United States with written assurances that any intermediate consignees and the ultimate consignee specified in the export application are required to use the HEU solely to produce medical isotopes. Further, the Commission must determine that the HEU will be irradiated in a reactor in a Recipient Country that uses an alternative nuclear reactor fuel, e.g., LEU, or is the subject of an agreement with the U.S. to convert to an alternative nuclear fuel when that fuel can be used in the reactor.

Section 630 suspends for the Recipient Countries (until the Secretary of Energy makes certain findings) the portions of section 134 of the AEA that required the Commission to make certain findings with respect to the use of LEU targets to produce medical isotopes before issuing an export license for HEU for medical isotope production.

This final rule amends § 110.42(a)(9) to reflect the revised export criteria with regard to export applications to Recipient Countries for medical isotope production. Although the implementing regulations promulgated will not take effect until August 7, 2006, NRC export licensing decisions have been governed by section 134 of the AEA, as amended by section 630 of the EPAct, since August 8, 2005. The NRC already evaluates the adequacy of the proposed physical protection measures under § 110.42(a)(3) when it evaluates individual export license applications, and has the authority to impose additional requirements in the license as the Commission deems necessary. Therefore, no rule changes are necessary to implement the statutory provision.

Section 651(d), ''Radiation Source Protection,'' of the EPAct amended the AEA by imposing new requirements pertaining to the export or import of Category 1 or Category 2 radiation sources as defined by the International Atomic Energy Agency (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources (Code of Conduct) (and any other material that poses a threat, as determined by the Commission, other than spent nuclear fuel and special nuclear materials). The Code of Conduct includes sixteen categories of byproduct material sources, including radium-226. On July 1, 2005 (70 FR 37985), the Commission issued final regulations amending part 110 that together with other existing regulations satisfy the requirements of section 651(d) for the export and import of radioactive sources. However, at the time the July 2005 rule was issued, the Commission did not have authority to regulate radium-226; therefore, radium-226 was not listed in Appendix P to part 110 or covered by the scope for the July 2005 rule. The Commission provided notice that radium-226 would be added to Appendix P to part 110, consistent with the Code of Conduct, if Congress conferred upon the Commission jurisdiction over radium-226. Section 651(e) of the EPAct amended the definition of byproduct material in section 11e. of the AEA to include discrete sources of radium-226. Consistent with the notice provided in the July 2005 rule and the authority conferred upon the Commission by Congress in section 651(e) of the EPAct, this rule amends Appendix P to include Category 1 and Category 2 quantities of discrete sources of radium-226.

Section 651(e) of the EPAct amends section 11e. of the AEA to place accelerator-produced material, discrete sources of radium-226, and certain discrete sources of naturally-occurring radioactive material, other than source material, under NRC regulatory authority if produced, extracted, or converted for use in commercial, medical, or research activities. This rule amends Appendix L to part 110, ''Illustrative List of Byproduct Materials under NRC Export/Import Licensing Authority,'' to include discrete sources of radium-226 and accelerator-produced radioactive material. Prior to the enactment of the EPAct, the Department of Commerce (DOC) had jurisdiction over the export of radium-226. As provided by the EPAct, discrete sources of radium-226 will fall under NRC's jurisdiction; however, jurisdiction over the export of non-discrete sources of radium-226 will remain in DOC's jurisdiction. The Commission intends to define the term ''discrete source'' in a separate rulemaking.

Waiver of Notice and Comment Requirement

This rule revises the Commission's regulations solely to incorporate provisions pertaining to the export and import licensing included in the EPAct. This rule tracks statutory provisions and the drafting of it did not involve the exercise of discretionary decision-making. Good cause exists under 5 U.S.C. 553(b)(3)(B) to publish this final rule without soliciting public comment because public comment under these circumstances would serve no useful purpose and therefore, is unnecessary and contrary to the public interest.

Effective Date of Rule and Expiration of Time-Limited Waiver

The effective date of this rule, August 7, 2006, coincides with the expiration of a time-limited waiver pertaining to NRC regulation of the import and export of the new categories of byproduct material added to AEA section 11e. by the EPAct. *See* Energy Policy Act of 2005 Requirements; Treatment of Accelerator-Produced and other Radioactive Material as Byproduct

Material; Waiver, 70 FR 51581 (August 31, 2005).

The NRC has determined that this rule will pose no unreasonable risk to the public health and safety or the common defense and security.

II. Section by Section Analysis of Substantive Changes

Subpart A—General Provisions

Section 110.2. The definition of ''byproduct material'' has been revised to be consistent with section 651(e)(1) of the EPAct which amended the definition of byproduct material in section 11e. of the AEA to place accelerator-produced material, discrete sources of radium-226, and certain discrete sources of naturally occurring radioactive material, other than source material, under NRC regulatory authority if they are produced, extracted, or converted for use in commercial, medical, or research activities.

The terms ''medical isotope,'' ''radiopharmaceutical,'' and ''Recipient Country'' have been added to this section consistent with the section 630 of the EPAct which amended section 134 of the AEA.

Subpart D—Review of License Applications

Section 110.42. A new paragraph (a)(9) is amended to incorporate the requirements set forth in section 630 of the EPAct regarding medical isotope production.

Appendix L to Part 110—Illustrative List of Byproduct Materials Under NRC Export/Import Licensing Authority. The list of byproduct material in Appendix L is amended to add radium-226. Under the EPAct, the definition of byproduct material was expanded to include discrete sources of radium-226. The import or export of discrete sources of radium-226 that are below the threshold limits for radium-226 listed in Appendix P to part 110 may be accomplished through a general license set forth in 10 CFR 110.23. In addition, a footnote is added to Appendix L to indicate that the NRC has import and export authority over any accelerator-produced material that was produced, extracted or converted for use for a commerical medical, or research activity. A second footnote is added to Appendix L to indicate that NRC has import and export authority or discrete sources of radium-226.

Appendix P to Part 110—Category 1 and 2 Radioactive Material

Table 1.—Import and Export Threshold Limits

The list of category 1 and 2 radioactive material in Appendix P is amended to add radium-226 and the corresponding threshold limits for Category 1 and 2 quantities consistent with the values in Table 1 of the IAEA Code of Conduct. A specific license is required for the import or export of discrete sources of radium-226 meeting the threshold quantities listed in Table 1 of Appendix P. A footnote is added to the list in Appendix P to indicate that the NRC has import and export authority over discrete sources of radium-226.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113). requires that Federal Agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or otherwise impractical. This final rule does not constitute the establishment of a standard for which the use of a voluntary consensus standard would be applicable.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule implements the provisions of the Energy Policy Act of 2005, sections 630, 651(d), and 651(e). The final rule does not impact the information collection burden for 10 CFR part 110 licensees. Any burden for licensing actions would be against NRC Form 7 (3150–0027). However, few, if any, licensing actions are expected to be submitted. Because the burden for this information collection is insignificant, Office of Management and Budget (OMB) clearance is not required. Existing requirements were approved by the OMB, approval number 3150–0036.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or any information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

The EPAct, which was signed into law on August 8, 2005, amended the definition of byproduct material in the Atomic Energy Act of 1954, as amended to include discrete sources of radium-226 and conferred regulatory authority of it to the NRC. Previously, radium-226 was under the jurisdiction of the U.S. Department of Commerce. The NRC is amending its regulations at 10 CFR part 110 to add radium-226 to the list of radioactive material in Appendix P to part 110. Shipments of radium-226 at or above the Category 2 level will require a specific license. This change to part 110 fulfills the mandate from Congress in section 651(d) and (e) of the EPAct and with the IAEA Code of Conduct. Additionally, to implement section 630, ''Medical Isotope Production,'' of the EPAct, this final rule amends 10 CFR 110.42, ''Export licensing criteria.'' There is no alternative to amending the regulations at 10 CFR part 110 to reflect changes in law. This final rule is expected to have an insignificant increase in the information collection burden and cost to the public for applications to export or import radium-226 at the quantities listed in Appendix P to part 110.

Backfit Analysis

The NRC has determined that a backfit analysis is not required for this rule because these amendments do not include any provisions that would impose backfits as defined in 10 CFR Chapter I.

Congressional Review Act

Under the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

■ For the reasons set out in the premble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 110.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

■ 1. The authority citation for part 110 is revised to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 134, 161, 170H., 181, 182, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2160d., 2201, 2210h., 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841; sec. 5, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d, 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.30–110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42(a)(9) also issued under sec. 903, Pub. L. 102–496 (42 U.S.C. 2151 et seq.).

■ 2. In § 110.2, the definition of *Byproduct material* is revised, and definitions for *Medical isotope, Radiopharmaceutical,* and *Recipient Country* are added in alphabetical order to read as follows:

§ 110.2 Definitions.

* * * * *

Byproduct material means

(1) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(2) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore (see 10 CFR 20.1003);

(3)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted after extraction, before, on, or after August 8, 2005 for use for a commercial, medical, or research activity; and

(4) Any discrete source of naturally occurring radioactive material, other than source material, that—

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005 is extracted or converted after extraction for use in a commercial, medical, or research activity.

* * * * *

Medical isotope, for the purposes of § 110.42(a)(10), includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development

* * * * *

Radiopharmaceutical, for the purposes of § 110.42(a)(10), means a radioactive isotope that contains byproduct material combined with chemical or biological material and is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

Recipient Country, for the purposes of § 110.42(a)(10), means Canada, Belgium, France, Germany, and the Netherlands.

* * * * *

■ 3. In § 110.42, paragraph (a)(9)(i) is revised, paragraph (a)(9)(ii) is redesignated as paragraph (a)(9)(iii), and new paragraph (a)(9)(ii) is added to read as follows:

§ 110.42 Export licensing criteria.

(a) * * *

(9)(i) Except as provided in paragraph (a)(9)(ii) of this section, exports of high-enriched uranium to be used as a fuel or target in a nuclear research or test reactor, the Commission determines that:

(A) There is no alternative nuclear reactor fuel or tart enriched to less than 20 percent in the isotope U–235 that can be used in that reactor;

(B) The proposed recipient of the uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative fuel or target in lieu of highly-enriched uranium; and

(C) The United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

(ii) With regard to a Recipient Country, the Commission may issue a license authorizing the export of high-enriched uranium for medical isotope production, including shipment to and use at intermediate and ultimate consignees, if the Commission determines that:

(A) The Recipient Country has supplied an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that any intermediate consignees and the ultimate consignee specified in the export license application are required to use the high-enriched uranium solely for the production of medical isotopes; and

(B) The high-enriched uranium will be irradiated only in a reactor in the Recipient Country that—

(*1*) Uses an alternative nuclear fuel; or

(*2*) Is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.

* * * * *

■ 4. Appendix L to part 110 is amended by adding new footnote a to the title of Appendix L, by amending the list of byproduct material by adding ''Radium-226 (Ra 226)'' in alphabetical order, and by adding new footnote b to read as follows:

Appendix L to Part 110—Illustrative List of Byproduct Materials Under NRC Export/Import Licensing Authority [a]

* * * * *

Radium-226 (Ra-226) [b]

* * * * *

■ 5. Appendix P to part 110 is amended by adding ''Radium-226'' in alphabetical order to Table 1. and new footnote a to read as follows:

Appendix P to Part 110—High Risk Radioactive Material

[a] Any accelerator-produced material produced, extracted, or converted for use for a commercial, medical, or research activity.

[b] Discrete sources of radium-226 (Ra-226).

TABLE 1.—IMPORT AND EXPORT THRESHOLD LIMITS

Radioactive material	Category 1		Category 2	
	Terabequerels (TBq)	Curies (Ci)	Terabequerels (TBq)	Curies (Ci)
* * * *	*	*	*	
Radium-226 [a]	40	1,100	0.4	11
* * * *	*	*	*	

[a] Discrete sources of radium-226.

Dated at Rockville, Maryland, this 4th day of April, 2006.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Executive Director for Operations.

[FR Doc. 06–3664 Filed 4–17–06; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 202

[Release No. 34–53638]

RIN 3235–AJ55

Policy Statement Concerning Subpoenas to Members of the News Media

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; policy statement.

SUMMARY: The Securities and Exchange Commission is issuing a policy statement concerning the issuance of subpoenas to members of the media. This policy statement sets forth guidelines for the agency's professional staff to ensure that vigorous enforcement of the Federal securities laws is conducted completely consistently with the principles of the First Amendment's guarantee of freedom of the press, and specifically to avoid the issuance of subpoenas to members of the media that might impair the news gathering and reporting functions.

DATES: *Effective Date:* April 12, 2006.

FOR FURTHER INFORMATION CONTACT: Joan McKown (202–551–4933), Office of the Chief Counsel, Division of Enforcement, or Richard Levine (202–551–5468), Office of General Counsel.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is issuing a policy statement concerning the issuance of subpoenas to members of the media. In this policy statement the Commission sets forth guidelines for the agency's professional staff to ensure that vigorous enforcement of the federal securities laws is conducted completely consistently with the principles of the First Amendment's guarantee of freedom of the press, and specifically to avoid the issuance of subpoenas to members of the media that might impair the news gathering and reporting functions.

Regulatory Requirements

The provisions of the Administrative Procedure Act (''APA'') regarding notice of proposed rulemaking, opportunities for public comment, and prior publication are not applicable to general statements of policy, such as this one.[1] Similarly, the provisions of the Regulatory Flexibility Act,[2] which apply only when notice and comment are required by the APA or another statute, are not applicable.

List of Subjects in 17 CFR Part 202

Administrative practice and procedure.

Text of Amendment

■ In accordance with the foregoing, the Securities and Exchange Commission amends 17 CFR chapter II as follows:

PART 202—INFORMAL AND OTHER PROCEDURES

■ 1. The authority citation for part 202 continues to read, in part, as follows:

Authority: 15 U.S.C. 77s, 77t, 78d–1, 78u, 78w, 78*ll*(d), 79r, 79t, 77sss, 77uuu, 80a–37, 80a–41, 80b–9, and 80b–11, unless otherwise noted.

* * * * *

■ 2. Add § 202.10 to read as follows:

§ 202.10 Policy statement of the Securities and Exchange Commission concerning subpoenas to members of the news media.

Freedom of the press is of vital importance to the mission of the Securities and Exchange Commission. Effective journalism complements the Commission's efforts to ensure that investors receive the full and fair disclosure that the law requires, and that they deserve. Diligent reporting is an essential means of bringing securities law violations to light and ultimately helps to deter illegal conduct. In this *Policy Statement the Commission sets forth guidelines for the agency's professional staff* to ensure that vigorous enforcement of the federal securities laws is conducted completely consistently with the principles of the First Amendment's guarantee of freedom of the press, and specifically to avoid the issuance of subpoenas to members of the media that might impair the news gathering and reporting functions. These guidelines shall be adhered to by all members of the staff in all cases:

(a) In determining whether to issue a subpoena to a member of the news media, the approach in every case must be to strike the proper balance between the public's interest in the free dissemination of ideas and information and the public's interest in effective enforcement of the federal securities laws.

(b) When the staff investigating a matter determines that a member of the news media may have information relevant to the investigation, the staff should:

(1) Determine whether the information might be obtainable from alternative non-media sources.

(2) Make all reasonable efforts to obtain that information from those alternative sources. Whether all reasonable efforts have been made will depend on the particular circumstances of the investigation, including whether there is an immediate need to preserve assets or protect investors from an ongoing fraud.

(3) Determine whether the information is essential to successful completion of the investigation.

(c) If the information cannot reasonably be obtained from alternative sources and the information is essential to the investigation, then the staff, after seeking approval from the responsible Regional Director, District Administrator, or Associate Director,

[1] 5 U.S.C. 553.

[2] 5 U.S.C. 601–602.

should contact legal counsel for the member of the news media. Staff should contact a member of the news media directly only if the member is not represented by legal counsel. The purpose of this contact is to explore whether the member may have information essential to the investigation, and to determine the interests of the media with respect to the information. If the nature of the investigation permits, the staff should make clear what its needs are as well as its willingness to respond to particular problems of the media. The staff should consult with the Commission's Office of Public Affairs, as appropriate.

(d) The staff should negotiate with news media members or their counsel, consistently with this Policy Statement, to obtain the essential information through informal channels, avoiding the issuance of a subpoena, if the responsible Regional Director, District Administrator, or Associate Director determines that such negotiations would not substantially impair the integrity of the investigation. Depending on the circumstances of the investigation, informal channels may include voluntary production, informal interviews, or written summaries.

(e) If negotiations are not successful in achieving a resolution that accommodates the Commission's interest in the information and the media's interests without issuing a subpoena, the staff investigating the matter should then consider whether to seek the issuance of a subpoena for the information. The following principles should guide the determination of whether a subpoena to a member of the news media should be issued:

(1) There should be reasonable grounds to believe that the information sought is essential to successful completion of the investigation. The subpoena should not be used to obtain peripheral or nonessential information.

(2) The staff should have exhausted all reasonable alternative means of obtaining the information from non-media sources. Whether all reasonable efforts have been made to obtain the information from alternative sources will depend on the particular circumstances of the investigation, including whether there is an immediate need to preserve assets or protect investors from an ongoing fraud.

(f) If there are reasonable grounds to believe the information sought is essential to the investigation, all reasonable alternative means of obtaining it have been exhausted, and all efforts at negotiation have failed, then the staff investigating the matter shall seek authorization for the subpoena from the Director of the Division of Enforcement. No subpoena shall be issued unless the Director, in consultation with the General Counsel, has authorized its issuance.

(g) In the event the Director of the Division of Enforcement, after consultation with the General Counsel, authorizes the issuance of a subpoena, notice shall immediately be provided to the Chairman of the Commission.

(h) Counsel (or the member of the news media, if not represented by counsel) shall be given reasonable and timely notice of the determination of the Director of the Division of Enforcement to authorize the subpoena and the Director's intention to issue it.

(i) Subpoenas should be negotiated with counsel for the member of the news media to narrowly tailor the request for only essential information. In negotiations with counsel, the staff should attempt to accommodate the interests of the Commission in the information with the interests of the media.

(j) Subpoenas should, wherever possible, be directed at material information regarding a limited subject matter, should cover a reasonably limited period of time, and should avoid requiring production of a large volume of unpublished material. They should give reasonable and timely notice of their demand for documents.

(k) In the absence of special circumstances, subpoenas to members of the news media should be limited to the verification of published information and to surrounding circumstances relating to the accuracy of published information.

(l) Because the intent of this policy statement is to protect freedom of the press, news gathering functions, and news media sources, this policy statement does not apply to demands for purely commercial or financial information unrelated to the news gathering function.

(m) Failure to follow this policy may constitute grounds for appropriate disciplinary action. The principles set forth in this statement are not intended to create or recognize any legally enforceable rights in any person.

By the Commission.

Dated: April 12, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. 06–3739 Filed 4–19–06; 8:45 am]

BILLING CODE 8010–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL–8055–7]

Idaho: Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Resource Conservation and Recovery Act, as amended (RCRA), allows EPA to authorize State hazardous waste management programs if EPA finds that such programs are equivalent and consistent with the Federal program and provide adequate enforcement of compliance. Title 40 of the Code of Federal Regulations (CFR) Part 272 is used by EPA to codify its decision to authorize individual State programs and incorporates by reference those provisions of the State statutes and regulations that are subject to EPA's inspection and enforcement authorities as authorized provisions of the State's program. This final rule revises the codification of the Idaho authorized program.

DATES: This final rule is effective on April 20, 2006. The incorporation by reference of authorized provisions in the Idaho statutes and regulations contained in this rule is approved by the Director of the Federal Register as of April 20, 2006 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R10–RCRA–2005–0465. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy by contacting Jeff Hunt, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail stop AWT–122, Seattle, WA 98101, e-mail: *hunt.jeff@epa.gov,* phone number (206) 553–0256.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail stop AWT–122, Seattle, WA 98101, e-mail: *hunt.jeff@epa.gov,* phone number (206) 553–0256.

SUPPLEMENTARY INFORMATION:

I. Incorporation By Reference

A. What Is Codification?

Codification is the process of including the statutes and regulations that comprise the State's authorized hazardous waste management program in the CFR. Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs. The State regulations authorized by EPA supplant the federal regulations concerning the same matter with the result that after authorization EPA enforces the authorized regulations. Infrequently, State statutory language which acts to regulate a matter is also authorized by EPA with the consequence that EPA enforces the authorized statutory provision. EPA does not authorize State enforcement authorities and does not authorize State procedural requirements. EPA codifies the authorized State program in 40 CFR Part 272 and incorporates by reference State statutes and regulations that make up the approved program which is Federally enforceable. EPA retains the authority to exercise its inspection and enforcement authorities in accordance with Sections 3007, 3008, 3013 and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973, and any other applicable statutory and regulatory provisions.

Today's action codifies EPA's authorization of revisions to Idaho's hazardous waste management program. This codification reflects the State program in effect at the time EPA authorized revisions to the Idaho hazardous waste management program in a final rule dated July 22, 2005 (70 FR 42273). Notice and an opportunity for comment regarding the revisions to the authorized State program were provided to the public at the time those revisions were proposed.

B. What Is the History of the Authorization and Codification of Idaho's Hazardous Waste Management Program?

Idaho initially received final authorization for its hazardous waste management program, effective April 9, 1990 (55 FR 11015). Subsequently, EPA authorized revisions to the State's program effective June 5, 1992 (57 FR 11580), August 10, 1992 (57 FR 24757), June 11, 1995 (60 FR 18549), January 19, 1999 (63 FR 56086), July 1, 2002 (67 FR 44069), March 10, 2004 (69 FR 11322), and July 22, 2005 (70 FR 42273). EPA first codified Idaho's authorized hazardous waste program effective February 4, 1991 (55 FR 50327), and updated the codification of Idaho's program on June 5, 1992 (57 FR 11580), August 10, 1992 (57 FR 24757), August 24, 1999 (64 FR 34133), and March 8, 2005 (70 FR 11132). In this action, EPA is finalizing the revision of Subpart N of 40 CFR Part 272, to include the most recent authorization revision effective July 22, 2005 (70 FR 42273).

C. What Decisions Have We Made in This Action?

In a **Federal Register** notice published December 19, 2005 (70 FR 75098), EPA sought public comment on the proposal to codify EPA's authorization of revisions to Idaho's hazardous waste management program. The comment period for this proposed rule ended January 18, 2006, and EPA received no comments. Therefore, today's action codifies Idaho's hazardous waste management program as proposed.

EPA is incorporating by reference the authorized revisions to the Idaho hazardous waste program by revising subpart N of 40 CFR part 272. 40 CFR part 272, Subpart N, § 272.651 previously incorporated by reference Idaho's authorized hazardous waste program, as amended, through 2004. Section 272.651 also references the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provide the legal basis for the State's implementation of the hazardous waste management program. In addition, Section 272.651 references the Memorandum of Agreement, the Attorney General's Statement and the Program Description which were evaluated as part of the approval process of the hazardous waste management program in accordance with Subtitle C of RCRA.

D. What Is the Effect of Idaho's Codification on Enforcement?

EPA retains the authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and any other applicable statutory and regulatory provisions, to undertake inspections and enforcement actions and to issue orders in all authorized States. With respect to enforcement actions, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State analogues to these provisions. Therefore, the EPA is not incorporating by reference Idaho's inspection and enforcement authorities nor are those authorities part of Idaho's approved State program which operates in lieu of the Federal program. 40 CFR 272.651(b)(2) lists these authorities for informational purposes, and also because EPA considered them in determining the adequacy of Idaho's enforcement authorities. This action revises this listing for informational purposes where these authorities have changed under Idaho's revisions to State law and were considered by EPA in determining the adequacy of Idaho's enforcement authorities. Idaho's authority to inspect and enforce the State's hazardous waste management program requirements continues to operate independently under State law.

E. What State Provisions Are Not Part of the Codification?

Some provisions of Idaho's hazardous waste management program are not part of the federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are ''broader in scope'' than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which Idaho is not authorized, but which have been incorporated into the State regulations because of the way the State adopted federal regulations by reference;

(3) State procedural and enforcement authorities which are necessary to establish the ability of the program to enforce compliance but which do not supplant the Federal statutory enforcement and procedural authorities.

State provisions that are ''broader in scope'' than the federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.651(b)(3) currently lists the Idaho regulatory provisions which are ''broader in scope'' than the federal program and which are not part of the authorized program being incorporated by reference. This action updates that list for ''broader in scope'' provisions EPA identified in recent authorization actions for revisions to the State program. While ''broader in scope'' provisions are not part of the authorized program and cannot be enforced by EPA, the State may enforce such provisions under State law.

F. What Will Be the Effect of Codification on Federal HSWA Requirements?

With respect to any requirement(s) pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized and which EPA has identified as taking effect immediately in States with authorized hazardous waste management programs, EPA will enforce those Federal HSWA standards until the State is authorized for those provisions.

The Codification does not affect Federal HSWA requirements for which

the State is not authorized. EPA has authority to implement HSWA requirements in all States, including States with authorized hazardous waste management programs, until the States become authorized for such requirements or prohibitions unless EPA has identified the HSWA requirement(s) as an optional or as a less stringent requirement of the Federal program. A HSWA requirement or prohibition, unless identified by EPA as optional or as less stringent, supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985).

Some existing State requirements may be similar to the HSWA requirements implemented by EPA. However, until EPA authorizes those State requirements, EPA enforces the HSWA requirements and not the State analogs.

II. Statutory and Executive Order Reviews

This rule codifies revisions to Idaho's authorized hazardous waste program and imposes no requirements other than those currently imposed by State law. This rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866

Under Executive Order 12866 (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. 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. It has been determined that this final rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

2. 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.*, because this final rule does not establish or modify any information or recordkeeping requirements for the regulated community and only codifies the pre-existing requirements under State law authorized by EPA and imposes no additional requirements beyond those imposed by State law.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR Part 9.

3. Regulatory Flexibility

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), 5 U.S.C. 601, *et seq.*, generally requires federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administrations' Size Regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. EPA has determined that this action will not have a significant economic impact on small entities because the final rule will only have the effect of codifying the authorized pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law. After considering the economic impacts of today's rule, I certify that this action will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 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 one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why the 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, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal

governments or the private sector. It imposes no new enforceable duty on any State, local or tribal governments or the private sector. Similarly, EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, today's rule is not subject to the requirements of sections 202 and 203 of the UMRA.

5. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government.'' This 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 various levels of government, as specified in Executive Order 13132. This rule addresses the codification of authorized pre-existing State rules. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (59 FR 22951, 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 rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045 applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 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.

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

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

9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not involve ''technical standards'' as defined by the NTTAA. Therefore, EPA is not considering the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands. Because this rule addresses codifying pre-existing State rules authorized by EPA and imposes no additional requirements beyond those imposed by State law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

11. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on April 20, 2006.

List of Subjects in 40 CFR Part 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This action is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 23, 2006.

Ronald A. Kreizenbeck,

Deputy Regional Administrator, Region 10.

■ For the reasons set forth in the preamble, EPA amends 40 CFR part 272 as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended

by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Subpart N is amended by revising § 272.651 to read as follows:

§ 272.651 Idaho State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Idaho has final authorization for the following elements as submitted to EPA in Idaho's base program application for final authorization which was approved by EPA effective on April 9, 1990. Subsequent program revision applications were approved effective on June 5, 1992, August 10, 1992, June 11, 1995, January 19, 1999, July 1, 2002, March 10, 2004, and July 22, 2005.

(b) The State of Idaho has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) State Statutes and Regulations.

(1) The Idaho statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq*.

(i) The EPA-Approved Idaho Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program, July 2005.

(ii) [Reserved]

(2) EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) Idaho Code (I.C.) containing the General Laws of Idaho Annotated, Title 39, Chapter 44, ''Hazardous Waste Management'', published in 2002 by the Michie Company, Law Publishers: sections 39–4404; 39–4405 (except 39–4405(8)); 39–4406; 39–4407; 39–4408(4); 39–4409(2) (except first sentence); 39–4409(3); 39–4409(4) (first sentence); 39–4410; 39–4411(1); 39–4411(3); 39–4411(6); 39–4412 through 39–4416; 39–4418; 39–4419; 39–4421; 39–4422; and 39–4423(3) (a) & (b).

(ii) Idaho Code (I.C.) containing the General Laws of Idaho Annotated, Title 39, Chapter 58, ''Hazardous Waste Facility Siting Act'', published in 2002 by the Michie Company, Law Publishers: sections 39–5804; 39–5809; 39–5810; 39–5813(2); 39–5814; 39–5816; 39–5817; and 39–5818(1).

(iii) Idaho Code (I.C.) containing the General Laws of Idaho Annotated, Volume 2, Title 9, Chapter 3, ''Public Writings'', published in 1990 by the Michie Company, Law Publishers, Charlottesville, Virginia: sections 9–337(10); 9–337(11); 9–338; 9–339; and 9–344(2).

(iv) 2002 Cumulative Pocket Supplement to the Idaho Code (I.C.), Volume 2, Title 9, Chapter 3, ''Public Writing'', published in 2002 by the Michie Company, Law Publishers, Charlottesville, Virginia: sections 9–340A, 9–340B, and 9–343.

(v) Idaho Department of Environmental Quality Rules and Regulations, Idaho Administrative Code, IDAPA 58, Title 1, Chapter 5, ''Rules and Standards for Hazardous Waste'', as published July 2004: sections 58.01.05.000; 58.01.05.356.02 through 58.01.05.356.05; 58.01.05.800; 58.01.05.850; 58.01.05.996; 58.01.05.997; and 58.01.05.999.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference, and are not federally enforceable:

(i) Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 44, ''Hazardous Waste Management'', published in 2002 by the Michie Company, Law Publishers: sections 39–4403(6) & (14); 39–4427; 39–4428 and 39–4429.

(ii) Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 58, ''Hazardous Waste Siting Act'', published in 2002 by the Michie Company, Law Publishers: section 39–5813(3).

(iii) Idaho Department of Environmental Quality Rules and Regulations, Idaho Administrative Code, IDAPA 58, Title 1, Chapter 5, ''Rules and Standards for Hazardous Waste'', as published July 2004: sections 58.01.05.355; and 58.01.05.500.

(4) Memorandum of Agreement. The Memorandum of Agreement between EPA Region 10 and the State of Idaho (IDEQ), signed by the EPA Regional Administrator on August 1, 2001, although not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921, *et seq*.

(5) Statement of Legal Authority. The ''Attorney General's Statement for Final Authorization,'' signed by the Attorney General of Idaho on July 5, 1988 and revisions, supplements and addenda to that Statement, dated July 3, 1989, February 13, 1992, December 29, 1994, September 16, 1996, October 3, 1997, April 6, 2001, September 11, 2002, and September 22, 2004, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921, *et seq*.

(6) Program Description. The Program Description, and any other materials submitted as part of the original application or as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq*.

■ 3. Appendix A to part 272, State Requirements, is amended by revising the listing for ''Idaho'' to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Idaho

(a) The statutory provisions include:

Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 44, ''Hazardous Waste Management'', 2002: sections 39–4402; 39–4403 (except 39–4403(6) & (14)); 39–4408(1)–(3); 39–4409(1) (except fourth and fifth sentences); 39–4409(2) (first sentence); 39–4409(4) (except first sentence); 39–4409(5); 39–4409(6); 39–4409(7); 39–4409(8); 39–4411(2); 39–4411(4); 39–4411(5); 39–4423 (except 39–4423(3) (a) & (b)); and 39–4424.

Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 58, ''Hazardous Waste Facility Siting Act'', published in 2002 by the Michie Company, Law Publishers: sections 39–5802; 39–5803; 39–5808; 39–5811; 39–5813(1); and 39–5818(2).

Copies of the Idaho statutes that are incorporated by reference are available from Michie Company, Law Publishers, 1 Town Hall Square, Charlottesville, VA 22906–7587.

(b) The regulatory provisions include:

Idaho Department of Environmental Quality Rules and Regulations, Idaho Administrative Code, IDAPA 58, Title 1, Chapter 5, ''Rules and Standards for Hazardous Waste'', as published on July 2004: sections 58.01.05.001; 58.01.05.002; 58.01.05.003; 58.01.05.004; 58.01.05.005; 58.01.05.006; 58.01.05.007; 58.01.05.008; 58.01.05.009; 58.01.05.010; 58.01.05.011; 58.01.05.012; 58.01.05.013; 58.01.05.014; 58.01.05.015;

58.01.05.016; 58.01.05.356.01; and 58.01.05.998.

* * * * *

[FR Doc. 06–3354 Filed 4–19–06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 050722198–6084–02; I.D. 071805B]

RIN 0648–AS93

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Observer Program

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to amend regulations supporting the North Pacific Groundfish Observer Program (Observer Program). This action is necessary to revise requirements facilitating observer data transmission, improve support for observers, and provide consistency with current regulations. The final rule will promote the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs).

DATES: Effective on May 22, 2006.

ADDRESSES: Copies of the Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA) prepared for this action may be obtained from the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Records Officer, and the Alaska Region, NMFS, website at *www.fakr.noaa.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS, Alaska Region, and by email to *David__Rostker@omb.eop.gov* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Jason Anderson, 907–586–7228, or *jason.anderson@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA) in the Exclusive Economic Zone under the FMPs. The North Pacific Fishery Management Council (Council) has prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. Regulations implementing the FMPs appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

The Council adopted and NMFS approved and implemented the current ''interim'' Observer Program (Observer Program) in 1996 (61 FR 56425, November 1, 1996). The Observer Program was extended on four occasions: through 1998 (62 FR 67755, December 30, 1997), through 2000 (63 FR 69024, December 15, 1998), through 2002 (65 FR 80381, December 21, 2000), and through 2007 (67 FR 72595, December 6, 2002). The Observer Program develops regulations for the collection of information necessary for the conservation and management of the groundfish fisheries managed under the FMPs. Regulations implementing the Observer Program at § 679.50 require observer coverage aboard catcher vessels, catcher/processors, motherships, and shoreside and stationary floating processors that participate in the groundfish fisheries off Alaska and establish vessel, processor, and observer provider responsibilities relating to the Observer Program.

Timely electronic communication between the fishing industry and NMFS of catch reports submitted to NMFS by industry and observers is crucial to the effective in-season monitoring of groundfish quotas and protected species catch allowances. In July 1995, NMFS issued a final rule that required all catcher/processors, motherships, and shoreside processors that process groundfish to have computer hardware and software that would enable observers to send electronic data to NMFS (60 FR 34904, July 5, 1995). In October 2003, a final rule was published (68 FR 58038, October 8, 2003) that extended the requirements to all catcher vessels that are required to carry an observer whenever fishing.

Regulations describing hardware and software requirements for electronic submission of observer reports are found at § 679.50(g)(1) and (g)(2). This electronic data submission and communications system is called the observer communications system (OCS, previously referred to as ''ATLAS''). This system consists of computers and communications equipment supplied by catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors, and custom software provided by NMFS. The OCS system allows observers to rapidly process and report the data they collect to NMFS. Its use on catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors has led to more timely and accurate fisheries data.

The proposed rule for this action was published in the **Federal Register** on August 8, 2005 (70 FR 45638), with comments invited through September 7, 2005. NMFS received three letters of comment that contained five separate comments. Comments are summarized and responded to under Response to Comments, below.

Revisions to OCS Regulations

Observer Program staff periodically upgrade the software component of the OCS. Upgraded OCS software improves overall data quality. This action amends regulations that require catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors carrying OCS equipment to install hardware upgrades to meet current technology standards necessary to support OCS software and facilitate its installation. Presently, regulations at § 679.50(g)(1)(iii)(B)(*1*) and (g)(2)(iii)(B)(*1*) require a minimum of a Windows 9x or NT compatible operating system, both of which are older, now unsupported operating systems. This action amends regulations at § 679.50(g)(1)(iii)(B)(*1*) and (g)(2)(iii)(B)(*1*) to require a Windows 98 or more recent operating system such as Windows 2000, Millennium, or XP. NMFS believes Windows based operating systems are acceptable because the upgraded software component is only compatible with Windows based operating systems. The regulations also are revised to require catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors to provide for observers a personal computer with a functioning compact disc (CD) drive. Additionally, personal computers must have a minimum random access memory (RAM) of 256 megabytes.

Personal computers must operate the larger, more sophisticated software and database programs provided by NMFS. The new NMFS software requires an upgraded operating system to function. The software now is stored on a CD medium, which facilitates easier and efficient installation. Windows 95 is no longer supported by the manufacturer, so newer Windows versions are necessary.

Other Revisions

Regulations at § 679.2 contain definitions for terms used elsewhere in part 679. Regulations at § 679.50(c) describe observer coverage requirements for catcher vessels, catcher/processors, and motherships engaged in directed fishing for groundfish. However, in § 679.2 the first paragraph of the current definition of ''directed fishing'' is included under the heading, ''With respect to groundfish recordkeeping and reporting.'' This action revises the heading of the first paragraph of the definition for ''directed fishing'' to read, ''Unless otherwise indicated'' to clarify that the definition also applies to observer coverage regulations.

Regulations at § 679.28 describe requirements for scales, observer sampling stations, bins for volumetric estimates, and vessel monitoring system hardware. Section 679.28(g)(1) provides a general description of catch monitoring and control plans (CMCPs) and § 679.28(g)(4)(iii) describes a component of the NMFS inspection process for CMCPs. These sections incorrectly cite § 679.28(g)(6) as the paragraph detailing catch monitoring and control standards, which are found in paragraph (g)(7). This action corrects this error by replacing the reference to paragraph (g)(6) in § 679.28(g)(1) and (g)(4)(iii) with paragraph (g)(7).

Response to Comments

NMFS received three letters of comment that contained five separate comments. The following summarizes and responds to these comments.

Comment 1: Computer upgrades do not address occurrences of intentional misreporting by observers.

Response: NMFS agrees. This action is intended to address data quality and timeliness issues associated with observer data entry and transmittal. Regulations governing observer conduct, including data reporting accuracy, are found at § 679.50(j)(2). Those regulations are not being revised at this time.

Comment 2: Observers should be held financially responsible if they are late to their assignments.

Response: North Pacific groundfish observers are employed by observer providers. Vessel owners contract directly with observer providers for required observer services. Under this arrangement, observer providers are responsible for the timeliness of their employees when meeting contractual arrangements with a vessel owner. Regulations at § 679.50(i)(2)(v) require an observer provider to provide its observer employees salaries and other benefits according to their employment contracts. Otherwise, NMFS does not intervene between observer providers and their observer employees on personnel issues.

Comment 3: For flights to Dutch Harbor, airline baggage restrictions limit passengers to a maximum of two 50 pound bags per person. Passengers with additional baggage must agree to be voluntarily separated from their additional baggage. Observers typically fly with two personal bags and one 70 pound basket of sampling gear. Observers may be separated from their baggage and the proposed rule does not account for this restriction. Instead, NMFS and observer providers should work cooperatively with airline carriers to resolve this issue.

Response: NMFS realizes observers may be separated from their gear because of aircraft weight and balance requirements. The proposed action would not regulate aircraft loading standards because NMFS does not have the authority to do so. Rather, the proposed action would have required that observer providers only deploy observers who had their gear and personal items with them at the time a vessel they are assigned to leaves port to go fishing. However, NMFS agrees that standard airline baggage restrictions could affect the ability of observer providers to deploy observers. NMFS recognizes that alternative solutions may exist that do not affect observer providers in this manner. As a result, NMFS has decided the revision to regulations governing observer deployment logistics will not be included in the final rule.

Comment 4: If an observer is separated from his or her personal items and sampling gear, observer providers should be allowed to obtain a new set of sampling gear from NMFS and purchase clothes and personal items for the observer. In the past, these actions have not resulted in hardship for the observer.

Response: NMFS agrees that less costly alternative solutions may exist that do not compromise an observer's safety, comfort, or ability to complete his or her duties. For example, NMFS has offices in Dutch Harbor and Kodiak, Alaska, that may be able to supply an observer with an additional set of gear. However, observers often embark after business hours, or from locations that do not have NMFS offices. In the past, observers have borrowed sampling gear from other observers. However, observers also are issued safety gear, including immersion suits and personal flotation devices (PFDs). NMFS staff regularly tests this safety equipment for defects, and each observer has an incentive to maintain his or her own personal gear. Borrowed or used safety equipment may not be properly tested or maintained. Safety equipment also is issued to observers based on their relative body size, and poorly fitted or maintained safety equipment could create a significant hazard for observers.

Although observers may be able to purchase clothing and personal items from stores or borrow them from other observers, observers may not be able to borrow properly fitting clothes, a store may not be available to purchase clothing or personal items, or a store may not have the items needed. NMFS also is concerned that observers separated from their personal gear could be deployed without necessary personal items that cannot be borrowed or purchased, such as medication or spare glasses.

NMFS is concerned about these issues and new solutions that the agency did not consider have been proposed through public comment. NMFS will work with observer providers to find alternative solutions to address situations when an observer is separated from his or her gear and personal items. If necessary, NMFS will propose regulatory measures to address these concerns in the future. Because NMFS is now aware of other possible solutions, NMFS is removing from this rule proposed revisions to observer provider responsibilities for observer deployment logistics.

Comment 5: The commentor says observers being separated from their gear is a rare occurrence, but that the requirement to keep observers and gear together would have significant effects. For example, vessels may be kept from fishing if they must wait for an observer's gear to arrive. Additionally, observer providers may choose to deploy another observer rather than force a vessel to wait for an observer's gear. Through no fault of his or her own, the observer who was separated from his or her gear may lose a vessel assignment, and the observer provider would have already incurred the costs of deploying the observer.

Response: NMFS agrees a vessel may be forced to seek an alternate observer if its assigned observer is separated from his or her gear. This situation is most likely to occur for larger vessels that are required to carry an observer at all times. These vessels typically depart from larger ports where additional observers are available. Smaller vessels usually use smaller ports and are required to carry an observer only 30 percent of their fishing days. Thus, the smaller vessels may be able to forego

observer coverage for a trip until the observer's gear and personal belongings arrive. These smaller ports also often are more remote and are less likely to be able to provide alternative gear and personal effects, as described above.

Based on information from observer providers, an observer's airfare is typically passed on to the fishing company or companies using observer services. If an observer is separated from his or her gear and replaced by another observer, the observer provider has a financial incentive to arrange deployment for the observer on another vessel. NMFS believes that an observer separated from his or her gear would be assigned to another vessel or shoreside operation.

While NMFS believes observers would not be affected in the manner described in the comment above, NMFS is removing from the final rule the proposed revisions to observer provider responsibilities for observer deployment logistics. Justification for removing this provision is included in the response to comments three and four.

Change from the Proposed Rule

The proposed rule included a provision at § 679.50(i)(2)(vi)(A)(*1*) to require an observer provider to provide all necessary transportation, including arrangements and logistics, to ensure the observer and his or her gear and personal belongings arrive at the initial location of deployment and to all subsequent vessel and shoreside or stationary floating processor assignments during that deployment. For a variety of reasons, including incorrect routing of luggage or weight restrictions on airplanes, during travel to an assignment, an observer occasionally becomes separated from his or her personal belongings and gear necessary to conduct sampling duties. If this occurs, luggage normally will be delivered on a subsequent flight. Deploying an observer to a vessel without the observer's personal belongings or gear necessary to conduct sampling duties could compromise an observer's safety, comfort, and ability to complete his or her duties.

NMFS received public comments that said the revision would create unforseen costs and logistical issues. These costs and logistical issues were not analyzed in the EA/RIR/IRFA prepared for this action. While NMFS is concerned about the safety and comfort of observers when they are separated from their gear, based on information from observers and observer providers, observer providers rarely deploy observers or ask observers to deploy without their own personal gear. NMFS will work with observer providers to address these situations. Solutions may exist that would impose less cost on observer providers and vessels than the options available under the proposed rule. NMFS may propose similar regulations in the future if an alternative acceptable solution is not found. For these reasons, the agency removed proposed revisions to regulations at § 679.50(i)(2)(vi)(A)(*1*) described above from the final rule.

Classification

The Administrator, Alaska Region, NMFS, determined that the regulatory amendment is necessary for the conservation and management of the groundfish fisheries off Alaska and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed rule, and described in the classifications section of the preamble to the rule. The public comment period ended on September 7, 2005. No comments were received on the IRFA.

NMFS prepared a final regulatory flexibility analysis (FRFA). The FRFA incorporates the IRFA and a summary of the analyses completed to support the action. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the analysis follows.

This action requires vessels and shoreside or stationary floating processors already subject to OCS requirements to adopt hardware upgrades to meet current technology standards necessary to support the OCS software. This includes all motherships, catcher/processors, shoreside or stationary floating processors and catcher vessels required to carry an observer at all times. Additionally, the final rule includes several clarifications and corrections to current regulations. These actions are intended to revise requirements for the facilitation of observer data transmission, improve support for observers, and provide consistency with current regulations.

Alternative 1 described in the EA/RIR/IRFA is the status quo alternative. Current regulations regarding computer hardware and software would remain in effect.

Alternative 2 would: (1) require all catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors currently subject to OCS requirements to upgrade their computing hardware to a minimum operating system of Windows 98 and 256k of RAM; (2) require observer providers to ensure observers are deployed with their personal belongings and gear; and (3) other non-substantive administrative changes to current regulations.

In addition to the requirements in Alternative 2, Alternative 3 would require all catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors currently subject to OCS requirements to upgrade their computer hardware to a CD drive.

All motherships have gross revenues in excess of $3.5 million and are considered large entities. Data available for 2003, indicate that 22 of the 82 catcher/processors active in the groundfish fisheries that year would be considered small entities. All five observer provider companies are considered small entities. Confidentiality restrictions require NMFS to report gross revenue information in aggregate of four or more entities. These restrictions prevent NMFS from reporting the number of catcher vessels and shoreside or stationary floating processors regulated under this action for small entities because each group is no larger than four.

The preferred alternative reflects decisions, already incorporated into the Observer Program, to minimize the burden on small entities. Catcher vessels less than 60 feet (18.3 m) length overall, which include the greatest numbers of SBA defined small entities, are exempted from observer coverage. There were 740 of these vessels fishing hook and line, pot, and trawl gear in 2003. The exclusion of this large fleet of fishing vessels from the observer program has meant the sacrifice of information that would have been useful for fisheries management. The exclusion has been motivated by recognition that there are unique difficulties associated with placing observers on some of these small vessels. Requiring these small entities to carry observers may have placed an unreasonable and disproportional economic and operational burden on them.

NMFS received public comment on the proposed rule saying that unforeseen costs and logistical issues would be created under a revision that would require observer providers to ensure observers are deployed with their personal belongings and gear. NMFS believes there is an opportunity to work with observer providers to address these situations, and this revision was removed from the final rule. Because all observer providers are

considered small entities, this change from the proposed rule to the final rule decreases the burden on small entities.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by OMB under control number OMB 0648–0330. Public reporting burden for catch monitoring and control plans (CMCP) are estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed , and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSEES**) and by e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: April 14, 2006.

James W. Balsiger,

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

■ For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

■ 2. In § 679.2, in the definition of ''directed fishing'' paragraph (1) is revised to read as follows:

§ 679.2 Definitions.

* * * * *

Directed fishing means:

(1) *Unless indicated otherwise,* any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable amount for that species or species group as calculated under § 679.20.

* * * * *

■ 3. In § 679.28, paragraphs (g)(1) and (g)(4)(iii) are revised to read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

(g) * * *

(1) *What is a CMCP?* A CMCP is a plan submitted by the owner and manager of a processing plant, and approved by NMFS, detailing how the processing plant will meet the catch monitoring and control standards detailed in paragraph (g)(7) of this section.

* * * * *

(4) * * *

(iii) A proposed CMCP detailing how the processor will meet each of the performance standards in paragraph (g)(7) of this section.

* * * * *

■ 4. In § 679.50, paragraphs (g)(1)(iii)(B)(*1*) and (g)(2)(iii)(B)(*1*) are revised to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 2007.

* * * * *

(g) * * *

(1) * * *

(iii) * * *

(B) * * *

(*1*) *Hardware and software.* Making available for use by the observer a personal computer in working condition that contains: a full Pentium 120Mhz or greater capacity processing chip, at least 256 megabytes of RAM, at least 75 megabytes of free hard disk storage, a Windows 98 (or more recent) compatible operating system, an operating mouse, a 3.5–inch (8.9 cm) floppy disk drive, and a readable CD ROM disk drive. The associated computer monitor must have a viewable screen size of at least 14.1 inches (35.8cm) and minimum display settings of 600 x 800 pixels. The computer equipment specified in paragraph (g)(1)(iii)(B) of this section must be connected to a communication device that provides a point-to-point modem connection to the NMFS host computer and supports one or more of the following protocols: ITU V.22, ITU V.22bis, ITU V.32, ITU V.32bis, or ITU V.34. Personal computers utilizing a modem must have at least a 28.8 kbs Hayes-compatible modem.

* * * * *

(2) * * *

(iii) * * *

(B) * * *

(*1*) *Hardware and software.* Making available for use by the observer a personal computer in working condition that contains: a full Pentium 120Mhz or greater capacity processing chip, at least 256 megabytes of RAM, at least 75 megabytes of free hard disk storage, a Windows 98 (or more recent) compatible operating system, an operating mouse, a 3.5–inch (8.9 cm) floppy disk drive, and a readable CD ROM disk drive. The associated computer monitor must have a viewable screen size of at least 14.1 inches (35.8cm) and minimum display settings of 600 x 800 pixels. The computer equipment specified in paragraph (g)(2)(iii)(B) of this section must be connected to a communication device that provides a point-to-point modem connection to the NMFS host computer and supports one or more of the following protocols: ITU V.22, ITU V.22bis, ITU V.32, ITU V.32bis, or ITU V.34. Personal computers utilizing a modem must have at least a 28.8 kbs Hayes-compatible modem.

* * * * *

[FR Doc. 06–3754 Filed 4–19–06; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 76
Thursday, April 20, 2006

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[Doc. # CN–06–001]

RIN 0581–AC58

User Fees for 2006 Crop Cotton Classification Services To Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to maintain user fees for cotton producers for 2006 crop cotton classification services under the Cotton Statistics and Estimates Act at the same level as in 2005. This is in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 2005 user fee for this classification service was $1.85 per bale. This proposal would maintain the fee for the 2006 crop at $1.85 per bale. The proposed fee and the existing reserve are sufficient to cover the costs of providing classification services, including costs for administration and supervision.

DATES: Comments must be received on or before May 5, 2006.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to Darryl Earnest, Deputy Administrator, Cotton Program, AMS, USDA, STOP 0224, 1400 Independence Avenue, SW., Washington, DC 20250–0224. Comments should be submitted in triplicate. Comments may also be submitted electronically to: *cottoncomments@usda.gov.* All comments should reference the docket number and the date and the page of this issue of the **Federal Register**. All comments received will be available for public inspection during regular business hours at the above office in Rm. 2641—South Building, 1400 Independence Avenue, SW., Washington, DC. A copy of this notice may be found at: *http://www.ams.usda.gov/cotton/rulemaking.htm.*

FOR FURTHER INFORMATION CONTACT: Darryl Earnest, Deputy Administrator, Cotton Program, AMS, USDA, Room 2641–S, Stop 0224, 1400 Independence Avenue, SW., Washington, DC 20250–0224. Telephone (202) 720–2145, facsimile (202) 690–1718, or e-mail *darryl.earnest@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866; and, therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are an estimated 35,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR 121.201). Continuing the user fee at the 2005 crop level as stated will not significantly affect small businesses as defined in the RFA because:

(1) The fee represents a very small portion of the cost-per-unit currently borne by those entities utilizing the services. (The 2005 user fee for classification services was $1.85 per bale; the fee for the 2006 crop would be maintained at $1.85 per bale; the 2006 crop is estimated at 21,000,000 bales).

(2) The fee for services will not affect competition in the marketplace; and

(3) The use of classification services is voluntary. For the 2005 crop, 23,703,000 bales were produced; and, almost all of these bales were voluntarily submitted by growers for the classification service.

(4) Based on the average price paid to growers for cotton from the 2004 crop of 41.6 cents per pound, 500 pound bales of cotton are worth an average of $208 each. The proposed user fee for classification services, $1.85 per bale, is less than one percent of the value of an average bale of cotton.

Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320), which implemented the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in the provisions to be amended by this proposed rule have been previously approved by OMB and were assigned OMB control number 0581–AC43.

It is anticipated that the proposed changes, if adopted, would be made effective July 1, 2006, as provided by the Cotton Statistics and Estimates Act.

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

The user fee charged to cotton producers for High Volume Instrument (HVI) classification services under the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was $1.85 per bale during the 2005 harvest season as determined by using the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The fees cover salaries, costs of equipment and supplies, and other overhead costs, including costs for administration, and supervision.

This proposed rule establishes the user fee charged to producers for HVI classification at $1.85 per bale during the 2006 harvest season.

Public Law 102–237 amended the formula in the Uniform Cotton Classing Fees Act of 1987 for establishing the producer's classification fee so that the producer's fee is based on the prevailing method of classification requested by producers during the previous year. HVI

classing was the prevailing method of cotton classification requested by producers in 2005. Therefore, the 2006 producer's user fee for classification service is based on the 2005 base fee for HVI classification.

The fee was calculated by applying the formula specified in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The 2005 base fee for HVI classification exclusive of adjustments, as provided by the Act, was $2.37 per bale. An increase of 3.29 percent, or 8 cents per bale, due to the implicit price deflator of the gross domestic product added to the $2.37 would result in a 2006 base fee of $2.45 per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, gross *national* product has been replaced by gross *domestic* product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of Agriculture from the 2006 crop is estimated at 20,268,150 bales. The 2006 base fee was decreased 15 percent based on the estimated number of bales to be classed (1 percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum decreased adjustment of 15 percent). This percentage factor amounts to a 37 cents per bale reduction and was subtracted from the 2006 base fee of $2.45 per bale, resulting in a fee of $2.08 per bale.

However, with a fee of $2.08 per bale, the projected operating reserve would be 35.74 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of $2.08 must be reduced by 23 cents per bale, to $1.85 per bale, to provide an ending accumulated operating reserve for the fiscal year of not more than 25 percent of the projected cost of operating the program. This would establish the 2006 season fee at $1.85 per bale.

Accordingly, section 28.909, paragraph (b) would reflect the continuation of the HVI classification fee at $1.85 per bale.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in section 28.909 (c).

Growers or their designated agents receiving classification data would continue to incur no additional fees if classification data is requested only once. The fee for each additional retrieval of classification data in section 28.910 would remain at 5 cents per bale. The fee in section 28.910(b) for an owner receiving classification data from the National database would remain at 5 cents per bale, and the minimum charge of $5.00 for services provided per monthly billing period would remain the same. The provisions of section 28.910(c) concerning the fee for new classification memoranda issued from the National database for the business convenience of an owner without reclassification of the cotton will remain the same at 15 cents per bale or a minimum of $5.00 per sheet.

The fee for review classification in section 28.911 would be maintained at $1.85 per bale.

The fee for returning samples after classification in section 28.911 would remain at 40 cents per sample.

A 15-day comment period is provided for public comments. This period is appropriate because it is anticipated that the proposed changes, if adopted, would be made effective July 1, 2006, as provided by the Cotton Statistics and Estimates Act.

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Cotton samples, Grades, Market news, Reporting and recordkeeping requirements, Standards, Staples, Testing, Warehouses.

For the reasons set forth in the preamble, 7 CFR part 28 is proposed to be amended as follows:

PART 28—[AMENDED]

1. The authority citation for 7 CFR part 28, subpart D, continues to read as follows:

Authority: 7 U.S.C. 471–476.

2. In § 28.909, paragraph (b) is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is $1.85 per bale.

* * * * *

3. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is $1.85 per bale.

* * * * *

Dated: April 14, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–5940 Filed 4–19–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[Docket Number DA–05–04]

RIN 0581–AC55

Increase in Fees for Federal Dairy Grading and Inspection Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to increase, by approximately 10 percent, the hourly fees charged for Federal dairy grading and inspection services. Dairy grading and inspection services are voluntary and are financed through user-fees assessed to participants in the program. These revisions are necessary in order to recover, as nearly as practicable, the increase in salaries of Federal employees, the increase in Agency costs, and to ensure that the Dairy Grading Branch operates on a financially self-supporting basis.

DATES: Comments must be received on or before May 22, 2006.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to Dana H. Coale, Deputy Administrator, Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0225, room 2968—South, 1400 Independence Avenue, SW., Washington, DC 20250–0225. Comments may be faxed to (202) 690–3410. Comments should be submitted in duplicate. Comments may also be electronically submitted to *Dana.Coale@usda.gov* or *http://www.regulations.gov.* All comments should reference docket number DA–05–04 and note the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection at the above location during regular business hours. Comments received also will be made available over the Internet in the rulemaking section of the AMS Web site *http://www.ams.usda.gov/rulemaking.*

FOR FURTHER INFORMATION CONTACT: Dana H. Coale, Dairy Programs (202) 720–4392.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12988

This proposed rule has been determined to be ''not significant'' for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget (OMB).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not retroactive. This rule will not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act and Paperwork Reduction Act

Pursuant to the requirement set forth in the Regulatory Flexibility Act, AMS has considered the economic impact of this action on small entities. It has been determined that its provisions would not have a significant economic effect on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. If a plant is part of a larger company operating multiple plants that collectively exceed the 500 employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

Under the Agricultural Marketing Act of 1946, the Dairy Grading Branch, AMS, provides voluntary Federal inspection and dairy product grading services to about 350 plants. About 210 of these users are small businesses under the criteria established by the Small Business Administration (13 CFR 121.201). Manufacturing plants participating in the voluntary plant inspection program have their facility inspected against established USDA ''General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service'' construction and sanitation requirements. Dairy products manufactured in facilities complying with the USDA inspection requirements are eligible to have their output graded against official quality standards and specifications established by AMS and certain contract provisions between buyer and seller. Products tested and graded by the Dairy Grading Branch have certificates issued describing the product's quality and condition.

AMS continually reviews its cost structure to assure it is operating efficiently while maintaining the resources necessary to meet industry's demand for services. Periodically, fees must be adjusted to ensure that the program remains financially self-supporting. To reduce costs, the Dairy Grading Branch has continued to automate its business practices. Progress to date has been significant and has resulted in savings equal to two staff years to the program. Further enhancements in automated business practices will continue to improve the efficiency and timeliness of providing inspection and grading services and information to users of these services.

Employee salaries and benefits account for nearly 73 percent of the operating costs of the Dairy Grading Branch. Since the last fee increase in 2004 (69 FR 8797), annual salary increases and locality adjustments have resulted in an increase in employee salaries of 8.3 percent. As a result, annual salary and benefit costs to the program for 2006 are approximately $240,000 more. Inflation raised non-salary costs approximately 6.0 percent through 2005, and it is expected that non-salary operating expenses will increase an additional 3.0 percent in 2006. Current revenue projections using Dairy Grading Branch's current fee schedule will not provide income sufficient to cover these escalating program operation costs and maintain reserves (4 months of costs) according to AMS policy (AMS Directive 408.1).

Since projected revenues will not cover program costs while maintaining an adequate reserve, the Dairy Grading Branch will be put in an unstable financial position that will adversely affect the ability to provide dairy inspection and grading services. Without a fee increase, total revenue projections for Fiscal Year (FY) 2006 are $4.980 million. Total costs for the same period of time are projected to be $5.778 million. The shortfall, if allowed to continue, will reduce the trust fund balance to $1.578 million or 3.3 months of operating reserve at the end of FY 2006 which is below Agency policy. With the proposed fee increase effective April 1, 2006, FY 2006 revenues are projected at $5.227 million.

AMS estimates these fee increases will provide the Dairy Grading Branch an additional $504,000 annually to recover program costs and to provide for continued automation of business practices.

This rule will raise the fees charged to businesses for voluntary plant inspections, grading services for dairy and related products, and the evaluation of food processing equipment. However, the impact on all businesses, including small entities is very similar. Even though fees will be increased approximately 9.7% for non-resident services and 10.5% for continuous resident services, these fee increases should not significantly affect these entities. These businesses are under no obligation to use these voluntary user-fee based services and any decision on their part to discontinue the use of the services would not prevent them from marketing their products.

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). It was determined that this rule would have no impact on reporting, recordkeeping, or other compliance requirements for entities currently using voluntary Federal dairy inspection and grading services because they would remain identical to the current requirements.

This notice does not require additional information collection that requires clearance by OMB. The primary sources of data used to complete the forms are routinely used in most business transactions. Forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same information from all participating dairy plants does not significantly disadvantage any plant that is smaller than the industry average.

Proposed Action

The Secretary of Agriculture is authorized by the Agricultural Marketing Act of 1946 (AMA), as amended (7 U.S.C. 1621, *et seq.*), to provide voluntary Federal dairy inspection and grading services to facilitate the orderly marketing of dairy products and to enable consumers to obtain the quality of dairy products they desire. The AMA also provides for the collection of reasonable fees from users of the Federal dairy inspection and grading services to cover the cost of providing these services. The hourly fees are established by distributing the program's projected operating costs over the estimated service-revenue hours provided to users. AMS continually reviews its cost structure to assure it is operating efficiently while maintaining the resources necessary to meet industry's demand for services. Periodically, fees must be adjusted to ensure that the program remains financially self-supporting.

To reduce costs, the Dairy Grading Branch has continued to automate its business practices. Progress to date has been significant and has resulted in

savings equal to two staff years to the program. Further enhancements in automated business practices will continue to improve the efficiency and timeliness of providing inspection and grading services and information to users of these services.

Employee salaries and benefits account for nearly 73 percent of the operating costs of the Dairy Grading Branch. Since the last fee increase in 2004 (69CFR8797), annual salary increases and locality adjustments have resulted in an increase in employee salaries of 8.3 percent. As a result, annual salary and benefit costs to the program for 2006 are approximately $240,000 more. Inflation raised non-salary costs approximately 6.0 percent through 2005, and it is expected that non-salary operating expenses will increase an additional 3.0 percent in 2006. Current revenue projections using Dairy Grading Branch's current fee schedule will not provide income sufficient to cover these escalating program operation costs and maintain reserves (4 months of costs) according to AMS policy (AMS Directive 408.1).

Since projected revenues will not cover program costs while maintaining an adequate reserve, the Dairy Grading Branch will be put in an unstable financial position that will adversely affect the ability to provide dairy inspection and grading services. Without a fee increase, total revenue projections for FY 2006 are $4.980 million. Total costs for the same period of time are projected to be $5.778 million. The shortfall, if allowed to continue, will reduce the trust fund balance to $1.578 million or 3.3 months of operating reserve at the end of FY 2006 which is below Agency policy. With the proposed fee increase effective April 1, 2006, FY 2006 revenues are projected at $5.227 million.

In view of the above considerations, AMS proposes to increase the hourly fees associated with Federal dairy grading and inspection services. Currently the fees are $57.00 per hour for continuous resident services and $62.00 per hour for non-resident services. The proposed increases would result in fees of $63.00 per hour for continuous resident services and $68.00 per hour for non-resident services between the hours of 6 a.m. and 6 p.m. The proposed fees represent increases of $6.00 per hour (10.5 percent) for continuous resident and $6.00 per hour (9.7 percent) for non-resident services. The fee for non-resident services between the hours of 6 p.m. and 6 a.m. would be $74.80 per hour. For services performed in excess of 8 hours per day and for services performed on Saturday, Sunday, and legal holidays, 1½ times the base fees would apply and result in increases to $94.50 per hour for resident grading and to $102.00 per hour for non-resident grading services.

AMS estimates these fee increases will provide the Dairy Grading Branch an additional $504,000 annually to recover program costs including providing for continued automation of business practices.

A 30-day comment period is provided for interested persons to comment on this proposed rule. This period is appropriate in order to implement, as early as possible in FY 2006, any fee changes adopted as a result of this rulemaking action.

List of Subjects in 7 CFR Part 58

Dairy Products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reason set forth in the preamble, it is proposed that 7 CFR part 58 be amended as follows:

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

1. The authority citation for 7 CFR part 58 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 58.43 [Amended]

2. In § 58.43, ''$62.00'' is removed and ''$68.00'' is added in its place, and ''$68.20'' is removed and ''$74.80'' is added in its place.

§ 58.45 [Amended]

3. In § 58.45 ''$57.00'' is removed and ''$63.00'' is added in its place.

Dated: April 14, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–5941 Filed 4–19–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1290

[Docket No. FV06–1290–1 PR]

RIN 0581–AC59

Specialty Crop Block Grant Program; Notice of Request for Approval of a New Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing regulations to administer the Specialty Crop Block Grant Program (SCBGP) to enhance the competitiveness of specialty crops. This proposed rule is intended to establish eligibility and application requirements, the review and approval process, and grant administration procedures for the SCBGP.

The SCBGP would be implemented under section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note). This rule also announces the Agricultural Marketing Service's intention to request approval by the Office of Management and Budget (OMB) of the new information collection requirements necessary to implement the SCBGP.

DATES: Comments received by May 22, 2006, will be considered prior to issuance of a final rule. Pursuant to the Paperwork Reduction Act, comments on the information collection burden that would result from this proposal must be received by June 19, 2006.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0243, Washington, DC 20250–0243; Fax: (202) 690–0102; E-mail: *scblockgrants@usda.gov;* or Internet: *http://www.regulations.gov.* Comments concerning the information collection requirements should be sent to the Office of Information and Regulatory Affairs, OMB: Attention: Desk Officer for AMS, Washington, DC 20503. Please state that your comments refer to Docket No. FV06–1290–1 PR. Comments concerning the information requirements also should be sent to the Docket Clerk at the above address. Comments shall reference docket number FV06–1290–1 PR and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/scbgp.html.*

FOR FURTHER INFORMATION CONTACT: Trista Etzig, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0243, Washington, DC 20250–0243; Telephone: (202) 690–4942; Fax: (202) 690–0102; or E-mail: *trista.etzig@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Public Law 104–4

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 and local governments and the private sector. Under section 202 of the UMRA, the Agricultural Marketing Service (AMS) generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State and local governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532). When such a statement is needed for a rule, section 205 of the UMRA generally requires Federal agencies 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 (2 U.S.C. 1535).

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State and local governments or the private sector of $100 million or more in any one year. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.169, Specialty Crop Block Grant Program.

Executive Order 12372

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

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule would not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

The Agricultural Marketing Service certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law 96–534, as amended (5 U.S.C. 601 *et seq.*). This rule only will impact State departments of agriculture that apply for grant funds. States include the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico. The States are not small entities under the Act.

Authority for a Specialty Crop Block Grant Program

The proposed program is intended to accomplish the goals of increasing fruit, vegetable, and nut consumption and improving the competitiveness of United States specialty crop producers. The SCBGP is authorized under section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note). Section 101 directs the Secretary of Agriculture to make grants to States for each of the fiscal years 2005 through 2009 to be used by State departments of agriculture solely to enhance the competitiveness of specialty crops.

This proposal also invites comments on the reporting and recordkeeping provisions that would be generated by this proposed rule. The information collection and recordkeeping requirements associated with this proposed rule are explained in more detail in the Paperwork Reduction Act section of this rule.

Background

The Fruit and Vegetable Program will periodically announce that applications may be submitted for participation in a ''Specialty Crop Block Grant Program'' (SCBGP), which will be administered by personnel of the Agricultural Marketing Service (AMS).

Periodically, funding would be appropriated to the Secretary of Agriculture to provide specialty crop block grants. To the extent that funds are available, each year the AMS will publish a **Federal Register** notice announcing the program and soliciting grant applications.

Subject to the appropriation of funds, each State that applies is to receive at least $100,000 to enhance the competitiveness of specialty crops. In addition, each State will receive an amount that represents the proportion of the value of specialty crop production in the state in relation to the national value of specialty crop production using the latest available complete specialty crop production data set in all states whose applications are accepted. All 50 States, the District of Columbia, and the Commonwealth of Puerto Rico are eligible to participate.

''Specialty crops'' for the purpose of this rule, means fruits and vegetables, tree nuts, dried fruits, and nursery crops (including floriculture). SCBGP applications will be accepted from any State department of agriculture, including the agency, commission, or department of a State government responsible for agriculture within the State.

Section 1290.6 prescribes the application procedure that includes a State plan to indicate how grant funds will be utilized to enhance the competitiveness of specialty crops using measurable expected outcomes. Applications can be submitted for projects up to 3 calendar years in length. Applicants wishing to serve multi-state projects must submit one application by the State assuming the coordinating role.

Section 1290.8 prescribes that under the SCBGP program, the AMS will enter into agreements with those State departments of agriculture whose applications have been approved. The State department of agriculture will assure that the State will comply with the requirements of the State plan. The State department of agriculture will also assure that funds shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds.

The AMS will provide the entire funding to the approved applicants by a one-time combined electronic transfer. SCBGP participants must deposit funds in insured, interest-bearing accounts and remit to AMS interest earned in accordance with 7 CFR 3015 and 3016.

Section 1290.9 prescribes the reporting and oversight requirements. If the grant period is more than one year, State departments of agriculture are required to submit an annual performance report(s) and a final performance report evaluating their project(s) using the measurable outcomes presented in the State plan, as well as a final financial report. If the

grant period is less than a year, State departments of agriculture are required to submit a final performance report and a final financial report.

Section 1290.10 prescribes the audit requirements of the State. The State is required to conduct an audit of the expenditures of SCBGP funds in accordance with Government Auditing Standards not later than 60 days after expiration of the grant period. Not later than 30 days after completion of the audit, the State shall submit a copy of the audit results with an executive summary to AMS.

AMS is inviting comments on the proposed rule, especially on the definition of ''enhancing the competitiveness'' of specialty crops, and on how to incorporate outcome measures into the State plan.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the AMS announces its intention to request approval by OMB of a new information collection.

Title: Specialty Crop Block Grant Program.

OMB Number: 0581–New.

Type of Request: New Information Collection.

Expiration Date of Approval: 3 years from date of OMB approval.

Abstract: The information collection requirements in this request are applied only to those State departments of agriculture who voluntarily participate in the SCBGP. The information collected is needed for the implementation of the SCBGP, to determine a State department of agriculture's eligibility in the program, and to certify that grant participants are complying with applicable program regulations. Data collected is the minimum information necessary to effectively carry out the requirements of the program, and to fulfill the intent of section 101 of the Competitiveness Act of 2004.

State departments of agriculture who wish to participate in the SCBGP would have to submit standard form SF–424, ''Application for Federal Assistance'', approved under OMB#4040–0004. After receipt of the SF–424, the State department of agriculture would have to submit SF–424B, ''Assurances-Non-Construction Programs'', approved under OMB#0348–0040 as part of the grant agreement to the AMS. The State department of agriculture would then submit to the AMS 90 days after the expiration date of the grant period SF269 ''Financial Status Report (Long Form)'', if the project had program income, approved under OMB#0348–0039, or SF269A ''Financial Status Report (Short Form)'', approved under OMB#0348–0038.

Completed applications must also include a State plan to show how grant funds will be utilized to enhance the competitiveness of specialty crops.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 52 (All 50 states, Puerto Rico, and the District of Columbia).

Estimated Number of Responses: 52.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 156 hours.

After approval of a grant application, State departments of agriculture would have to enter into a grant agreement with AMS by reading and signing the grant agreement.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .083 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 52 (All 50 states, Puerto Rico, and the District of Columbia).

Estimated Number of Responses: 52.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 4.32 hours.

On average, AMS does not expect a grant period to go beyond three calendar years, so State departments of agriculture would have to submit to AMS annual performance reports within 90 days after the first year of the grant agreement and within 90 days after the second year of the grant agreement.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 52 (All 50 states, Puerto Rico, and the District of Columbia).

Estimated Number of Responses: 52.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 104 hours.

If the grant period goes beyond 3 calendar years, a State department of agriculture would have to submit a letter to AMS requesting a grant period extension.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.17 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 5 (10% of the 52 respondents).

Estimated Number of Responses: 5.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 0.85 hours.

A State department of agriculture would have to submit a final performance report to AMS within 90 days following the expiration date of the grant period.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.5 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 52 (All 50 states, Puerto Rico, and the District of Columbia).

Estimated Number of Responses: 52.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 78 hours.

No later than 60 days after expiration of the grant period, a State would be required to conduct an audit of SCBGP grant funds. An audit report/executive summary would be required to be submitted to AMS no later than 30 days after completion of the audit.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 52 (All 50 states, Puerto Rico, and the District of Columbia).

Estimated Number of Responses: 52.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 156 hours.

The SCBGP is expected to accomplish the goals of increasing fruit, vegetable, and nut consumption and improving the competitiveness of United States specialty crop producers.

This program would not be maintained by any other agency, therefore, the requested information will not be available from any other existing records.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The SF forms and State

plan can be filled out electronically and printed out for submission or filled out electronically and submitted as an attachment through Grants.gov. The annual performance reports, final performance report, and the audit report/executive summary can be submitted electronically. The grant agreement requires an original signature and can be submitted by mail.

Finally, State departments of agriculture would be required to retain records pertaining to the SCBGP for 3 years after completion of the grant period or until final resolution of any audit findings or litigation claims relating to the SCBGP. This is a part of normal business practice and consistent with USDA regulations (7 CFR parts 3015 and 3016).

The estimated one-time cost for all State departments of agriculture in completing the State plan is $9,980. This total cost was calculated by multiplying the estimated 499 total burden hours by $20 per hour (a sum deemed reasonable, shall the respondents be compensated for this time).

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments concerning the information collection shall reference the docket number and the date and page number of this issue of the **Federal Register**. Comments concerning the information collection requirements should be sent to the office of Information and Regulatory Affairs, OMB: Attention: Desk Officer for AMS, Washington, DC 20503. Please state that your comments refer to Docket No. FV06–1290–1 PR. Comments may also be sent to Docket Clerk, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0243, 1400 Independence Avenue, SW., Washington, DC 20250–0243; Fax: (202) 690–0102; or E-mail: *scblockgrants@usda.gov*. Comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

A 60-day comment period is provided to allow interested persons to respond to this proposed information collection. A 30-day period is provided concerning comments addressing the provisions of this proposed rule. This period is deemed appropriate in order to proceed with final regulations, if adopted, that will enable application processing and approval of grants during this fiscal year.

List of Subjects in 7 CFR Part 1290

Specialty crop block grants, Agriculture, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and under authority of 7 U.S.C. 1621 note and Public Law 108–465, 7 CFR chapter 1290 is proposed to be amended as set forth below:

1. A new part 1290 is added to read as follows:

PART 1290—SPECIALTY CROP BLOCK GRANT PROGRAM

Sec.

1290.1 Purpose.
1290.2 Definitions.
1290.3 Eligible grant applicants.
1290.4 Eligible grant project.
1290.5 Restrictions and limitations on grant funds.
1290.6 Completed application.
1290.7 Review of grant applications.
1290.8 Grant agreements.
1290.9 Reporting and oversight requirements.
1290.10 Audit requirements.

Authority: 7 U.S.C. 1621 note.

§ 1290.1 Purpose.

Pursuant to the authority conferred by section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note), AMS will make grants to States to enhance the competitiveness of specialty crops in accordance with the terms and conditions set forth herein and other applicable federal statutes and regulations including, but not limited to, 7 CFR part 3016.

§ 1290.2 Definitions.

(a) *AMS* means the Agricultural Marketing Service of the U.S. Department of Agriculture.

(b) *Application* means application for Specialty Crop Block Grant Program.

(c) *Grant period* means the period of time from when the grant agreement is signed to the completion of all SCBGP projects.

(d) *Outcome measure* means an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public.

(e) *Project* means all proposed activities to be funded by the SCBGP.

(f) *Specialty crop* means fruit and vegetables, tree nuts, dried fruits, and nursery crops (including floriculture).

(g) *State* means the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(h) *State department of agriculture* means the agency, commission, or department of a State government responsible for agriculture within the State.

§ 1290.3 Eligible grant applicants.

Eligible grant applicants are State departments of agriculture from the fifty states, the District of Columbia, and the Commonwealth of Puerto Rico

§ 1290.4 Eligible grant project.

(a) To be eligible for a grant, the project(s) must enhance the competitiveness of specialty crops. Priority will be given to fresh specialty crop projects.

(b) To be eligible for a grant, the project(s) must be completed 3 calendar years after the grant agreement prescribed in section 1290.8 is signed. However, for cause, an extension of that deadline may be granted by AMS on a case by case basis with a written request from the State.

§ 1290.5 Restrictions and limitations on grant funds.

(a) Grant funds may not be used to fund political activities in accordance with provisions of the Hatch Act (5 U.S.C. 1501–1508 and 7324–7326).

(b) All travel expenses associated with SCBGP projects must follow Federal Travel Regulations (41 CFR Chapters 300–304) unless State travel requirements are in place.

(c) Grant funds shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds.

§ 1290.6 Completed application.

Completed applications shall be clear and succinct and shall include the following documentation satisfactory to AMS.

(1) Completed applications must include an SF–424 ''Application for Federal Assistance''.

(2) Completed applications must also include a State plan to show how grant funds will be utilized to enhance the competitiveness of specialty crops. The state plan shall include the following:

(i) Cover page. Include the lead agency for administering the plan and an abstract of 200 words or less for each proposed project.

(ii) Project purpose. Clearly state the specific issue, problem, interest, or need to be addressed. Explain why each project is important and timely.

(iii) Potential Impact. Discuss the number of people or operations affected, the intended beneficiaries of each project, and/or potential economic impact if such data are available and relevant to the project(s).

(iv) Financial Feasibility. For each project, provide budget estimates for the total project cost. Indicate what percentage of the budget covers administrative costs.

(v) Expected Measurable Outcomes. Describe at least two or three, discrete, quantifiable, and measurable outcomes that directly and meaningfully support each projects purpose. The outcome measures must define an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public.

(vi) Goal(s). Describe the overall goal(s) in one or two sentences for each project.

(vii) Work Plan. Explain briefly how each goal and measurable outcome will be accomplished for each project. Be clear about who will do the work. Include appropriate time lines.

(viii) Project Oversight. Describe the oversight practices that provide sufficient knowledge of grant activities to ensure proper and efficient administration.

(ix) Project Commitment. Describe how all grant partners commit to and work toward the goals and outcome measures of the proposed project(s).

(x) Multi-state Projects. If the project is a multi-state project, describe how the States are going to collaborate effectively with related projects with one state assuming the coordinating role.

§ 1290.7 Review of grant applications.

(a) Applications will be reviewed and approved for conformance with the provisions in § 1290.6. AMS may contact the applicant for additional information or clarification.

(b) Incomplete applications as of the deadline for submission will not be considered.

§ 1290.8 Grant agreements.

(a) After approval of a grant application, AMS will enter into a grant agreement with the State department of agriculture.

(b) AMS grant agreements will include at a minimum the following:

(1) The activities in the approved State plan.

(2) Total amount of Federal financial assistance that will be advanced.

(3) Terms and conditions pursuant to which AMS will fund the project(s).

§ 1290.9 Reporting and oversight requirements.

(a) An annual performance report will be required of all State department's of agriculture within 90 days after the completion of the first year of the project(s), until the expiration date of the grant period. If the grant period is one year or less, then only a final performance report (see paragraph (b) of this section) is required. The annual performance report shall include the following:

(1) Briefly summarize activities performed, targets, and/or performance goals achieved during the reporting period to meet project outcome measures.

(2) Note unexpected delays or impediments as well as favorable or unusual developments.

(3) Outline work to be performed during the next reporting period.

(4) Comment on the level of grant funds expended to date.

(b) A final performance report will be required by the State department of agriculture within 90 days following the expiration date of the grant period. The final progress report shall include the following:

(1) An outline of the issue, problem, interest, or need.

(2) How the issue or problem was approached via the project.

(3) How the annual outcome measures of the project were achieved.

(4) Results, conclusions, and lessons learned.

(5) How progress has been made to achieve long term outcome measures.

(6) Additional information available (e.g. publications, Web sites).

(7) Contact person for each project with telephone number and e-mail address.

(c) A final SF–269A ''Financial Status Report (Short Form)'' (SF–269 ''Financial Status Report (Long Form)'' if the project(s) had program income) is required within 90 days following the expiration date of the grant period.

(d) AMS will monitor States, as it determines necessary, to assure that projects are completed in accordance with the approved State plan. If AMS, after reasonable notice to a State, finds that there has been a failure by the State to comply substantially with any provision or requirement of the State plan, AMS may disqualify, for one or more years, the State from receipt of future grants under the SCBGP.

(e) States shall diligently monitor performance to ensure that time schedules are being met, project work within designated time periods is being accomplished, and other performance measure are being achieved.

§ 1290.10 Audit requirements.

Each year that a State receives a grant under the SCBGP, a State is required to conduct an audit of the expenditures of SCBGP funds in accordance with Government auditing Standards (Government Auditing Standards 2003 Revision GAO–03–673G). The audit shall be conducted no later than 60 days after the expiration date of the grant period. The State shall submit to AMS not later than 30 days after completion of the audit, a copy of the audit results with an executive summary.

Dated: April 14, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–5944 Filed 4–19–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

8 CFR Parts 103 and 299

[DHS Docket No. USCIS–2005–0062]

RIN 1615–AB19

Establishment of a Genealogy Program

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Proposed rule.

SUMMARY: This rule proposes to establish a Genealogy Program within U.S. Citizenship and Immigration Services to process requests for historical records of deceased individuals. Currently, such requests are processed as Freedom of Information Act requests by the Freedom of Information Act/Privacy Act program adding unnecessary delays to the process. A separate Genealogy Program would ensure a timely response to requests for genealogical and historical records.

DATES: Written comments must be submitted on or before June 19, 2006.

ADDRESSES: You may submit comments, identified by DHS Docket No. USCIS–2005–0062, by one of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

- E-mail: You may submit comments directly to USCIS by e-mail at *rfs.regs@dhs.gov.* Include DHS Docket No. USCIS–2005–0062 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., 3rd Floor, Washington, DC 20529. To ensure proper handling, please reference DHS Docket No. USCIS–2005–0062 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., 3rd Floor, Washington, DC 20529. Contact Telephone Number is (202) 272–8377.

FOR FURTHER INFORMATION CONTACT: Ave Maria Sloane, Chief—Genealogy Program, Office of Records Services (ORS), U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Washington, DC 20529, telephone (202) 272–8240.

SUPPLEMENTARY INFORMATION:

Part I—Public Participation
Part II—Background and Purpose
A. Historical Records
B. Genealogical Research Requests
Part III—New Program Functions
A. Operation of the New Genealogy Program
B. Index Search Request
C. Historical Records Request
D. Procedures for Requesting an Index Search or Search for Historical Records
E. Personal Information Concerning Children of the Subject of the Record
F. Requests by Historical and Genealogical Researchers Falling Outside the Genealogy Program
G. Reference Services Provided by This New Program
H. Users of Genealogy Program Services
I. Requests for Historical Records and the FOIA/PA Program
J. Requests for Records Where the Requester is Not Sure the Records are Historical
Part IV—Determination of Fees
A. Number of Requests
B. Processing Tracking
C. Description of Two Services
D. Estimating Requests and Receipts
E. Record Copy Fee Where the Copy is Illegible
F. Fee Waivers
Part V—Regulatory Requirements
A. Regulatory Flexibility Act
B. Unfunded Mandates Reform Act of 1995
C. Small Business Regulatory Enforcement Fairness Act of 1996
D. Executive Order 12866
E. Executive Order 13132
F. Executive Order 12988
G. Paperwork Reduction Act
List of Subjects
PART 103—Powers and Duties; Availability of Records
PART 299—Immigration Forms

Part I—Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. The Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (USCIS) also invite comments that relate to the economic, privacy, or federalism affects that might result from this proposed rule. Comments that will provide the most assistance to USCIS in developing these procedures will make reference to a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and DHS docket No. USCIS–2005–0062 for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. See **ADDRESSES** above for information on how to submit comments.

Docket: For access to the docket to read background documents or comments received, go to *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., 3rd Floor, Washington, DC 20529.

Part II—Background and Purpose

The demand for historical records by historical and genealogical researchers, as well as other members of the public, has grown dramatically over the past several years. Currently, USCIS processes requests for historical records under USCIS' Freedom of Information Act (FOIA)/Privacy Act (PA) program. Historical records that are the subject of a FOIA request usually are released in full because the subjects of the requested documents are deceased and therefore no FOIA exemptions apply to withhold the information. *Cf.* OMB Guidelines, 40 FR 28948, 28951 (1975). The only exception is for classified historical records, which can only be released after being declassified. *See* Executive Order 12958, as amended by Executive Order 13292, 68 FR 15315 (March 28, 2003). Classified information is information that requires protection against unauthorized disclosure in the interest of national security. *See id.* The large volume of genealogical requests (average of 10,000 combined search and records requests per year over the last 4 years) received by USCIS FOIA/PA offices contributes to the USCIS FOIA/PA backlog. For this reason, it became apparent that the FOIA/PA program was not the most efficient means of processing requests for historical records.

A separate Genealogy Program would create a dedicated program to serve this unique category of requesters. Removing genealogy research from the immense FOIA group of ''all'' requesters would improve service to historical researchers, genealogists, and other members of the public. It would also greatly reduce the number of FOIA requests and improve the ability of USCIS to respond to requests for other non-historical records and materials. Requesters making a request that qualifies as a genealogical research request for historical records under this rule would submit such a request directly with the Genealogy Program. If the Genealogy Program determines that the request does not qualify as a genealogical research request, it would return the request (along with any fees submitted with the request) to the requester and inform the requester to resubmit the request to the USCIS FOIA/PA office for processing under the FOIA. Conversely, if a requester would send a request to the USCIS FOIA/PA office that is determined by that office to qualify as a genealogical research request, the USCIS FOIA/PA office would return the request to the requester and inform the requester to resubmit the request to the Genealogy Program for processing. In proposed 8 CFR 103.40(a), this rule defines the term, ''genealogical research request.'' In proposed 8 CFR 103.39, this rule describes what records qualify as historical. The terms, ''historical records'' and ''genealogical research request'' are discussed below.

A. Historical Records

The USCIS Genealogy Program will apply to ''historical records,'' a new term introduced by this proposed rule. Historical records are files, forms, and documents collected by the Immigration and Naturalization Service (INS) and maintained by USCIS that include:

- Naturalization Certificate Files;
- Forms AR–2;
- Visa Files;
- Registry Files; and
- A-Files numbered below 8 million.

Naturalization Certificate Files (C-Files) are records from September 27, 1906 to April 1, 1956, relating to U.S.

naturalizations and the issuance of evidence of naturalization or citizenship. Forms AR–2 are Alien Registration Forms on microfilm that were completed by all aliens age 14 and older who resided in or entered the United States between August 1, 1940 and March 31, 1944. These forms contain identification information, as well as information regarding the alien's employment and arrival to the United States. Visa Files are records from July 1, 1924 to March 31, 1944 containing the arrival information of immigrants admitted for permanent residence from July 1, 1924 to March 31, 1944 under the Immigration Act of 1924. Registry Files are records from March 2, 1929 to March 31, 1944 containing arrival information of immigrants who entered the United States prior to July 1, 1924, and for whom no arrival records could later be found. A-Files are case files on individuals containing all immigration records created or consolidated since April 1, 1944 to the present. This rule only deems historical those A-File records numbered below 8 million and containing documents dated prior to May 1, 1951. Other A-File records, therefore, will be subject to the FOIA/PA program. USCIS chose these two criteria as the dividing line because May 1, 1951 is the date that the 8 million series began, and is within the decade that the last record series prior to the advent of the A-File, C-Files, was closed.

Designation of a record as historical neither speaks to the value or worth of any given record, nor relates to what the Archivist of the United States might designate as worthy of permanent preservation. Rather, this convention was employed by USCIS solely to identify records of advanced age for which there is high demand from genealogical researchers. Any record filed within any record system other than one identified as historical by this proposed rule, regardless of the date of the record or the subject's date of birth, will not be available under the Genealogy Program. Those records outside the scope of the Genealogy Program can still be requested through the FOIA/PA or other available programs.

B. Genealogical Research Requests

This proposed rule defines a genealogical research request as a request from a member of the public for searches and/or copies of historical records relating to a deceased person. Requests to locate USCIS documents to support a separate application or petition for benefits from USCIS would not meet this definition. For example, requests to replace a lost naturalization certificate would not qualify as genealogical research requests.

The chart below lists the records that the public would be able to request from the Genealogy Program versus the records that the public would be able to request from the FOIA/PA office.

Genealogy program	FOIA/PA office
Files of deceased subjects	Files of living subjects.
C-Files from 9/27/1906 to 4/1/1956	Naturalization records on or after 4/1/1956.
Visa Files from 7/1/1924 to 5/1/1951	Visa records on or after 5/1/1951 in A-Files.
A-Files below 8 million and documents therein dated prior to 5/1/1951.	A-Files above 8 million and documents therein dated on or after 5/1/1951
Registry Files from 3/2/1929 to 3/31/1944 and registry records from 4/1/1944 to 4/30/1951.	Registry records on or after 5/1/1951 in A-Files.
AR–2 Files from 8/1/1940 to 3/31/1944 and Alien Registration Forms from 3/31/1944 to 4/30/1951 in A-Files.	Alien Registration Forms on or after 5/1/1951 in A-Files.

Part III—New Program Functions

Currently, all requests for historical records are processed by the USCIS FOIA/PA program. The FOIA/PA program depends upon the Office of Records Services/Office of Records Management (ORS/ORM) offices to search indices and locate and retrieve responsive records and files. If ORS/ORM does not find any records that respond to the FOIA request, ORS/ORM will transmit a ''no record'' response to FOIA/PA and FOIA/PA will inform the requester that no records have been found that respond to the FOIA request. If ORS/ORM provides responsive records to the FOIA/PA program, FOIA/PA professionals review the documents for any issues arising under the Freedom of Information or Privacy Acts and mail copies of the records to the requester. Genealogical requests are identified as ''third party'' requests (requests from other than the subject), and since the subjects of the requests are deceased, the deceased subjects themselves no longer have privacy interests in the records. *See* OMB Guidelines, 40 FR 28948, 28951 (deceased persons do not enjoy Privacy Act protections); Department of Justice, Office of Information and Privacy, Freedom of Information Act Guide (May 2004) (noting ''longstanding FOIA rule that death extinguishes one's privacy rights''), available at *http://www.usdoj.gov/oip/exemption6.htm#privacy. But cf. National Archives and Records Admin.* v. *Favish*, 541 U.S. 157 (2004) (holding that surviving relatives may have protectible privacy interest in ''death images of the deceased,'' personal details about circumstances surrounding individual's death, and other information concerning deceased where disclosure would cause ''a disruption of the relatives' peace of minds''). As a result, genealogical requests for unclassified records routinely pass through the FOIA/PA program without requiring any analysis for exemption application under FOIA, and serve only to contribute to the FOIA/PA backlog.

The new Genealogy Program would search indices and locate and retrieve responsive records and files. Once a requester has demonstrated that the subject of the record is deceased by providing a death certificate, obituary, or other form as proof of death, routine record copies and information would be reviewed and mailed directly to the requester.

The new Genealogy Program would serve the public demand in a more expeditious fashion. The program would put requesters and the genealogy staff in direct communication thus providing a dedicated queue and point of contact for genealogists and other researchers seeking access only to those records described as historical records as defined under 8 CFR 103.39.

Finally, the new Genealogy Program would either release historical records as requested, or, rather than deny release, redirect the requester to the FOIA/PA Program for further consideration of the request. If the FOIA/PA Program ultimately denies the requested information, the requester may seek an appeal of the FOIA/PA denial under the current procedures specified in 6 CFR 5, 8 CFR 103.10(c), and 8 CFR 103.10(d)(3).

A. Operation of the New Genealogy Program

Due to the nature of historical records, it is hard to predict what types of records (if any) exist on a given immigrant. ORS/ORM must search various indices before determining whether any record exists, how many separate records exist, and where those records might be located. The actual location and retrieval of records involves a separate process, which itself varies according to record format (microfilm or textual). Combining both activities (index searching and record retrieval/processing) into one request would result in extraordinarily high fees for historical and genealogical researchers, especially for those for whom no record is found. For this reason, USCIS proposes separating index search requests from record copy requests, and proposes that each be requested separately from the Genealogy Program.

Researchers would choose from one of two types of requests depending on the amount of information they have available regarding records of their immigrant ancestor. They could: (1) Request a search of the index if they are unable to identify a specific historical record, or (2) request that they be provided copies of historical records the requester can identify by file number.

B. Index Search Request

Most researchers would begin with a request for a search of the index in order to obtain the information necessary to request a specific record. Upon receipt of an index search request, the Genealogy Program would search the indices for references to the subject named in the request. If found, it would send all pertinent information about each record indicated (*i.e.*, file number, location, or other identifying information) to the researcher. If no record is found, the researcher would be notified.

Genealogy Program index searches may result in locating records no longer maintained by USCIS. The public would be able to contact the Genealogy Program for information regarding which records are no longer maintained by USCIS. Search results indicating a naturalization record in USCIS custody also will contain information directing researchers to alternate sources for copies of court naturalization records held by the National Archives or by state and local courthouses. Search results indicating a Visa File also will contain information allowing a researcher to locate ship passenger arrival list records at the National Archives. All index information about all records would be provided to the requester.

C. Historical Records Request

Using information obtained from the index search (or found during prior research), researchers also could submit a request for records in which they identify the record sought to the Genealogy Program Office. In response to a record request, the Genealogy Program Office would retrieve the specified record for duplication, review, and release.

D. Procedures for Requesting an Index Search or Search for Historical Records

Requests could be submitted via the Internet at a genealogy Web site to be developed for this purpose or by mailing a completed Form G–1041, Genealogy Search Request, or Form G–1041A, Genealogy Record Request, to the Genealogy Program Office.

The success of each index search request would depend on the amount and accuracy of information provided by the researcher. No search could be initiated regarding an individual without at least a full name, year of birth, and country of birth. In cases of immigrants with common names, an exact date and place of birth, alternate spellings of the name and aliases, as well as an approximate date of arrival and/or the immigrant's residence at the time of naturalization, may be necessary to ensure a successful and definitive search.

Records stored in different file series are located using a variety of methods, most of which require a specific file number. The most reliable record requests would be based on, and include, specific file identification data received from previous index search requests. The success of record requests submitted from researchers without any previous index search would depend entirely upon whether the researcher provides the exact information needed to retrieve the specific record sought. Full instructions on what information is needed to retrieve specific files would be available on the USCIS genealogy Web site and in pamphlet form.

In addition, when a request is made for records of an immigrant whose date of birth is less than 100 years ago, the researcher would have to provide documentary evidence that the subject is deceased. For the purposes of the Genealogy Program, USCIS presumes that immigrants born more than 100 years ago are deceased. *Schrecker* v. *U.S. Dep't of Justice*, 349 F.3d 657, 664–65 (D.C. Cir. 2003). Thus, when the subject of a record request was born less than 100 years prior to the date of the request, primary or secondary documentary evidence of the subject's death would be required. The requestor would bear the burden of establishing to the satisfaction of the Genealogy Program Office that the subject is deceased. Acceptable documentary evidence includes, but is not limited to death records, published obituaries, published death notices or published eulogies, church or bible records, photographs of gravestones, and/or copies of official documents relating to payment of death benefits. No records would be released in the case of an immigrant born less than 100 years prior to the request date until evidence of the subject's death is received.

E. Personal Information Concerning Children of the Subject of the Record

Information about a subject's children may be found in many historical records and may consist of the child's name, date of birth, place of birth, and residence as of the date of the record. The Genealogy Program will not release personal information concerning a subject's children.

F. Requests by Historical and Genealogical Researchers Falling Outside the Genealogy Program

Due to the history of individual immigrants, immigration and nationality benefits, and recordkeeping, some old immigrant records now exist within A-Files numbered above 8 million. As previously noted, A-Files numbered above 8 million are not considered historical records and could not be made available under the Genealogy Program. Researchers seeking A-Files numbered 8 million or above, or records dated after May 1, 1951, would have to request their ancestors' files under the FOIA/PA program. The Genealogy Program would provide those requesters the information necessary to submit a FOIA/PA request to the appropriate office.

G. Reference Services Provided by This New Program

In addition to standard information and instructions printed on USCIS Genealogical Search and Request forms (G–1041 and G–1041A), USCIS would provide reference materials in pamphlet form and on the USCIS Web site. Information for genealogists would include a review of various DHS record series, the information typically contained in those records, and instructions for filing requests. In addition, DHS would direct genealogists to resources containing information regarding immigration and

naturalization records not in USCIS custody.

Information for historical researchers would include descriptions of resources available at USCIS or the National Archives and Records Administration (NARA) that support the study of immigration records history, as well as the history of U.S. immigration law and policy.

H. Users of Genealogy Program Services

The primary user of the Genealogy Program would be individuals seeking records of their ancestors for genealogical and family history purposes. Additionally, USCIS anticipates a small number of requests to come from historians and social scientists seeking historical records of individual immigrants whom they can identify by name, date of birth, place of birth, or by file number, and from professional genealogists and researchers involved in their location.

I. Requests for Historical Records and the FOIA/PA Program

Under this proposed rule, all requests for records designated as historical records would no longer fall under the FOIA/PA program and would have to be submitted to the new Genealogy Program Office. The experience of the FOIA/PA program office is that those records identified as historical records in 8 CFR 103.39 are routinely released without need for redaction or withholding. This is why this new program is being proposed to serve customers who seek historical records.

Once the final rule is published and effective, the FOIA/PA program will return all FOIA/PA requests for historical records and direct the researcher to submit a genealogy request. Of course, some genealogists will seek records not included within the definition of historical records, thus some genealogists will continue to be served by the FOIA/PA program office.

As discussed above, with implementation of the Genealogy Program to satisfy requests for older, historical records, the FOIA/PA program will be able to focus on more current records presenting FOIA and privacy issues.

J. Requests for Records Where the Requester Is Not Sure the Records Are Historical

The Genealogy Program Office would accept search requests in which the subject likely is to be found in an historical record. If the search results reference any record not included within the definition of historical records, the Genealogy Program Office would transmit the file index information to the requestor and also include instructions for requesting that file under USCIS FOIA/PA guidelines.

Part IV—Determination of Fees

This rule proposes fee ranges for index searches and for copies of historical records as described in 8 CFR 103.7(b)(1). USCIS invites the public to comment on the proposed fee ranges, considering in particular USCIS's estimated costs to run the Genealogy Program and the fees charged by other agencies providing similar services. In a final rule, USCIS will set one fee amount for each type of service. As provided by statute, these fees would be deposited into the Immigration Examinations Fee Account. *See* 8 U.S.C. 1356(n), (t).

The search fee recovers the full cost of the search. The costs involved in searching the DHS indices and transmitting search results to a requester are the same whether or not any record is found. Thus, the Genealogy Program Office could not refund the search fee if the requested records are not found by USCIS.

Similarly, the Genealogy Program Office would charge a fee for all record services in which the requested record is located, regardless of whether or not it is determined that the record is subject to release. The Genealogy Program Office would refund a fee when the record request is based upon file information previously provided by the Genealogy Program Office in response to an index search request, or if the Genealogy Program Office is unable to locate the file when later requested under a Genealogy Record request.

The fee ranges were set in accordance with section 286(t) of the INA, 8 U.S.C. 1356(t), which authorizes USCIS to set fees for providing research and information services at a level that will ensure the recovery of the full costs of providing all such services. Charts setting forth the full costs that formed the basis for the fee ranges proposed in this rule are included below. The full cost includes items such as management and personnel costs (salaries and benefits), physical overhead, consulting, materials and supplies, utilities, insurance, travel, and rent of building space and equipment. Full costs also include the cost of research and information collection, establishment of procedures and standards, and issuance of regulations. The fees also were set in accordance with Office of Management and Budget (OMB) Circular A–25, which requires that user fees recover the full cost of services provided.

A. Number of Requests

The estimated total number of requests under the new program is projected at or in excess of 26,000 per year. The total number includes an estimated 15,250 search requests, 6,619 requests for copies of microfilmed records, and 4,728 requests for copies from textual files. These estimates are based on the annual number of genealogical FOIA/PA requests received in previous years and anticipated growth in requests. In the last four-year period, the USCIS FOIA/PA program received an average of 10,000 genealogical requests per year. These requests are for a combined index search and copy of records. These figures will be far greater in the Genealogy Program since the program will count a request for an index search separately from a request for a record copy. NARA receives a similar number of requests for copies of immigration records each year (*i.e.*, 11,000 to 12,000 per year). While some requests may be discouraged by the imposition of fees, other potential users have informed the FOIA/PA program they would submit one or more genealogical request(s) if they could be assured a more expeditious response. Finally, USCIS expects in the short-term to receive requests from individuals who previously filed requests with the FOIA/PA program to request a second search under the new program. For these reasons, we expect the actual number of genealogical requests to increase, rather than decrease, under the new program.

B. Processing Tracking

USCIS has studied the methodologies to respond to search and retrieval requests. A number of efficiencies were proposed to better process the searches and request tracking. An automated system is being developed which will allow for quicker and more comprehensive searches, customer request and response tracking, and provide for better metrics to measure productivity.

C. Description of Two Services

USCIS proposes two separate costs for the separate services to be offered by the Genealogy Program.

- The first cost relates to the index search service, which, in addition to the paperwork and data entry standard to processing all requests, requires a detailed search of the master index microfilm and other related microfilm indices.
- The second cost relates to the retrieval, reproduction, and processing of historical records and files. This

activity includes: Processing standard requests, identifying records stored on microfilm or at Federal Record Centers, preparing and submitting requests for those files at the Federal Record Centers to be pulled and shipped to the Genealogy Program Office, copying of records from microfilm or paper and the processing of those copies, reassembling files, shipping of files from and to a storage facility, and per-file fees paid to NARA for retrieving and refiling hard copy records.

D. Estimating Requests and Receipts

The estimate for requests and receipts is based on USCIS's experience in processing genealogical-type requests under the FOIA/PA program and the experience of other organizations offering genealogical resources. USCIS used weighted risk analysis to project the number of requests for searches, microfilm records, and textual records. USCIS also projected a five percent annual growth. The results of the analysis indicate that USCIS would receive about: 15,500 search requests in the first year; 6,500 requests for microfilmed records; and 5,000 requests for textual records.

After determining the cost of different services and estimating the number of requests for each service submitted each year, it was possible to calculate annual costs over 2 years, as well as the start-up costs required to launch the new program.

START-UP AND RECURRING COSTS

Cost category	Start-up	Annual operating costs (acutal dollars)	
		Year 1	Year 2
Office Furnishings	$20,000	$0	$0
Personnel/Costs	15,000	675,000	675,000
Office Equipment	150,000	3,000	3,000
Travel	2,000	2,000	2,000
Training	8,375	5,000	5,000
Website and Lockbox fees	2,000	4,000	4,000
Postage	.....	41,665	43,748
Equipment Repairs and Maintenance	.....	2,000	2,000
Subscriptions/Publications/Association fees	500	1,000	1,000
Supplies	.....	4,400	4,400
Design and Development	5,000	2,000	2,000
Operation and Maintenance of the search system for 10 users	.....	260,250	270,660
Software Maintenance	.....	3,000	3,000
Marketing	5,000	10,000	6,000
Subtotal	207,875	1,013,315	1,021,808
NARA charges (record request costs only)	.....	34,000	35,000
Total	207,875	1,047,315	1,056,808

Fees to cover estimated costs were determined by computing the start-up costs and operating costs for the first 2 fiscal years. The total cost for each service was divided by the expected volume of requests over the same two-year period. The fees for the records request portion were adjusted (accounting for the slightly higher fee for record requests) by also factoring in the costs directly attributable, such as NARA pull fees for record requests and off-site record retrievals.

Service	Approximate requests—2 years		Costs (actual dollars)—2 years				User fees (rounded)
			Yearly NARA costs for record requests only	Allocated by percentage	Total		
	Volume	Percent			Yearly costs (except NARA)	Start-up	
Index Search	31,000	57	.....	$1,160,020	$118,489	$1,278,509	$41.00
Record Request:							
Micro-film	13,000	24	0.00	488,430	49,890	538,320	41.00
Textual	10,000	19	69,000	386,673	39,496	495,169	50.00
Total	54,000	.....	69,000	2,035,123	207,875	2,311,998	.....

Based upon this calculation and consideration of fees charged by other agencies for comparable services, discussed below, this rule proposes an estimated user fee range as follows:

(1) *Index search service:* This service is designed for customers who are unsure whether USCIS has any record of their ancestor, or who suspect a record exists but cannot identify that record by number. The index search service would identify any historical records relating to the subject and provide the researcher with all the information needed to request the record(s). The proposed fee range for this service is $16.00 to $45.00.

(2) *Record/file services:* This service is designed for customers who can identify a specific record or file to be retrieved, copied, reviewed, and released. Customers may identify one or more files in a single request. However, separate fees would apply to each file requested. The proposed fee range for this service is $16.00 to $45.00 for each

file on microfilm retrieved, and $26.00 to $55.00 for each textual file retrieved.

The Genealogy Program fee ranges proposed under this rule are comparable to the fees of similar institutions providing similar services. As previously noted, a flat fee both to search and/or retrieve all historical records would be excessively high in comparison to that of other agencies. For this reason, the Genealogy Program proposes to offer both a search service and a record retrieval service, each of which is based on the cost of providing that specific service and thus providing the requester the option of obtaining the additional information found. The proposed fee ranges were set to provide the best possible service to the public, including enhanced photocopies, other suggested sources to find information, and a better description of the information received than is now possible under the existing FOIA/PA processing.

While USCIS considered the fees charged by similar organizations, no other organization provides exactly the same service because they do not hold precisely the same variety or volume of records. A description of comparable organizations, as well as the fees they charge, is provided as follows:

The NARA field facilities hold Federal court copies of naturalization records and will search them, court by court, for a fee ranging from $1 to $10, depending on the rules of the facility. Several state archives hold state court copies of naturalization records and charge fees for searching those records, then charge additional fees for copying and shipping. State archive fees differ from state to state. For example, the North Dakota archives charge a $5 search fee, the Pennsylvania archives charge $10 per search, and the Connecticut archives charge non-residents $15 for searches. Still, many court copies of naturalization records are not centralized in any Federal or state archive but remain scattered among county and municipal courthouses. Some clerks of the court will provide records free, others charge fees ranging from $1 to $25, and others do not provide search assistance.

USCIS also considered the fees to those paid by researchers to two other Federal agencies: NARA and the Social Security Administration (SSA). NARA collects a fee of $17.25 to search immigrant passenger arrival records, but only if the requester can name a specific ship list to be searched. SSA charges a fee of $27 for copies of original Social Security Number applications if the requester provides the Social Security Number, and $29 for copies of original Social Security Number applications if the requester does not provide the Social Security Number. SSA also offers electronic extracts of the same records for $16 and $18 respectively. In all such cases, when SSA provides these services, they apply to only one series of records (unlike a USCIS search and retrieval of multiple record series).

Lower fees on the part of some organizations result from the fact that some or all of their indices and/or records are automated. Higher fees generally were charged for locating, retrieving and copying hard copy files. USCIS historical record series are comprised of hard copy C-Files, Visa Files, Registry Files, and A-Files numbered below 8 million and records therein dated before May 1, 1951. The National Archives fee to copy a similar textual file in its entirety is $37.

Genealogy fees will be reviewed biennially and will likely be adjusted to more accurately reflect the actual cost as work is performed under new processes and procedures of the Genealogy Program. Furthermore, the initial start-up cost must be recovered over the first 2 years of the program. After 2 years, the fee review will reflect retirement of that debt and be adjusted accordingly.

E. Record Copy Fee Where the Copy Is Illegible

If requesters receive an illegible copy of a record, the Genealogy Program would charge the requester the same record copy fee. The costs involved in locating, retrieving, reproducing, and reviewing an historical record remain the same regardless of the quality of the copy. Some historical records exist on deteriorating microfilm, and those images have faded over time. The Genealogy Program would make every effort to produce the best possible reproduction of all microfilm records. Accordingly, the program would provide researchers with a record printed directly from the film rather than a copy of a print, or a scanned copy of a print. Prints taken directly from the old microfilm are generally the best quality copy available. In many cases, researchers will find they can improve the legibility of microfilm prints themselves using a photocopy machine's darker or lighter settings. The Genealogy Program also will have the benefit in sharing with enhanced technology as it is implemented in the USCIS Records program.

F. Fee Waivers

Due to the small amount of the fees, the normally discretionary nature of these requests, and the general authority of section 286(t) of the INA, 8 U.S.C. 1356(t), to recover full costs, DHS has determined that fee waivers will not be granted in this program.

Part V—Regulatory Requirements

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This proposed rule affects professional genealogists and other members of the public requesting historical records from USCIS. As discussed below, the main source of genealogy requests is from individuals doing personal research, rather than from small entities, such as professional genealogists. Genealogy was described as a $200 million per year industry by The Wall Street Journal, ranging from individual researchers to multimillion-dollar companies; in addition, the growth of the Internet has spurred interest and a rapidly growing number of hobbyists pursuing genealogy. According to the ''Occupational Outlook Quarterly,'' (Bureau of Labor Statistics, Fall 2000), a 1997 survey of certified genealogists found that 57 percent work part-time, 34 percent work full-time, and 9 percent are hobbyists. In 2001 there were over 300 certified genealogists and currently, the Association of Professional Genealogists has a membership of 1,500 (*http://www.apgen.org/publications/press/1500.htm*). As the National Genealogical Society notes, ''Aside from librarians, archivists, and publishers, most professional genealogists have other sources of income and may 'moonlight' as genealogists until they become established. Those who make a living purely from client research in genealogy probably number no more than a few dozen.'' (*http://www.ngsgenealogy.org/eduprofessional.htm*)

With the growth of the Internet in recent years, the number of individuals and hobbyists has grown at a much faster rate. In fact, *http://www.myfamily.com*, one of the larger online information sources for genealogy, announced in 2004 a paid subscriber base of more then 1.5 million

members. Much of the growth in genealogy as a sector arises from providing individuals the means of conducting their own family history research through online databases and research tools. The growing dominance of individual hobbyists suggests that individuals rather than professionals are the primary requesters of historical records. Professional genealogists tend to be hired when individuals hit a ''brick wall,'' or a particular problem that they cannot resolve. This suggests that professional researchers tend to focus on aspects of genealogy research other than the standard index searches or record requests that would be submitted to USCIS's Genealogy Program.

Over the past 4 years, USCIS has received an average of 10,000 combined index search and/or records requests for historical records per year. Each request for an index search, record search, or both an index and record search was counted as one request to make up the 10,000. Based on an estimated increase in the demand for historical information, and the fact that the Genealogy Program will treat index search requests and records requests as separate rather than combined requests, DHS expects total requests to reflect a significantly higher number than when the FOIA Program handled genealogical requests. DHS estimates that it will receive 15,250 index search requests, 6,619 requests for microfilm records, and 4,728 requests for textual records for a combined total of 26,597 requests, totaling a cost ranging from $468,832 to $1,232,895 under the proposed fee structure.

DHS has determined that requests for historical records are being made by individuals and has not found any evidence that professional genealogists submit FOIA requests to USCIS for their clients. If professional genealogists and researchers have submitted such requests, they are not identifying themselves as a commercial requester and thus cannot be segregated in the data. Genealogists typically advise clients on how to submit their own requests. Reasons for this practice include the time required for a response to the request and the belief that records are more releasable to a relative rather than an unrelated third party. Based on discussions with professional genealogists, requests generated by professional genealogists and researchers who fall under the approved definition from the Small Business Association of a small entity in this category, All Other Professional, Scientific, and Technical Services with annual average receipt of $6 million or less, are well below 5 percent of the total number of requests. If it is assumed that professional genealogists and researchers account for 5 percent of the requests, and these costs are borne exclusively by the 1,500 members of the Association of Professional Genealogists, the average impact would be $28.49 per year. The average impact would be even lower still once the universe of professional genealogists is expanded to include entities who are not members of the Association of Professional Genealogists.

These practices arise from the nature of the genealogy sector. Professional genealogists charge anywhere from $10 to $100 per hour, with an average of $30 to $60 per hour, according to the Association of Professional Genealogists (*http://www.apgen.org/articles/hire.html*). Expenses, such as record requests and copies, often are charged to the client as an additional expense. Specialists typically charge a relatively higher fee (*http://www.progenealogists.com/compare.htm*). In addition, many professionals require a retainer of $300 to $500. See Sue P. Morgan, ''What You Should Know before Hiring a Professional Genealogist,'' available at *http://www.genservices.com/docs/HiringAPro.htm*. Depending on the depth of the research, the fees for a genealogical study can be substantial. At a retainer of $300, the proposed fee range of $16 to $45 for an index search by the Genealogical Program is only 5.3 to 15 percent of the retainer, and it is typically paid directly by the client, not the researcher. This does not suggest a substantial burden on researchers. Given the low number of professional genealogists and researchers that would be impacted by this rule, the resulting degree of economic impact would not require a Regulatory Flexibility Analysis to be performed. Consequently, DHS certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

B. Unfunded Mandates Reform Act of 1995

This proposed 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 will not significantly or uniquely effect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

C. Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This proposed 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. In the previous four fiscal years, USCIS received an average of 10,000 combined search and record requests that fell under the definition of genealogy. To do a search and provide a record for each of these requests, USCIS would generate between $468,832 to $1,232,895 in offsetting revenue. These requests are currently handled through the USCIS FOIA/PA program at no recoverable cost to USCIS. Private vendors also do genealogical research and there are various historical documents maintained by private companies. The Genealogy Program will have no impact on these companies since we are only offering the same legacy INS documents as we provided previously at no charge.

D. Executive Order 12866

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), requires a determination whether a regulatory action is ''significant'' and therefore subject to review by OMB and subject to the requirements of the Executive Order. USCIS has determined that this proposed rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f). Accordingly, it has been submitted to OMB for review and approval.

USCIS assessed both the costs and benefits of this proposed rule as required by Executive Order 12866, section 1(b)(6), and has determined that the benefits of this regulation justify its costs. The anticipated benefits of this proposed rule include: (1) Relieve the FOIA/PA program from burdensome requests that require no FOIA/PA expertise; (2) place requesters and the Genealogy staff in direct communication; (3) provide a dedicated queue and point of contact for genealogists and other researchers seeking access to those records described as historical records; (4) generate sufficient revenue to cover expenses as a fee for service program and, (5) reduce the time to respond to these requests.

The cost to the public of this proposed rule ranges from a $16 to $45 fee for index search requests, $16 to $45 fee for requests for a copy of a file on microfilm, or $26 to $55 fee for requests for a copy of a textual file. USCIS is authorized to charge a fee to recover the full costs of providing research and information services under section 286(t) of the INA, 8 U.S.C. 1356(t). Other sources exist for many types of genealogical research and it is not evident that every search by a genealogist would require access to the Genealogy Program at USCIS. Based upon these proposed fees, it is possible to approximate the impact of fees on individual and professional genealogists and researchers. USCIS expects to receive in the future approximately 15,250 genealogical (name) index search requests per year, which, at $16 to $45 per search, would yield $240,000 to $675,000; in addition, there would be a total of 6,619 requests for microfilmed records and 4,728 requests for textual records (*i.e.*, hard copy files). A fee range of $16 to $45 for microfilmed records would yield $105,904 to $297,855. A fee range of $26 to $55 to pull textual records would yield $122,928 to $260,040. Therefore, the total fees collected by the Genealogy Program would yield $468,832 to $1,232,895.

Establishing the new Genealogy Program will benefit both individuals and researchers making genealogy requests for historical records as well those seeking information under the current FOIA/PA program by allowing a more timely response for both sets of requests. USCIS estimates that it processed an average of 10,000 combined index search and record requests for genealogical information over the past 4 fiscal years through the existing FOIA/PA program. These can be released without redaction or withholding, eliminating the need for FOIA/PA analysis. A new program specifically designed to handle these requests would expedite the process and improve services to historical researchers, genealogists and the general public. For example, the proposed rule does not increase information collection requirements of the rule. In fact, the introduction of e-filing presents an opportunity to simplify the information collection process and expedite handling. At the same time, the resources of the FOIA/PA program could be applied more efficiently to requests more directly related to immigration, citizenship, or naturalization benefits that require more detailed FOIA/PA analysis.

E. Executive Order 13132

Executive Order 13132 requires DHS to develop a process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications.'' Such policies are defined in the Executive Order to include rules that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

USCIS analyzed this proposed rule in accordance with the principles and criteria in the Executive Order and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, USCIS has determined that this proposed rule does not have federalism implications. It provides for alternate document handling procedures that do not implicate state government.

F. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988. That Executive Order requires agencies to conduct reviews, before proposing legislation or promulgating regulations, to determine the impact of those proposals on civil justice and potential issues for litigation. The Executive Order requires that agencies make reasonable efforts to ensure the regulation clearly identifies preemptive effects, effects on existing Federal laws and regulations, identifies any retroactive effects of the proposal, and other matters. DHS has determined that this proposed regulation meets the requirements of Executive Order 12988 because it does not involve retroactive effects, preemptive effects, or other matters addressed in the Order.

G. Paperwork Reduction Act

This proposed rule requires the submission of Form G–1041 or Form G–1041A when requesting a search or record from the USCIS. The Forms G–1041 and G–1041A are considered an information collection. Accordingly, the Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 19, 2006.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Director, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add Form Number G–1041 or G–1041A (whichever is appropriate) in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New information Collection.

(2) *Title of the Form/Collection:* Genealogy Search Request and Genealogy Record Request.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form G–1041, and G–1041A, U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and households. Form G–1041 is provided as a convenient means for persons to provide data necessary to perform a search of historical agency indices. Form G–1041A provides a convenient means for persons to identify a particular record desired under the

Genealogy Program. Forms G–1041 and G–1041A will be used by researchers, historians, and social scientists seeking ancestry information for genealogical, family history and heir location purposes. The forms may also be used by United States citizens seeking historical records to support a foreign application for dual citizenship.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 16,000 responses (Form G–1041, 10,000 responses, and Form G–1041A, 6,000 responses) at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://uscis.gov/graphics/formsfee/forms/pra/index.htm.*

If additional information is required, contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, 3rd Floor, Washington, DC 20529, (202) 272–8377.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 103—POWERS AND DUTIES; AVAILABILITY OF RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552(a); 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*), E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. Section 103.7 is amended by:

• Adding the entries ''G–1041'' and ''G–1041A'', in proper alpha/numeric sequence, in paragraph (b)(1); and by

• Revising the next to last sentence in Paragraph (c)(1).

The additions and revisions read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

* * * * *

Form G–1041. For filing requests for searches of indices to historical records to be used in genealogical research. There is a fee of $16 to $45 for each index search request.

Form G–1041A. For filing requests for copies of historical records to be used in genealogical research. There is a fee of $16 to $45 for each file copy from microfilm requested and a fee of $26 to $55 for each textual file copy requested.

* * * * *

(c) * * *

(1) * * * The fees for Form I–907, Request for Premium Processing Services, and for Forms G–1041 and G–104A, Genealogy Program request forms, may not be waived.

* * * * *

3. Section 103.38 is added to read as follows:

§ 103.38 Genealogy program.

(a) *Purpose.* The Department of Homeland Security, (DHS) U.S. Citizenship and Immigration Services (USCIS) Genealogy Program is a fee-for-service program designed to provide genealogical and historical records and reference services to genealogists, historians, and others seeking documents maintained within the historical record systems.

(b) *Scope and limitations.* Sections 103.38 through 103.41 comprise the regulations of the Genealogy Program. The regulations apply only to searches of and records maintained within those record series determined by the Genealogy Program Office (GPO) to be historical records as described in 8 CFR 103.39. The regulations set forth the procedures by which individuals may request searches for historical records and, if responsive records are located, obtain copies of those records.

4. Section 103.39 is added to read as follows:

§ 103.39 Historical records.

Historical Records are files, forms, and documents now located within the following records series:

(a) *Naturalization Certificate Files (C-Files), from September 27, 1906 to April 1, 1956.* Copies of records relating to all U.S. naturalizations in Federal, state, county, or municipal courts, overseas military naturalizations, replacement of old law naturalization certificates, and the issuance of Certificates of Citizenship in derivative, repatriation, and resumption cases. The majority of C-Files exist only on microfilm. Standard C-Files generally contain at least one application form (Declaration of Intention and/or Petition for Naturalization, or other application) and a duplicate certificate of naturalization or certificate of citizenship. Many files contain additional documents, including correspondence, affidavits, or other records. Only C-Files dating from 1929 onward include photographs.

(b) *Microfilmed Alien Registration Forms, from August 1, 1940 to March 31, 1944.* Microfilmed copies of 5.5 million Alien Registration Forms (Form AR–2) completed by all aliens age 14 and older, resident in or entering the United States between the dates given. The two-page form called for the following information: Name; name at arrival; other names used; street address; post-office address; date of birth; place of birth; citizenship; sex; marital status; race; height; weight; hair and eye color; date, place, vessel, and class of admission of last arrival in United States; date of first arrival in United States; number of years in United States; usual occupation; present occupation; name, address, and business of present employer; membership in clubs, organizations, or societies; dates and nature of military or naval service; whether citizenship papers filed, and if so date, place, and court for declaration or petition; number of relatives living in the United States; arrest record, including date, place, and disposition of each arrest; whether or not affiliated with a foreign government; signature, and fingerprint.

(c) *Visa Files, from July 1, 1924 to March 31, 1944.* Original arrival records of immigrants admitted for permanent residence under provisions of the Immigration Act of 1924. Visa forms contain all information normally found on a ship passenger list of the period, as well as the immigrant's places of residence for 5 years prior to emigration, names of both the immigrant's parents, and other data. Attached to the visa in most cases are birth records or affidavits. Also attached may be marriage, military, or police records.

(d) *Registry Files, from March 2, 1929 to March 31, 1944.* Original records documenting the creation of immigrant arrival records for persons who entered the United States prior to July 1, 1924, and for whom no arrival record could later be found. Most files also include documents supporting the immigrant's claims regarding arrival and residence (*i.e.*, proofs of residence, receipts, employment records).

(e) *A-Files numbered below 8 million (A8000000), and documents therein dated prior to May 1, 1951.* Individual

alien case files (A-files) became the official file for all immigration records created or consolidated since April 1, 1944. A-numbers ranging up to approximately 6 million were issued to aliens and immigrants within or entering the United States between 1940 and 1945. The 6 million and 7 million series of A-numbers were issued between circa 1944 and May 1, 1951. Any documents dated after May 1, 1951, though found in an A-File numbered below 8 million, will remain subject to FOIA/PA restrictions.

5. Section 103.40 is added to read as follows:

§ 103.40 Genealogical research requests.

(a) *Nature of requests.* Genealogy research requests are requests for searches and/or copies of historical records relating to a deceased person, usually for genealogy and family history research purposes.

(b) *Manner of requesting genealogical searches and records.* Requests must be submitted on Form G–1041, Genealogy Search Request, or Form G–1041A, Genealogy Record Request, and mailed to the address listed on the form. Requests may also be submitted via the Internet at a genealogy Web site to be developed for this purpose. A separate request on Form G–1041 must be submitted for each individual searched, and that form will call for the name, aliases, and all alternate spellings relating to the one individual immigrant. Form G–1041A may be submitted to request one or more separate records relating to separate individuals.

(c) *Information required to perform index search.* As required on Form G–1041, all requests for index searches to identify records of individual immigrants must include the immigrant's full name (including variant spellings of the name and/or aliases, if any), date of birth, and place of birth. The date of birth must be at least as specific as a year, and the place of birth must be at least as specific as a country (preferably the country name as it existed at the time of the immigrant's immigration or naturalization). Additional information about the immigrant's date of arrival in the United States, residence at time of naturalization, name of spouse and names of children may be required to ensure a successful search.

(d) *Information required to retrieve records.* As required on Form G–1041A, requests for copies of historical records or files must identify the record by number or other specific data used by the Genealogy Program Office to retrieve the record. C-Files must be identified by naturalization certificate number. Forms AR–2 and A-Files numbered below 8 million must be identified by Alien Registration Number. Visa Files must be identified by the Visa File Number. Registry Files must be identified by Registry File Number (for example, R–12345).

(e) *Information required for release of records.* Subjects will be presumed deceased if their birth date is more than 100 years prior to the date of the request. In other cases, the subject is presumed to be living until the requestor establishes to the satisfaction of the Genealogy Program Office that the subject is deceased. As required on Form G–1041A, primary or secondary documentary evidence of the subject's death will be required (including but not limited to death records, published obituaries or eulogies, published death notices, church or bible records, photographs of gravestones, and/or copies of official documents relating to payment of death benefits). All documentary evidence must be attached to Form G–1041A or submitted in accordance with instructions provided on Form G–1041A.

(f) *Processing of index search requests.* Each request for index search services will generate a search of the indices to determine the existence of responsive historical records. If no record is found, the researcher will be notified. If records are indicated, the researcher will be provided with search results including the type of record found and the file number or other information identifying the record that is required to support a request for record copies.

(g) *Processing of record copy requests.* Upon receipt of requests identifying specific records by number or other identifying information, the requested record(s) will be retrieved, duplicated, reviewed, and mailed to the requester. If a document is located and found but is not subject to release, the document(s) will be transferred to the FOIA/PA program for treatment as a FOIA/PA request as described in 8 CFR 103.10. Document retrieval charges will apply in all cases where documents are retrieved.

6. Section 103.41 is added to read as follows:

§ 103.41 Genealogy request fees.

(a) *Genealogy search fee.* A fee of $16 to $45 will be charged for filing each search request. The fee is not refundable.

(b) *Genealogy records fees.* For the retrieval, duplication, review, and release of each historical record, a fee of $16 to $45 for records on microfilm or a fee of $26 to $55 for textual records will be charged. The Genealogy Program Office will refund this fee only when the record request is based upon file information previously provided by the Genealogy Program Office in response to an index search request, and the Genealogy Program Office is unable to locate the file when later requested under a Genealogy Record request.

(c) *Manner of submission.* All fees must be submitted in the exact amount with Form G–1041 or Form G–1041A, remitted in accordance with 8 CFR 103.7(a)(1).

PART 299—IMMIGRATION FORMS

7. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103; 8 CFR part 2.

8. Section 299.1 is amended in the table by adding Form ''G–1041'' and Form ''G–1041A'', in proper alpha/numeric sequence, to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
* *	* * *	* *
G–1041		Genealogy Search Request.
G–1041A		Genealogy Records Request.
* *	* * *	* *

9. Section 299.5 is amended in the table by adding Form ''G–1041'' and Form ''G–1041A'', in proper alpha/numeric sequence, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

Form No.	Form title	Currently assigned OMB control No.
* *	* * * * *	*
G–1041	Genealogy Search Request	1615–XXXX
G–1041A	Genealogy Records Request	1615–XXXX
* *	* * * * *	*

Dated: April 13, 2006.

Michael Chertoff,

Secretary.

[FR Doc. E6–5947 Filed 4–19–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE242; Notice No. 23–06–02–SC]

Special Conditions: Approved Model List Installation of AmSafe Inflatable Restraints in Normal and Utility Category Non-23.562 Certified Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed special conditions; request for comments.

SUMMARY: This notice proposes special conditions for the installation of an AmSafe, Inc., Inflatable Two-, Three-, Four or Five-Point Restraint Safety Belt with an Integrated Airbag Device on various airplane models. These airplanes, as modified by AmSafe, Inc., will have novel and unusual design features associated with the lap belt or shoulder harness portion of the safety belt, which contains an integrated airbag device. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before May 22, 2006.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration (FAA), Regional Counsel, ACE–7, Attention: Rules Docket, Docket No. CE242, 901 Locust, Room 506, Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: CE242. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Mark James, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Kansas City, Missouri, 816–329–4137, fax 816–329–4090, e-mail *mark.james@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to CE242.'' The postcard will be date stamped and returned to the commenter.

Background

On August 19, 2005, AmSafe, Inc., Aviation Inflatable Restraints (AAIR) Division, 1043 North 47th Avenue, Phoenix, AZ 85043, applied for a supplemental type certificate for the installation of an inflatable restraint in various airplane models certificated before the dynamic structural requirements as specified in 14 CFR part 23, section 23.562 took effect.

The inflatable restraint system is either a two-, three-, four, or five-point safety belt restraint system consisting of a shoulder harness and a lap belt with an inflatable airbag attached to either the lap belt or the shoulder harness. The inflatable portion of the restraint system will rely on sensors to electronically activate the inflator for deployment. The inflatable restraint system will be made available on the pilot, co-pilot, and passenger seats of these airplanes.

In the event of an emergency landing, the airbag will inflate and provide a protective cushion between the occupant's head and structure within the airplane. This will reduce the potential for head and torso injury. The inflatable restraint behaves in a manner that is similar to an automotive airbag, but in this case, the airbag is integrated into the lap or shoulder belt. While airbags and inflatable restraints are standard in the automotive industry, the use of an inflatable restraint system is novel for general aviation operations.

The FAA has determined that this project will be accomplished on the basis of providing the same current level of safety of the airplanes original certification basis. The FAA has two primary safety concerns with the installation of airbags or inflatable restraints:

- That they perform properly under foreseeable operating conditions; and
- That they do not perform in a manner or at such times as to impede the pilot's ability to maintain control of the airplane or constitute a hazard to the airplane or occupants.

The latter point has the potential to be the more rigorous of the requirements. An unexpected deployment while conducting the takeoff or landing phases of flight may result in an unsafe condition. The unexpected deployment may either startle the pilot, or generate a force sufficient to cause a sudden movement of the control yoke. Either action could result in a loss of control of the airplane, the consequences of which are magnified due to the low operating altitudes during these phases of flight. The FAA has considered this

when establishing these special conditions.

The inflatable restraint system relies on sensors to electronically activate the inflator for deployment. These sensors could be susceptible to inadvertent activation, causing deployment in a potentially unsafe manner. The consequences of an inadvertent deployment must be considered in establishing the reliability of the system. AmSafe, Inc. must show that the effects of an inadvertent deployment in flight are not a hazard to the airplane or that an inadvertent deployment is extremely improbable. In addition, general aviation aircraft are susceptible to a large amount of cumulative wear and tear on a restraint system. It is likely that the potential for inadvertent deployment increases as a result of this cumulative damage. Therefore, the impact of wear and tear on inadvertent deployment must be considered. Due to the effects of this cumulative damage, a life limit must be established for the appropriate system components in the restraint system design.

There are additional factors to be considered to minimize the chances of inadvertent deployment. General aviation airplanes are exposed to a unique operating environment, since the same airplane may be used by both experienced and student pilots. The effect of this environment on inadvertent deployment must be understood. Therefore, qualification testing of the firing hardware/software must consider the following:

- The airplane vibration levels appropriate for a general aviation airplane; and
- The inertial loads that result from typical flight or ground maneuvers, including gusts and hard landings.

Any tendency for the firing mechanism to activate as a result of these loads or acceleration levels is unacceptable.

Other influences on inadvertent deployment include high intensity electromagnetic fields (HIRF) and lightning. Since the sensors that trigger deployment are electronic, they must be protected from the effects of these threats. To comply with HIRF and lightning requirements, the AmSafe, Inc., inflatable restraint system is considered a critical system, since its inadvertent deployment could have a hazardous effect on the airplane.

Given the level of safety of the retrofitted airplane occupant restraints, the inflatable restraint system must show that it will offer an equivalent level of protection in the event of an emergency landing. In the event of a deployment, the restraint must still be at least as strong as a Technical Standard Order approved belt and shoulder harnesses. There is no requirement for the inflatable portion of the restraint to offer protection during multiple impacts, where more than one impact would require protection.

The inflatable restraint system must deploy and provide protection for each occupant during emergency landing conditions as specified in the original certification basis. The seats of the various airplane models were certificated prior to the dynamic structural requirements of section 23.562. Therefore, the emergency landing loads conditions identified in the original certification basis of the airplane must be used to satisfy this requirement. Compliance will be demonstrated using the test condition specified in the original certification basis. It must also be shown that the crash sensor will trigger when exposed to a rapidly applied deceleration, like an actual crash event. Therefore, the test crash pulses identified in section 23.562 must be used to satisfy this requirement, although, the peak ''G'' may be reduced to a level meeting the original certification requirements of the aircraft. Testing to these pulses will demonstrate that the crash sensor will trigger when exposed to a rapidly applied deceleration, like an actual crash event.

It is possible a wide range of occupants will use the inflatable restraint. Thus, the protection offered by this restraint should be effective for occupants that range from the fifth percentile female to the ninety-fifth percentile male.

In support of this operational capability, there must be a means to verify the integrity of this system before each flight. As an option, AmSafe, Inc. can establish inspection intervals where they have demonstrated the system to be reliable between these intervals.

It is possible that an inflatable restraint will be ''armed'' even though no occupant is using the seat. While there will be means to verify the integrity of the system before flight, it is also prudent to require that unoccupied seats with active restraints not constitute a hazard to any occupant. This will protect any individual performing maintenance inside the cockpit while the aircraft is on the ground. The restraint must also provide suitable visual warnings that would alert rescue personnel to the presence of an inflatable restraint system.

In addition, the design must prevent the inflatable seatbelt from being incorrectly buckled and/or installed such that the airbag would not properly deploy. As an alternative, AmSafe, Inc. may show that such deployment is not hazardous to the occupant and will still provide the required protection.

The cabins of the various modeal airplanes identified in these special conditions are confined areas, and the FAA is concerned that noxious gasses may accumulate in the event of airbag deployment. When deployment does occur, either by design or inadvertently, there must not be a release of hazardous quantities of gas or particulate matter into the cockpit.

An inflatable restraint should not increase the risk already associated with fire. Therefore, the inflatable restraint should be protected from the effects of fire, so that an additional hazard is not created by, for example, a rupture of the inflator.

The airbag is likely to have a large volume displacement, and possibly impede the egress of an occupant. Since the bag deflates to absorb energy, it is likely that the inflatable restraint would be deflated at the time an occupant would attempt egress. However, it is appropriate to specify a time interval after which the inflatable restraint may not impede rapid egress. Ten seconds has been chosen as reasonable time. This time limit will offer a level of protection throughout the impact event.

Finally, there is an elevated risk associated with inadvertent deployment for agricultural airplanes, which are type certificated under the restricted category. This is due to the unique operating environment and low altitude flying of these airplanes. The FAA is still trying to understand the risk and benefit associated with the installation of these systems into restricted category airplanes in general and agricultural airplanes specifically. Therefore, the installation of the AAIR system is currently prohibited in agricultural airplanes type certificated under the restricted category.

Special conditions for the installation of AAIR systems on other Non-23.562 certificated airplanes have been issued and no substantive public comments were received. Since the same special conditions were issued multiple times for different model airplanes with no substantive public comments, the FAA began issuing direct final special conditions with an invitation for public comment. This was done to eliminate the waiting period for public comments and AmSafe aviation could proceed with the project, since no comments were expected.

These previous special conditions were issued for a single model airplane or for variants of a model from a single airplane manufacturer, and required dynamic testing of each AAIR system

installation for showing compliance. The AML Supplemental Type Certificate sought by AmSafe Aviation has numerous airplane models and manufacturers. Since AmSafe Aviation has previously demonstrated by dynamic testing, and has the supporting data, that the Electronics Module Assembly (EMA) and the inflator assembly will function as intended in a simulated dynamic emergency landing, it is not necessary to repeat the test for each airplane model shown in these special conditions.

This is a departure from the method of showing compliance used in the prior special conditions. Testing is required to show compliance, but it is not necessary to repeat the testing for each airplane installation. Existing test data is adequate for showing compliance for other airplanes where the AAIR equipment is identical and the installation is nearly identical. Since this is a substantial change in the philosophy of showing compliance, it is prudent to give the public time to comment on the special conditions prior to moving forward with the project.

Type Certification Basis

Under the provisions of 14 CFR part 21, section 21.101, AmSafe, Inc., must show that the affected airplane models, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in the Type Certificate Numbers listed below or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the original ''type certification basis'' and can be found in the Type Certificate Numbers listed below. The following models are covered by this special condition:

LIST OF ALL AIRPLANE MODELS AND APPLICABLE TCDS

Make	Model	TC holder	TCDS	Certification basis
Aerostar	PA–60–600 (Aerostar 600), PA–60–601 (Aerostar 601), PA–60–601P (Aerostar 601P), PA–60–602P (Aerostar 602P). PA–60–700P (Aerostar 700P). Aerostar Aircraft Corporation.	A17WE Revision 22	14 CFR PART 23.	
ALL AMERICAN	10A	All American Aircraft, Inc.	A–792	CAR 3.
American Champion (Champion).	402	American Champion Aircraft Corp.	A3CE Revision 5	CAR 3.
American Champion (Bellanca) (Champion) (Aeronca).	7AC, 7ACA, 7EC, 7GCB, S7AC, S7EC, 7GCBA (L–16A), 7BCM, 7ECA, 7GCBC (L–16B), 7CCM, 7FC, 7HC, S7CCM, 7GC, 7JC, 7DC, 7GCA, 7KC, S7DC, 7GCAA, 7KCAB.	American Champion Aircraft Corp.	A–759 Revision 67	CAR 4a.
American Champion (Bellanca) (Trytek) (Aeronca).	11AC, S11AC, 11BC, S11BC	American Champion Aircraft Corp.	A–761 Revision 17	CAR 4a.
AMERICAN CHAMPION (Bellanca) (Trytek) (Aeronca).	11CC, S11CC	American Champion Aircraft Corporation.	A–796 Revision 14	CAR 3.
VARGA (Morrisey)	2150, 2150A, 2180	Augustair, Inc	4A19 Revision 9	CAR 3.
Bellanca	14–13, 14–13–2, 14–13–3, 14–13–3W	Bellanca Aircraft Corporation.	A–773 Revision 10	CAR 4a.
Bellanca	14–9, 14–9L	Bellanca Aircraft Corporation.	TC716	CAR 4a.
Cessna	310, 310J, 310A(USAF U–3A), 310J–1, 310B, E310J, 310C, 310K, 310D, 310L, 310E(USAF U–3B), 310N, 310F, 310P, 310G, T310P, 310H, 310Q, E310H, T310Q, 310I, 310R, T310R.	Cessna Aircraft Company.	3A10 Revision 62	CAR 3.
Cessna	321 (Navy OE–2)	Cessna Aircraft Company.	3A11 Revision 6	CAR 3.
Cessna	172, 172I, 172A, 172K, 172B, 172L, 172C, 172M, 172D, 172N, 172E, 172P, 172F (USAF T–41A), 172Q, 172G, 172H, (USAF T–41A).	Cessna Aircraft Company.	3A12 Revision 73	CAR 3.
CESSNA	175, 175A, 175B, 175C, P172D, R172E (USAF T–41B) (USAF T–41C and D), R172F (USAF T–41D), R172G (USAF T–41C or D), R172H (USAF T–41D), R172J, R172K, 172RG.	Cessna Aircraft Company.	3A17 Revision 45	CAR 3.
Cessna	182, 182K, 182A, 182L, 182B, 182M, 182C, 182N, 182D, 182P, 182E, 182Q, 182F, 182R, 182G, R182, 182H, T182, 182J, TR182.	Cessna Aircraft Company.	3A13 Revision 64	CAR 3.
Cessna	210, 210K, 210A, T210K, 210B, 210L, 210C, T210L, 210D, 210M, 210E, T210M, 210F, 210N, T210F, P210N, 210G, T210N, T210G, 210R, 210H, P210R, T210H, T210R, 210J, 210–5 (205), T210J, 210–5A (205A).	Cessna Aircraft Company.	3A21 Revision 46	CAR 3.

LIST OF ALL AIRPLANE MODELS AND APPLICABLE TCDS—Continued

Make	Model	TC holder	TCDS	Certification basis
Cessna	185, A185E, 185A, A185F, 185B, 185C, 185D, 185E.	Cessna Aircraft Company.	3A24 Revision 37	CAR 3.
Cessna	320, 320F, 320–1, 335, 320A, 340, 320B, 340A, 320C, 320D, 320E.	Cessna Aircraft Company.	3A25 Revision 25	CAR 3.
Cessna	140A	Cessna Aircraft Company.	5A2 Revision 21	CAR 3.
Cessna	180, 180E, 180A, 180F, 180B, 180G, 180C, 180H, 180D, 180J, 180E, 180K.	Cessna Aircraft Company.	5A6 Revision 66	CAR 3.
Cessna	336	Cessna Aircraft Company.	A2CE Revision 7	CAR 3.
Cessna	206, U206B, TP206D, P206, U206C, TP206E, P206A, U206D, TU206A, P206B, U206E, TU206B, P206C, U206F, TU206C, P206D, U206G, TU206D, P206E, TP206A, TU206E, U206, TP206B, TU206F, U206A, TP206C, TU206G.	Cessna Aircraft Company.	A4CE Revision 43	CAR 3.
CESSNA	337A (USAF 02B), T337E, 337B, 337F, M337B (USAF 02A), T337F, T337B, 337G, 337C, T337G, T337C, 337H, 337D, P337H, T337D, T337H, T337H–SP.	Cessna Aircraft Company.	A6CE Revision 40	CAR 3/14 CFR PART 23.
CESSNA	401, 411A, 401A, 414, 401B, 414A, 402, 421, 402A, 421A, 402B, 421B, 402C, 421C, 411, 425.	Cessna Aircraft Company.	A7CE Revision 46	CAR 3.
CESSNA	190 (LC–126A,B,C), 195, 195A, 195B	Cessna Aircraft Company.	A–790 Revision 36	CAR 3.
Cessna	170, 170A, 170B	Cessna Aircraft Company.	A–799 Revision 54	CAR 3.
CESSNA	150, 150J, 150A, 150K, 150B, A150K, 150C, 150L, 150D, A150L, 150E, 150M, 150F, A150M, 150G, 152, 150H, A152.	Cessna Aircraft Company.	3A19 Revision 44	CAR 3.
CESSNA	177, 177A, 177B	Cessna Aircraft Company.	A13CE Revision 24	14 CFR PART 23.
CESSNA	404, 406	Cessna Aircraft Company.	A25CE Revision 11	14 CFR PART 23.
Cessna	208, 208A, 208B	Cessna Aircraft Company.	A37CE Revision 12	14 CFR PART 23.
Cessna	441	Cessna Aircraft Company.	A28CE Revision 12	14 CFR PART 23.
Cessna	120, 140	Cessna Aircraft Company.	A–768 Revision 34	CAR 4a.
Commander Aircraft	Model 112, Model 114, Model 112TC, Model 112B, Model 112TCA, Model 114A, Model 114B, Model 114TC.	Commander Aircraft Company.	A12SO Revision 21	14 CFR PART 23.
Great Lakes	2T–1A, 2T–1A–1, 2T–1A–2	Great Lakes Aircraft Company, LLC.	A18EA Revision 10	Aeronautical Bulletin No. 7–A.
Helio (Taylorcraft)	15A, 20	Helio Aircraft Corporation.	3A3 Revision 7	CAR 4a.
LEARJET	23	Learjet Inc.	A5CE Revision 10	CAR 3.
LOCKHEED	402–2	Lockheed Aircraft International.	2A11 Revision 4	AR 3.
LAND-AIR (TEMCO) (LUSCOMBE).	11A, 11E	Luscombe Aircraft Corporation.	A–804 Revision 14	CAR 3.
MAULE	Bee Dee M–4, M–5–180C, MXT–7–160, M–4–180V, M–4 M–5–200, MX–7–180A, M–4C, M–5–210C, MXT–7–180A, M–4S, M–5–210TC, MX–7–180B, M–4T, M–5–220C, M–7–235B, M–4–180C, M–5–235C, M–7–235A, M–4–180S, M–6–180, M–7–235C, M–4–180T, M–6–235, MX–7–180C, M–4–210, M–7–235, M–7–260, M–4–210C, MX–7–235, MT–7–260, M–4–210S, MX–7–180, M–7–260C, M–4–210T, MX–7–420, M–7–420AC, M–4–220, MXT–7–180, MX–7–160C, M–4–220C, MT–7–235, MX–7–180AC, M–4–220S, M–8–235, M–7–420A, M–4–220T, MX–7–160, MT–7–420.	MAULE AEROSPACE TECHNOLOGY, INC.	3A23 Revision 30	CAR 3.
Mooney	M20, M20A, M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K (Up to S/N 25–2000), M20L.	Mooney Airplane Company, Inc.	2A3 Revision 47	CAR 3.
Interceptor (Aero Commander) (Meyers).	200, 200A, 200B, 200C, 200D, 400	Prop-Jets, Inc.	3A18 Revision 16	CAR 3.

LIST OF ALL AIRPLANE MODELS AND APPLICABLE TCDS—Continued

Make	Model	TC holder	TCDS	Certification basis
BEECH	35–33, J35, 35–A33, K35, 35–B33, M35, 35–C33, N35, 35–C33A, P35, E33, S35, E33A, V35, E33C, V35A, F33, V35B, F33A, 36, F33C, A36, G33, A36TC, H35, B36TC, G36.	Raytheon Aircraft Company.	3A15 Revision 90	CAR 3.
BEECH	45 (YT–34), A45 (T–34A, B–45), D45 (T–34B).	Raytheon Aircraft Company.	5A3 Revision 25	CAR 03.
BEECH	19A, B23, B19, C23, M19A, A24, 23, A24R, A23, B24R, A23A, C24R, A23–19, A23–24.	Raytheon Aircraft Company.	A1CE Revision 34	CAR 3.
BEECH	3N, E18S–9700,3NM, G18S, 3TM, H18, JRB–6, C–45G, TC–45G, D18C, C–45H, TC–45H, D18S, TC–45J or E18S, UC–45J (SNB–5) RC–45J (SNB–5P).	Raytheon Aircraft Company.	A–765 Revision 74	CAR 03.
BEECH	35, A35, E35, B35, F35, C35, G35, D35, 35R.	Raytheon Aircraft Company.	A–777 Revision 57	CAR 03.
RAYTHEON	200, A100–1 (U–21J), 200C, A200 (C–12A), 200CT, A200 (C–12C), 200T, A200C (UC–12B), B200, A200CT (C–12D), B200C, A200CT (FWC–12D), B200CT, A200CT (C–12F), B200T, A200CT (RC–12D), 300, A200CT (RC–12G), 300LW, A200CT (RC–12H), B300, A200CT (RC–12K), B300C, A200CT (RC–12P), 1900, A200CT (RC–12Q), 1900C, B200C (C–12F), 1900D, B200C (UC–12M), B200C (C–12R), B200C (UC–12F), 1900C (C–12J).	Raytheon Aircraft Company.	A24CE Revision 91	14 CFR PART 23.
Beech	B95A, D55, D95A, D55A, E95, E55, 95–55, E55A, 95–A55, 56TC, 95–B55, A56TC, 95–B55A, 58, 95–B55B (T–42A), 58A, 95–C55, 95, 95–C55A, B95, G58.	Raytheon Aircraft Company.	3A16 Revision 81	CAR 3.
BEECH	60, A60, B60	Raytheon Aircraft Company.	A12CE Revision 23	14 CFR PART 23.
BEECH	58P, 58PA, 58TC, 58TCA	Raytheon Aircraft Company.	A23CE Revision 14	14 CFR PART 23.
CESSNA	CESSNA F172D, CESSNA F172E, CESSNA F172F, CESSNA F172G, CESSNA F172H, CESSNA F172K, CESSNA F172L, CESSNA F172M, CESSNA F172N, CESSNA F172P.	Reims Aviation S.A.	A4EU Revision 11	CAR 10/ CAR 3.
SOCATA	TB 9, TB 10, TB 20, TB 21, TB 200	SOCATA—GROUPE AEROSPATIALE.	A51EU Revision 14	14 CFR PART 23.
Pitts	S–1S, S–1T, S–2, S–2A, S–2S, S–2B, S–2C	Sky International Inc. (Aviat Aircraft, Inc.).	A8SO Revision 21	14 CFR PART 23.
Taylorcraft	19, F19, F21, F21A, F21B, F22, F22A, F22B, F22C.	Taylorcraft Aviation LLC.	1A9 Revision 19	CAR 3.
TAYLORCRAFT	BC, BCS12–D, BCS, BC12–D1, BC–65, BCS12–D1, BCS–65, BC12D–85, BC12–65 (Army L–2H), BCS12D–85, BCS12–65, BC12D–4–85, BC12–D, BCS12D–4–85.	Taylorcraft Aviation, LLC.	A–696 Revision 22	CAR 04.
TAYLORCRAFT	(Army L–2G) BF, BFS, BF–60, BFS–60, BF–65, BFS–65, (Army L–2K) BF 12–65, BFS–65.	Taylorcraft, Inc.	A–699 Revision 5	CAR 4a.
LUSCOMBE	8, 8D, 8A, 8E, 8B, 8F, 8C, T–8F	The Don Luscombe Aviation History Foundation, Inc.	A–694 Revision 23	CAR 4a.
PIPER	PA–28–140, PA–28–151, PA–28–150, PA–28–161, PA–28–160, PA–28–181, PA–28–180, PA–28R–201, PA–28–235, PA–28R–201T, PA–28S–160, PA–28–236, PA–28S–180, PA–28RT–201, PA–28R–180, PA–28RT–201T, PA–28R–200, PA–28–201T.	The New Piper Aircraft, Inc.	2A13 Revision 47	CAR 3.
PIPER	PA–30, PA–39, PA–40	The New Piper Aircraft, Inc.	A1EA Revision 16	CAR 3.
PIPER	PA–32–260, PA–32R–301 (SP), PA–32–300, PA–32R–301 (HP), PA–32S–300, PA–32R–301T, PA–32R–300, PA–32–301, PA–32RT–300, PA–32–301T, PA–32RT–300T, PA–32–301FT, PA–32–301XTC.	The New Piper Aircraft, Inc.	A3SO Revision 29	CAR 3.
PIPER	PA–34–200, PA–34–200T, PA–34–220T	The New Piper Aircraft, Inc.	A7SO Revision 16	14 CFR PART 23.

LIST OF ALL AIRPLANE MODELS AND APPLICABLE TCDS—Continued

Make	Model	TC holder	TCDS	Certification basis
PIPER	PA–31P, PA–31T, PA–31T1, PA–31T2, PA–31T3, PA–31P–350.	The New Piper Aircraft, Inc.	A8EA Revision 22	CAR 3.
PIPER	PA–36–285, PA–36–300, PA–36–375	The New Piper Aircraft, Inc.	A9SO Revision 9	14 CFR PART 23.
PIPER	PA–36–285, PA–36–300, PA–36–375	The New Piper Aircraft, Inc.	A10SO Revision 12	14 CFR PART 21/14 CFR PART 23.
PIPER	PA–38–112	The New Piper Aircraft, Inc.	A18SO Revision 4	14 CFR PART 23.
PIPER	PA–44–180, PA–44–180T	The New Piper Aircraft, Inc.	A19SO Revision 9	14 CFR PART 23.
PIPER	PA–31, PA–31–300, PA–31–325, PA–31–350.	The New Piper Aircraft, Inc.	A20SO Revision 10	CAR 3.
PIPER	PA–42, PA–42–720, PA–42–1000	The New Piper Aircraft, Inc.	A23SO Revision 17	14 CFR PART 23.
PIPER	PA–46–310P, PA–46–350P, PA–46–500TP	The New Piper Aircraft, Inc.	A25SO Revision 14	14 CFR PART 23.
Tiger Aircraft LLC (American General).	AA–1, AA–1A, AA–1B, AA–1C	Tiger Aircraft LLC	A11EA Revision 10	14 CFR PART 23.
Tiger Aircraft	AA–5, AA–5A, AA–5B, AG–5B	Tiger Aircraft LLC	A16EA Revision 13	14 CFR PART 23.
Twin Commander	500, 500–A, 500–B, 500–U, 520, 560, 560–A, 560–E, 500–S.	Twin Commander Aircraft Corporation.	6A1 Revision 45	CAR 3.
Twin Commander	560–F, 681, 680, 690, 680E, 685, 680F, 690A, 720, 690B, 680FL, 690C, 680FL(P), 690D, 680T, 695, 680V, 695A, 680W, 695B.	Twin Commander Aircraft Corporation.	2A4 Revision 46	CAR 3.
Univair (Stinson)	108, 108–1, 108–2, 108–3, 108–5	Univair Aircraft Corporation.	A–767 Revision 27	CAR 3.
Univair	(ERCO) 415–D, (ERCO) E, (ERCO) G, (Forney) F–1, (Forney) F–1A, (Alon) A–2, (Alon) A2–A, (Mooney) M10.	Univair Aircraft Corporation.	A–787 Revision 33	CAR 3.
Univair (Mooney)	(ERCO) 415–C, (ERCO) 415–CD	Univair Aircraft Corporation.	A–718 Revision 29	CAR 4a.

For all the models listed above, the certification basis also includes all exemptions, if any; equivalent level of safety findings, if any; and special conditions not relevant to the special conditions adopted by this rulemaking action.

The Administrator has determined that the applicable airworthiness regulations (*i.e.,* CAR 3. or part 23 as amended) do not contain adequate or appropriate safety standards for the AmSafe, Inc., inflatable restraint as installed on these models because of a novel or unusual design feature. Therefore, special conditions are prescribed under the provisions of section 21.16.

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

Novel or Unusual Design Features

The various airplane models will incorporate the following novel or unusual design feature:

The AmSafe, Inc., Inflatable Two-, Three-, Four-, or Five-Point Restraint Safety Belt with an Integrated Airbag Device. The purpose of the airbag is to reduce the potential for injury in the event of an accident. In a severe impact, an airbag will deploy from the restraint, in a manner similar to an automotive airbag. The airbag will deploy between the head of the occupant and airplane interior structure. This will, therefore, provide some protection to the head of the occupant. The restraint will rely on sensors to electronically activate the inflator for deployment.

The Code of Federal Regulations state performance criteria for seats and restraints in an objective manner. However, none of these criteria are adequate to address the specific issues raised concerning inflatable restraints. Therefore, the FAA has determined that, in addition to the requirements of part 21 and part 23, special conditions are needed to address the installation of this inflatable restraint.

Accordingly, these special conditions are adopted for the various airplane models equipped with the AmSafe, Inc., two-, three-, four, or five-point inflatable restraint. Other conditions may be developed, as needed, based on further FAA review and discussions with the manufacturer and civil aviation authorities.

Conclusion

This action affects only certain novel or unusual design features on the previously identified airplane models. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

The FAA has determined that this project will be accomplished on the basis of not lowering the current level of safety of the occupant restraint system for the airplane models listed in these proposed Special Conditions.

Accordingly, the FAA proposes the following special conditions as part of the type certification basis for these models, as modified by AmSafe, Incorporated.

Inflatable Two-, Three-, Four-, or Five-Point Restraint Safety Belt With an Integrated Airbag Device Installed in an Airplane Model.

1a. It must be shown that the inflatable restraint will provide restraint protection under the emergency landing conditions specified in the original certification basis of the airplane. Compliance will be demonstrated using the static test conditions specified in the original certification basis for each airplane.

1b. It must be shown that the crash sensor will trigger when exposed to arapidly applied deceleration, like an actual emergency landing event. Therefore, compliance may be demonstrated using the deceleration pulse specified in paragraph 23.562, which may be modified as follows:

I. The peak longitudinal deceleration may be reduced, however the onset rate of the deceleration must be equal to or greater than the emergency landing pulse identified in paragraph 23.562.

II. The peak longitudinal deceleration must be above the deployment threshold of the sensor, and equal or greater than the forward static design longitudinal load factor required by the original certification basis of the airplane.

2. The inflatable restraint must provide adequate protection for each occupant. In addition, unoccupied seats that have an active restraint must not constitute a hazard to any occupant.

3. The design must prevent the inflatable restraint from being incorrectly buckled and/or incorrectly installed such that the airbag would not properly deploy. Alternatively, it must be shown that such deployment is not hazardous to the occupant and will provide the required protection.

4. It must be shown that the inflatable restraint system is not susceptible to inadvertent deployment as a result of wear and tear or the inertial loads resulting from in-flight or ground maneuvers (including gusts and hard landings) that are likely to be experienced in service.

5. It must be extremely improbable for an inadvertent deployment of the restraint system to occur, or an inadvertent deployment must not impede the pilot's ability to maintain control of the airplane or cause an unsafe condition (or hazard to the airplane). In addition, a deployed inflatable restraint must be at least as strong as a Technical Standard Order (C22g or C114) restraint.

6. It must be shown that deployment of the inflatable restraint system is not hazardous to the occupant or result in injuries that could impede rapid egress. This assessment should include occupants whose restraint is loosely fastened.

7. It must be shown that an inadvertent deployment that could cause injury to a sitting person is improbable. In addition, the restraint must also provide suitable visual warnings that would alert rescue personnel to the presence of an inflatable restraint system.

8. It must be shown that the inflatable restraint will not impede rapid egress of the occupants 10 seconds after its deployment.

9. For the purposes of complying with HIRF and lightning requirements, the inflatable restraint system is considered a critical system since its deployment could have a hazardous effect on the airplane.

10. It must be shown that the inflatable restraints will not release hazardous quantities of gas or particulate matter into the cabin.

11. The inflatable restraint system installation must be protected from the effects of fire such that no hazard to occupants will result.

12. There must be a means to verify the integrity of the inflatable restraint activation system before each flight or it must be demonstrated to reliably operate between inspection intervals.

13. A life limit must be established for appropriate system components.

14. Qualification testing of the internal firing mechanism must be performed at vibration levels appropriate for a general aviation airplane.

15. The installation of the AmSafe Aviation Inflatable Restraint (AAIR) system is prohibited in agricultural airplanes type certificated under the Restricted Category.

Issued in Kansas City, Missouri on April 6, 2006.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–5907 Filed 4–19–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–23872; Airspace Docket No. 06–AAL–9]

RIN 2120–AA66

Proposed Establishment of Offshore Airspace Area 1485L; and Revision of Control 1485H; Barrow, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Control 1485L and revise Control 1485H offshore airspace in the vicinity of Barrow, AK. These proposed actions would establish controlled airspace outside of 12 nautical miles (NM) of the U.S. shoreline upward from 1,200 feet mean sea level (MSL) along the North Slope of Alaska. Additionally, this proposal would revise the altitudes of Control 1485H from FL 230/FL 450 to FL 180/FL 600. The FAA is proposing these actions to provide additional controlled airspace for aircraft executing instrument flight rules (IFR) operations at the airfields along the North Slope of Alaska in anticipation of establishing Terminal Arrival Areas associated with Area Navigation (RNAV) Standard Instrument Arrival Procedures (SIAPs).

DATES: Comments must be received on or before June 5, 2006.

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 FAA Docket No. FAA–2005–23872 and Airspace Docket No. 06–AAL–09, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed 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 (FAA Docket No. FAA–2006–23872 and Airspace Docket No. 06–AAL–09) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2006–23872 and Airspace Docket No. 06–AAL–09.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov*, or the **Federal Register's** Web page at *http://www.gpoaccess.gov/fr/index.html*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue 14, Anchorage, AK 99513.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to establish Control 1485L Offshore Airspace Area, AK, extending upward from 1,200 feet MSL along the North Slope of Alaska. This proposed action would provide controlled airspace beyond 12NM from the shoreline of the United States in those areas where there will soon be a requirement to provide IFR enroute Air Traffic Control services and within which the United States is applying domestic procedures. The purpose of this proposal is to establish controlled airspace of sufficient size to support the Terminal Arrival Area associated with new IFR operations at Atqasuk Airport, AK. Future plans for Barrow, AK are also taken into consideration for this action. The FAA Instrument Flight Procedures Production and Maintenance Branch have revised four SIAPs for the Atqasuk Airport, which will require controlled airspace outside the 12NM. Controlled airspace extending upward from 1,200 feet above the surface in international airspace would be created by this action. Additionally, this proposal lowers the floor of Control 1485H from Fl 230 to FL 180 to fill the gap between low and high control areas and raises the ceiling from FL 245 to FL 600.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed 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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in accordance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of System Operations Airspace and AIM, Airspace & Rules, in areas outside the United States domestic airspace, is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of Article 12 and Annex 11 is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state-owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft. Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

Paragraph 6007 Offshore Airspace Areas.

* * * * *

Control 1485L [New]

That airspace extending upward from 1,200 feet MSL within the area bounded by a line beginning at a point 12 miles offshore at lat. 68°00′00″ N.; to lat. 68°00′00″ N., long. 168°58′23″ W.; to lat. 72°00′00″ N., long. 158°00′00″ W.; to lat. 72°00′00″ N., long. 144°00′11″ W.; to lat. 75°00′00″ N., long. 141°00′00″ W.; to a point 12 miles offshore at long. 141°00′00″ W.; thence westward by a line 12 miles from and parallel to the shoreline to the point of beginning.

* * * * *

Paragraph 2003 Offshore Airspace Areas.

* * * * *

Control 1485H [Revised]

That airspace extending upward from 18,000 feet to FL 600 within the area bounded by a line beginning at a point 12 miles offshore at lat. 68°00′00″ N.; to lat. 68°00′00″ N., long. 168°58′23″ W.; to lat. 72°00′00″ N., long. 158°00′00″ W.; to lat. 72°00′00″ N., long. 144°00′11″ W.; to lat. 75°00′00″ N., long. 141°00′00″ W.; to a point 12 miles offshore at long. 141°00′00″ W.; thence westward by a line 12 miles from and parallel to the shoreline to the point of beginning.

* * * * *

Issued in Washington, DC, on April 13, 2006.

Ellen Crum,

Acting Manager, Airspace and Rules.

[FR Doc. E6–5908 Filed 4–19–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–143244–05]

RIN 1545–BE93

Guidance Under Section 7874 for Determining Ownership by Former Shareholders or Partners of Domestic Entities; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations relating to the disregard of affiliate-owned stock in determining the percentage of stock of a foreign corporation held by former shareholders or partners of a domestic entity, in order to determine whether the foreign corporation is a surrogate foreign corporation under section 7874 of the Internal Revenue Code.

DATES: The public hearing originally scheduled for April 27, 2006, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Robin R. Jones of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on December 28, 2005 (70 FR 76732) announced that a public hearing was scheduled for April 27, 2006, at 10 a.m., in the IRS Auditorium, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is under section 7874 of the Internal Revenue Code. The public comment period for these regulations expired on April 6, 2006.

The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Friday, April 14, 2006, no one has requested to speak. Therefore, the public hearing scheduled for April 27, 2006, is cancelled.

Guy R. Traynor,

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

[FR Doc. E6–5923 Filed 4–19–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–06–019]

RIN 1625–AA09

Drawbridge Operation Regulations; Townsend Gut, Booth Bay and Southport, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operation regulation governing the operation of the Southport (SR27) Bridge, across Townsend Gut, at mile 0.7, between Boothbay Harbor and Southport, Maine. This proposed rule would change the regulation to require the Southport (SR27) Bridge to operate on a fixed opening schedule between April 29 and September 30, each year. This rule is expected to help relieve vehicular traffic delays during the summertime tourism season while continuing to meet both the current and anticipated needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before May 22, 2006.

ADDRESSES: You may mail comments and related material to Commander (dpb), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York, 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–06–019), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting; however, you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Southport (SR27) Bridge, across Townsend Gut, at mile 0.7, has a vertical clearance of 10 feet at mean high water, and 19 feet at mean low water in the closed position. The existing drawbridge operation regulations, listed at 33 CFR 117.5, requires the bridge to open on signal at all times.

The owner of the bridge, Maine Department of Transportation (MDOT), requested a change to the drawbridge operation regulations governing the operation of the Southport (SR27) Bridge to require it to open on signal, on the hour, between 6 a.m. and 6 p.m., from April 29 through September 30, each year. The purpose of the proposed change to the regulation is to help reduce vehicular traffic delays during the summer tourism season when vehicular traffic is greatly increased.

Frequent bridge openings during the summer months result in vehicular traffic delays during the daytime hours when traffic between Boothbay Harbor and Southport is at its heaviest. The Southport (SR27) Bridge opened 4,136 times in 2004. Specifically, 3,493 (84%) of the 2004 bridge openings were between May and September.

The Town of Southport Selectmen recently conducted a public meeting to survey public opinion regarding the proposed regulation change reflected in this notice of proposed rulemaking.

The local residents, mariners, and commercial vessel operators who attended the meeting were strongly in favor of permanently changing the regulation governing the operation of the Southport (SR27) Bridge to require the bridge to open on signal, once an hour, on the hour, between 6 a.m. and 6 p.m., from April 29 through September 30, each year. All the remaining provisions of the existing regulation would remain unchanged.

Discussion of Proposed Rule

This proposed rule change would require the Southport (SR27) Bridge to open on signal, on the hour, between 6 a.m. and 6 p.m., from April 29 through September 30. This proposed change is expected to help improve traffic congestion in Boothbay Harbor and Southport during the peak tourist season while still providing for the current and anticipated needs of navigation.

During the summer of 2005, the Coast Guard temporarily changed the operating schedule for the Southport (SR27) Bridge to help facilitate bridge sandblasting and painting operations. Under the temporary regulation (70 FR 12805), published on March 16, 2005, the Southport (SR27) Bridge opened every two hours between 6 a.m. and 6 p.m. from May through September. This temporary rule was in effect through November 30, 2005.

Vehicular traffic delays were greatly reduced during the time period the temporary regulation was in effect, which was an added benefit, since the main purpose of the temporary rule was to facilitate bridge painting.

In addition to the openings every two hours under the temporary rule the mariners had the option of utilizing the alternate route to open water through Sheepscot Bay. No complaints were received from the mariners during the time the temporary regulation was in effect.

As a result, the Coast Guard believes that having bridge openings once an hour, on the hour, between 6 a.m. and 6 p.m., from April 29 through September 30, should help alleviate the vehicular traffic problems in Boothbay Harbor and Southport during the summer months while continuing to meet the current and anticipated needs of navigation.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This conclusion is based on the fact that vessel traffic which can't pass under the Southport (SR27) Bridge in the closed position will still be provided bridge openings every hour as well as being able to utilize the alternate route to open water through Sheepscot Bay.

Small Entities

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

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

This conclusion is based on the fact that vessel traffic which can't pass under the Southport (SR27) Bridge in the closed position will still be provided bridge openings every hour as well as being able to utilize the alternate route to open water through Sheepscot Bay.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact, Commander (dpb), First Coast Guard District, Bridge Branch, One South Street, New York, NY 10004. The telephone number is (212) 668–7165. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of

compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environment documentation because this action relates to the promulgation of operating regulations or procedures for drawbridges. Under figure 2–1, paragraph (32)(e) of the instruction, an ''Environmental Analysis Checklist'' is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.537 is added to read as follows:

§ 117.537 Townsend Gut.

The draw of the Southport (SR27) Bridge, at mile 16.8, across Townsend Gut between Booth Bay and Southport, shall open on signal; except that, from April 29 through September 30, between 6 a.m. and 6 p.m., the draw shall open on signal once an hour, on the hour only, after an opening request is given by calling the number posted at the bridge.

Dated: April 10, 2006.

David P. Pekoske,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. E6–5909 Filed 4–19–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 060404093–6093–01; I.D. 032406D]

RIN 0648–AU37

Fisheries of the Exclusive Economic Zone Off Alaska; Allocating Bering Sea and Aleutian Islands King and Tanner Crab Fishery Resources

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations implementing Amendment 21 to the Fishery Management Plan for Bering Sea/Aleutian Islands (BSAI) King and Tanner crabs (FMP). This action proposes a change to the BSAI Crab Rationalization Program (Program). If approved, Amendment 21 and its implementing rule would modify the timing for harvesters and processors to match harvesting and processing shares and the timing for initiating arbitration proceedings incorporated in the Program to resolve price and other

delivery disputes. This action is necessary to increase resource conservation and economic efficiency in the crab fisheries that are subject to the Program. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable law.

DATES: Comments must be received no later than June 5, 2006.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Records Office. Comments may be submitted by:

- Mail: P.O. Box 21668, Juneau, AK 99802.
- Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.
- Facsimile: 907–586–7557.
- E-mail: *0648–AU37–PRKTC21@noaa.gov*. Include in the subject line of the e-mail the following document identifier: Crab Rationalization RIN 0648–AU37. E-mail comments, with or without attachments, are limited to 5 megabytes.
- Webform at the Federal eRulemaking Portal: *www.regulations.gov*. Follow the instructions at that site for submitting comments.

Copies of Amendment 21 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for this action may be obtained from the NMFS Alaska Region at the address above or from the Alaska Region Web site at *http://www.fakr.noaa.gov/sustainablefisheries.htm*.

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, 907–586–7228 or *glenn.merrill@noaa.gov*.

SUPPLEMENTARY INFORMATION: The king and Tanner crab fisheries in the exclusive economic zone of the BSAI are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act as amended by the Consolidated Appropriations Act of 2004 (Pub. L. 108-199, section 801). Amendments 18 and 19 to the FMP included the Program. A final rule implementing these amendments was published on March 2, 2005 (70 FR 10174). Regulations implementing Amendments 18 and 19 are located at 50 CFR part 680. Amendment 20 to the FMP, which would authorize the management of an Eastern and Western Tanner crab (*C. bairdi*), is currently under Secretarial review. A NOA for Amendment 20 was published in the **Federal Register** on February 27, 2006 (71 FR 9770). The comment period on the NOA ends on April 28, 2006. A proposed rule to implement Amendment 20 was published in the **Federal Register** on March 21, 2006 (71 FR 14153). The comment period on the proposed rule ends on May 5, 2006.

Under the Program, NMFS issued harvester quota share (QS) that yields annual individual fishing quota (IFQ). An IFQ is a permit to harvest a specific portion of the total allowable catch (TAC). A portion of the IFQ issued are ''Class A'' IFQ. Crab harvested under a Class A IFQ permit must be delivered to a specific processor. NMFS issued processor quota share (PQS) to processors that yield individual processing quota (IPQ). IPQ is a permit to receive and process a portion of the TAC harvested with Class A IFQ. A one-to-one relationship exists between Class A IFQ and IPQ. The Program includes an arbitration system to resolve price, delivery terms, and other disputes in the event that holders of Class A IFQ and IPQ are unable to negotiate those terms.

After the annual issuance of IFQ and IPQ, the arbitration system regulations at § 680.20(h)(3)(iv)(A) allow harvesters who are not affiliated with a processor through ownership or control linkages (unaffiliated harvesters) to unilaterally commit delivery of harvests from Class A IFQ to a processor with available IPQ. Once committed, the unaffiliated harvester is permitted to initiate a binding arbitration proceeding under § 680.20(h)(3)(v) if the parties are unable to agree to the terms of delivery. Regulations at § 680.20(h)(3)(v) require that an IFQ holder initiate binding arbitration at least 15 days prior to a season opening. This approach is commonly called the ''share match'' approach to binding arbitration.

Alternatively, regulations at § 680.20(h)(3)(iii) allow unaffiliated harvesters to match IFQ with processors with available IPQ using a ''lengthy season approach.'' Although the lengthy season approach allows harvesters and processors to use the arbitration system, it requires a mutual agreement of both partes to schedule arbitration proceedings later in the season, which can affect negotiating positions. The arbitration system under the Program was intended to provide harvesters and processors with the ability to reach price agreements through binding arbitration using two methods: one that results in a binding arbitration decision prior to the season, the share match approach; and the other that would allow a binding arbitration proceeding to begin under a mutually agreed upon negotiation timeline, the lengthy season approach.

Under NMFS' current schedule for stock assessments and TAC setting, the share match approach to resolve price disputes has not met the needs of IFQ holders. NMFS typically does not issue IFQ and IPQ 15 days prior to a season opening, limiting the ability of IFQ holders to rely on the share match approach to achieve a price resolution.

If approved, Amendment 21 to the FMP and its implementing rule would link the timing for initiating share matching and a binding arbitration proceeding to the issuance of IFQ and IPQ, providing participants with a reasonable and reliable opportunity to fully use the arbitration system. The timing for share matching and initiation of binding arbitration would be based on the issuance of IFQ and IPQ, including a five-day assessment period for negotiated commitments. For a period of five days after the issuance of IFQ and IPQ, unaffiliated harvesters holding Class A IFQ and holders of IPQ could voluntarily agree to commit their respective shares. After the five-day assessment period, holders of uncommitted Class A IFQ could unilaterally commit that IFQ to any holder of uncommitted IPQ. During the 10-day period beginning five days after the issuance of IFQ and IPQ, any holder of committed Class A IFQ could unilaterally initiate a binding arbitration proceeding with the IPQ holder to which the IFQ were committed. This proposed rule would not change existing requirements that the parties to the arbitration would meet with a contract arbitrator to schedule the submission of information to the arbitrator and the terms and timing for submission of last best offers.

Amendment 21 would implement an action that is consistent with the original intent of the arbitration system, with the necessary modifications to accommodate the existing stock assessment and TAC announcement processes. Each year, the State of Alaska Department of Fish and Game (ADF&G) establishes a TAC for BSAI crab through a collaborative process with NMFS. This process is outlined in the FMP. ADF&G considers the most recent and best available scientific data when determining the TAC for a fishery. In most cases, crab stock survey data become available for analysis between mid-August and mid-September. Following the availability of the data becoming available, NMFS and ADF&G analysts perform stock assessment analyses and estimation of stock abundance as needed for determination

of stock status relative to overfishing and TACs. For most BSAI crab fisheries, ADF&G has determined that announcement of TACs will occur on October 1. The TAC announcement timing is intended to allow ADF&G and NMFS to conduct a thorough review of the data prior to the TAC determinations by ADF&G, and for NMFS to issue IFQs and IPQs prior to the October 15th season opening. Accelerating the timing of the TAC announcement could compromise the integrity of the results, introduce additional errors, and limit the ability of ADF&G and NMFS to use the most recent and best available data. Once ADF&G announces the TAC, NMFS must issue IFQ to harvesters based upon their holdings of QS, and IPQ to processors based upon their holdings of PQS. This process requires several days after TAC is issued.

NMFS believes that delaying the start of the season to accommodate the stock assessment process and IFQ and IPQ issuance process is not a viable option. Under the FMP, the State of Alaska has the authority to establish season dates. Modifying season dates would require action by the Alaska Board of Fisheries. The Council and NMFS are not proposing a change in season dates. Delaying the season dates could reduce access to valuable markets and is not supported by the BSAI crab fishing industry.

Modifications proposed under Amendment 21 were discussed and reviewed during a Program workshop in Seattle held on November 18, 2005, (70 FR 10174, November 2, 2005). Industry representatives from both the harvesting and processing sector attended the meeting in roughly equal proportion. Based upon public comments NMFS received during that meeting, the approach described under Amendment 21 was favored by industry representatives from both the harvesting and processing sector over alternative approaches (e.g., delaying the season start date). Particularly favored was a brief assessment period once IFQ and IPQ have been issued before unaffiliated harvesters could unilaterally match their IFQ to IPQ holders. Several industry attendees from the processing sector noted that once IFQ and IPQ have been issued, harvesters and processors require time to assess their holdings and complete any voluntary matching agreements. In December 2005, NMFS briefed the Council detailing the timing conflict and industry comments received during the November 2005 public meeting. The Council considered additional public comments and proposed limiting the alternatives for consideration to those that resolve the timing conflict in a manner that closely matches the timing of the share match approach to binding arbitration prescribed in the FMP. Amendment 21 as adopted by the Council incorporates this approach.

This proposed rule would not alter the basic structure or management of the Program. It would not alter reporting, monitoring, fee collection, and other requirements to participate in the arbitration system. The proposed rule also would not increase the number of harvesters or processors in the Program fisheries or the current amount of crab that may be harvested. The proposed action would not affect current regional delivery requirements or other restrictions on harvesting and processing. Amendment 21 would provide a mechanism to ensure that a binding arbitration proceeding could occur early in the fishing season in accordance with the original design of the Program. Amendment 21 would not modify the lengthy season approach to binding arbitration proceeding, and would fulfill the intent of the FMP to provide harvesters and processors with effective methods of resolving price disputes under the arbitration system.

Classification

At this time, NMFS has not determined that Amendment 21 and the provisions in this rule that would implement Amendment 21 are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making the determination that this proposed rule is consistent, will take into account the data, views, and comments received during the comment period (see **DATES**).

A Regulatory Impact Review (RIR) was prepared to assess all costs and benefits of available regulatory alternatives. The RIR considers all quantitative and qualitative measures. Additionally, an initial regulatory flexibility analysis (IRFA) was prepared that describes the impact this proposed rule would have on small entities. Copies of the RIR/IRFA prepared for this proposed rule are available from NMFS (see **ADDRESSES**). The RIR/IRFA prepared for this proposed rule incorporates by reference an extensive RIR/IRFA prepared for Amendments 18 and 19 that detailed the impacts of the Program on small entities.

The IRFA for this proposed action describes in detail the reasons why this action is being proposed, describes the objectives and legal basis for the proposed rule, and discusses both small and non-small regulated entities to adequately characterize the fishery participants. The IRFA contains a description and estimate of the number of directly affected small entities.

Estimates of the number of small harvesting entities under the Program are complicated by several factors. First, each eligible captain will receive an allocation of QS under the program. A total of 186 captains received allocations of QS for the 2005–2006 fishery. In addition, 269 allocations of QS to license limitation permit (LLP) license holders were made under the Program, for a total of 454 QS allocations. Because some persons participated as LLP license holders and captains and others received allocations from the activities of multiple vessels, only 294 unique persons received QS. Of those entities receiving QS, 287 are small entities because they either generated $4.0 million or less in gross revenue, or they are independent entities not affiliated with a processor. Estimates of gross revenues for purposes of determining the number of small entities, relied on the low estimates of prices from the arbitration reports based on the 2005/2006 fishing season.

Allocations of PQS under the Program were made to 29 processors. Of these PQS recipients, nine are estimated to be large entities, and 20 are estimated to be small entities. Estimates of large entities were made based on available records of employment and the analysts' knowledge of foreign ownership of processing companies. These totals exclude catcher/processors, which are included in the LLP license holder discussion.

Other supporting businesses also may be indirectly affected by this action if it leads to fewer vessels participating in the fishery. These impacts are treated in the RIR/IRFA prepared for this action (see **ADDRESSES**).

Implementation of the proposed rule would not change the overall reporting structure and recordkeeping requirements of the participants in the BSAI crab fisheries or arbitration system.

No Federal rules that may duplicate, overlap, or conflict with this proposed action have been identified.

The Council considered alternatives as it designed and evaluated the potential methods for accommodating current fishery management timing and the need to provide an opportunity for a binding arbitration proceeding early during a crab fishing season in the EA prepared for this proposed action. The alternatives differed only in the timing of when unaffiliated harvesters with IFQ could match their shares with processors with uncommitted IPQ. The alternatives have no effect on fishing

practices or patterns and therefore have no effects on the physical and biological environment. Effects of the Program, including the arbitration system and the timing of binding arbitration proceedings, on the physical and biological environment (including effects on benthic species and habitat, essential fish habitat, the ecosystem, endangered species, marine mammals, and sea birds) are fully analyzed in the EIS prepared for the Program (Crab EIS) and are incorporated by reference in the EA prepared for this proposed action.

This proposed action is not anticipated to have additional impacts on the BSAI crab fisheries beyond those identified in the Crab EIS. No new significant information is available that would change these determinations in the Crab EIS. Please refer to the Crab EIS and its appendices for more detail (see **ADDRESSES**).

The EA/RIR/IRFA prepared for this action analyzed three alternatives. Alternative 1 would maintain the existing timing for initiating a binding arbitration proceeding. This would maintain the inconsistency between the timing of the issuance of IFQ and IPQ in a crab QS fishery and the requirement to initiate a binding arbitration prior to the start of the season. Alternative 1 would not provide an opportunity for harvesters to initiate a binding arbitration proceeding early in the season. Alternative 1 does not effectively implement a portion of the Program as recommended by the Council. In effect, the reliability of the arbitration system to resolve price disputes earlier in the season is limited. Although participants have relied on the ''lengthy season approach'' to effectively extend the deadline for initiating an arbitration proceeding to resolve a dispute concerning terms of delivery, the greater degree of cooperation required by the approach limits its reliability. In addition, the lengthy season approach could delay resolution of disputes beyond the period that would be expected, if the process for initiating arbitration could be applied as expected. The result could be either a loss of operational certainty arising from unsettled terms of delivery and potentially a shift in negotiating leverage if one party were disproportionately affected by the uncertainty.

Alternative 2, the preferred alternative, would provide harvesters with the opportunity to utilize the arbitration system to resolve disputes in a manner consistent with the original intent of Program. Although Alternative 2 likely would not provide a price resolution through arbitration prior to the start of the season as originally envisioned, it would provide an opportunity to resolve price disputes shortly after the start of the season. Alternative 2 would not have effects on harvesters or processors different from those already considered under the EIS prepared for the Program. The five-day assessment period would be likely to contribute to stability in relationships among IFQ holders and IPQ holders, by permitting persons to resolve negotiated commitments prior to allowing unilateral commitments. In addition, this 5-day period could result in more negotiated commitments by prioritizing negotiated relationships over unilateral commitments.

Alternative 3 is similar to Alternative 2 but does not provide a five-day assessment period to match shares after the issuance of IFQ and IPQ. The absence of such a period could provide an advantage to persons who are unable, or unwilling, to develop voluntary commitments. The absence of this period to allow IFQ and IPQ holders to finalize negotiated commitments also could be disruptive to markets by flooding IPQ holders with unilateral commitments from IFQ holders who fear being displaced by others. An orderly settlement of commitments is more likely to take place if a period of negotiated commitments were permitted prior to allowing unilateral commitments.

Although the different alternatives under consideration in this action would have distributional and efficiency impacts for individual participants, in no case are these impacts in the aggregate expected to be substantial. Although none of the alternatives has substantial negative impacts on small entities, preferred Alternative 2 minimizes the potential negative impacts that could arise under Alternative 3. Differences in efficiency that could arise are likely to affect most participants in a minor way having an overall insubstantial impact. As a consequence, none of the alternatives is expected to have any significant economic or socioeconomic impacts.

Collection-of-information

This rule does not contain new collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA).

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

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: April 14, 2006.

James W. Balsiger,

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

For the reasons set out in the preamble, 50 CFR part 680 is proposed to be amended as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 680 continues to read as follows:

Authority: 16 U.S.C. 1862.

2. In § 680.20, paragraphs (h)(3)(iv)(A) and (h)(3)(v) introductory text are revised to read as follows:

§ 680.20 Arbitration System.

* * * * *

(h) * * *

(3) * * *

(iv) * * *

(A) At any time 5 days after NMFS issues IFQ and IPQ for that crab QS fishery in that crab fishing year, holders of uncommitted Arbitration IFQ may choose to commit the delivery of harvests of crab to be made with that uncommitted Arbitration IFQ to an uncommitted IPQ holder.

* * * * *

(v) *Initiation of Binding Arbitration.* If an Arbitration IFQ holder intends to initiate Binding Arbitration, the Arbitration IFQ holder must initiate the Binding Arbitration procedure not later than 15 days after NMFS issues IFQ and IPQ for that crab QS fishery in that crab fishing year. Binding Arbitration is initiated after the committed Arbitration IFQ holder notifies a committed IPQ holder and selects a Contract Arbitrator. Binding Arbitration may be initiated to resolve price, terms of delivery, and other disputes. There will be only one Binding Arbitration Proceeding for an IPQ holder but multiple Arbitration IFQ holders may participate in this proceeding. This limitation on the timing of Binding Arbitration proceedings does not include proceedings that arise due to:

* * * * *

[FR Doc. E6–5945 Filed 4–19–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 71, No. 76
Thursday, April 20, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0048]

Notice of Request for Extension of Approval of an Information Collection; Tuberculosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the domestic tuberculosis eradication program.

DATES: We will consider all comments that we receive on or before June 19, 2006.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2006–0048 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the ''Advanced Search'' function in Regulations.gov.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0048, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0048.

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

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For information regarding the domestic tuberculosis eradication program, contact Dr. Michael Dutcher, Senior Staff Veterinarian, Ruminant Health Programs, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737; (301) 734–5467. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Tuberculosis.

OMB Number: 0579–0146.

Type of Request: Extension of approval of an information collection.

Abstract: The United States Department of Agriculture (USDA) is responsible for, among other things, preventing the interstate spread of pests and diseases of livestock within the United States and for conducting eradication programs. In connection with this mission, USDA's Animal and Plant Health Inspection Service (APHIS) participates in the Cooperative State-Federal Bovine Tuberculosis Eradication Program, which is a national program to eliminate bovine tuberculosis from the United States. This program is conducted under various States' authorities supplemented by Federal authorities regulating interstate movement of affected animals.

The tuberculosis regulations, contained in 9 CFR part 77, provide several levels of tuberculosis risk classifications to be applied to States and zones within States, and classify States and zones according to their tuberculosis risk. The regulations restrict the interstate movement of cattle, bison, and captive cervids from the various classes of States or zones to prevent the spread of tuberculosis.

These regulations contain information collection requirements, including requirements for epidemiological reviews, certificates for animals moved interstate, tuberculosis management plans, submission by States of requests to APHIS for State or zone status, and submission by States of an annual report to APHIS for renewal of State or zone status.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection. We need this outside input to help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.30 hours per response.

Respondents: State animal health authorities, including State veterinarians and designated State tuberculosis epidemiologists.

Estimated annual number of respondents: 200.

Estimated annual number of responses per respondent: 10.

Estimated annual number of responses: 2,000.

Estimated total annual burden on respondents: 600 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual

number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 14th day of April 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–5942 Filed 4–19–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0003]

Horse Protection; Public Meetings in California, Kentucky, Tennessee, and Texas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meetings.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service's Animal Care program will host four additional meetings to present current information on the enforcement of the Horse Protection Act (HPA) and provide a forum for horse industry members and other interested persons to comment on the Horse Protection Program, development of the HPA Operating Plan for 2007 and beyond, and other Horse Protection matters. This notice provides the meetings' agendas, locations, and dates.

DATES: The meetings will be held in Dallas, TX, on April 19, 2006, at 1 p.m.; in Somerset, KY, on May 17, 2006, at 1 p.m.; in Pomona, CA, on June 12, 2006, at 2:30 p.m., and in Chattanooga, TN, on September 11, 2006, at 1 p.m. Registration for each meeting will start 30 minutes before the meeting.

ADDRESSES: The meetings will be held at the following locations:

Dallas, TX: Sterling Hotel Dallas, 1055 Regal Row, Dallas, TX.

Somerset, KY: Center for Rural Development, 2292 South Highway 27, Suite 300, Somerset, KY.

Pomona, CA: Kellogg West Conference Center, 3801 West Temple Avenue, Pomona, CA.

Chattanooga, TN: Miller & Martin PLLC, Volunteer Building, 832 Georgia Avenue, Suite 1000, Chattanooga, TN.

FOR FURTHER INFORMATION CONTACT: Mr. Darby G. Holladay, APHIS Legislative and Public Affairs, 4700 River Road Unit 51, Riverdale, MD 20737; (301) 734–3265.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS), Animal Care, is announcing four additional meetings to discuss the enforcement of the Horse Protection Act (HPA). Two prior meetings for this purpose have been held in Shelbyville, KY, on February 8, 2006, and in Springfield, MO, on March 13, 2006. Notice of the earlier meetings was published in the **Federal Register** on January 18, 2006 (71 FR 2902), and on March 7, 2006 (71 FR 11373). These meetings are designed to provide a forum for information dissemination on current initiatives by Animal Care. Further, these meetings provide the opportunity for industry members and other interested parties to provide suggestions for the HPA Operating Plan for 2007 and beyond and comments on other Horse Protection Program matters during the listening session period on the agenda. Each attendee who wishes to comment should indicate at registration his or her intention to address the Deputy Administrator during the listening session and will be allotted a set amount of time.

The meetings will, with the exception of possible minor modifications, follow the agenda below. Registration for each meeting will start 30 minutes prior to the meeting.

Welcome and Overview: 15 minutes.

Horse Protection Program Update: 1 hour, 45 minutes.

Listening Session: 1 hour, 45 minutes.

Remarks and Closing: 15 minutes.

Meeting notices, copies of the Horse Protection Act, HPA regulations, the HPA Operating Plan for 2004–2006, and other relevant documents are available on the Animal Care Web site at *http://www.aphis.usda.gov/ac/hpainfo.html.*

Please note that these meetings are being held to provide for the exchange of information on the enforcement of the Horse Protection Act and are not an opportunity to submit formal comments on proposed rules or other regulatory initiatives. Written comments will be accepted and should be mailed to: USDA, APHIS, Animal Care, 4700 River Road Unit 84, Riverdale, MD 20737.

Done in Washington, DC, this 14th day of April 2006 .

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–5943 Filed 4–19–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Arizona Counties Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Arizona Counties Resource Advisory Committee will meet in Payson, Arizona. The purpose of the meeting is to review and approve projects for funding.

DATES: The meeting will be held May 19, 2006, at 12:30 p.m.

ADDRESSES: The meeting will be held at the Gila Community College Payson Campus, 201 Mud Springs Road, Payson, Arizona. Send written comments to Robert Dyson, Eastern Arizona Counties Resource Advisory Committee, c/o Forest Service, USDA, P.O. Box 640, Springerville, Arizona 85938 or electronically to *rydson@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Robert Dyson, Public Affairs Officer, Apache-Sitgreaves National Forests, (928) 333–4301.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring Pub. L. 106–393 related matters to the attention of the Committee may file written statements with the Committee staff before the meeting. Opportunity for public input will be provided.

Dated: April 13, 2006.

Deryl D. Jevons,

Acting Forest Supervisor, Apache-Sitgreaves National Forests.

[FR Doc. 06–3774 Filed 4–19–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Southeast Alaska Federal Subsistence Regional Advisory Council Meeting

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

Date: May 10, 2006.

Time and Location: 10 a.m., Alaska Daylight Savings Time, by teleconference. For how to participate,

please see **SUPPLEMENTARY INFORMATION** below.

SUMMARY: This notice informs the public that the Southeast Alaska Federal Subsistence Regional Advisory Council will hold a public meeting on May 10, 2006. The public is invited to participate and to provide oral testimony.

SUPPLEMENTARY INFORMATION: The Southeast Regional Advisory Council will meet by teleconference on May 10, 2006, for the purpose of reviewing and providing comments on the Federal rulemaking which would result in Federal subsistence management of certain marine waters in the vicintiy of Makhnati and Japonski Islands within the City and Borough of Sitka, Alaska, and for discussing other matters affecting subsistence users in Southeast Alaska. This meeting is open to the public to provide testimony. To participate, call toll free, 1–888–982–4496. The Teleconference Leader is Ms. Melinda Hernandez and the Passcode is Makhnati.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o Office of Subsistence Management, U.S. Fish and Wildlife Service, 3601 C Street, Suite 1030, Anchorage, Alaska 99503; telephone (907) 786–3888. For questions related to subsistence management issues on National Forest Service lands, contact Steve Kessler, Subsistence Program Leader, 3601 C Street, Suite 1030, Anchorage, Alaska 99503; telephone (907) 786–3592.

Dated: March 30, 2006.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Dated: March 30, 2006.

Steve Kessler,

Subsistence Program Leader, USDA-Forest Service.

[FR Doc. 06–3766 Filed 4–19–06; 8:45 am]

BILLING CODE 3410–11–M; 4310–55–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Request for Proposals: Fiscal Year 2006 Funding Opportunity for Research on the Economic Impact of Cooperatives

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Initial notice of request for proposals.

SUMMARY: Rural Business-Cooperative Service programs are administered through USDA Rural Development. USDA Rural Development announces the availability of approximately $495,000 in competitive cooperative agreement funds for fiscal year (FY) 2006 to conduct research on the national economic impact of all types of cooperatives. USDA Rural Development hereby requests proposals from institutions of higher education interested in applying for a competitively awarded cooperative research agreement. The intent of the funding is to encourage research on the critical issue of the economic value of cooperatives.

DATES: Interested parties may submit completed applications for the cooperative agreement on paper or electronically according to the following deadlines:

Paper copies must be postmarked and mailed, shipped, or sent overnight no later than June 30, 2006, to be eligible for FY 2006 funding. Electronic copies must be received by June 30, 2006, to be eligible for FY 2006 funding. Late applications are not eligible for FY 2006 funding.

ADDRESSES: Applicants may obtain application forms, guides, and materials for the cooperative agreement at *http://www.rurdev.usda.gov/rbs/coops/reic.htm* or by contacting USDA Rural Development at (202) 690–0368, (TDD: (800) 877–8339, Federal Information Relay Service) and ask for the cooperative research agreement application kit.

Submit completed paper applications for a cooperative agreement to USDA Rural Development's Cooperative Programs, Attn: Cooperative Research, Mail STOP 3250, Room 4016—South, 1400 Independence Avenue, SW., Washington, DC 20250–3250. The phone number that should be used for FedEx packages is (202) 720–7558.

Submit electronic applications at *http://www.grants.gov*, following the instructions found on this Web site.

FOR FURTHER INFORMATION CONTACT: Visit the program Web site at *http://www.rurdev.usda.gov/rbs/coops/reic.htm*, which contains application guidance, including an Application Guide and application forms. Or you may contact USDA Rural Development at (202) 690–0368 (TDD: (800) 877–8339 Federal Information Relay Service).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB must approve all ''collections of information'' by USDA Rural Development. The Act defines ''collection of information'' as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *.'' (44 U.S.C. 3502(3)(A)) Because the RFP will receive less than 10 respondents, the Paperwork Reduction Act does not apply.

Overview

Federal Agency: Rural Business-Cooperative Service.

Funding Opportunity Title: Research on the Economic Impact of Cooperatives.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance Number: 10.778.

Dates: You may submit completed applications for the cooperative agreement on paper or electronically according to the following deadlines:

Paper copies must be postmarked and mailed, shipped, or sent overnight no later than June 30, 2006, to be eligible for FY 2006 funding. Late applications are not eligible for FY 2006 funding.

Electronic copies must be received by June 30, 2006, to be eligible for FY 2006 funding. Late applications are not eligible for FY 2006 funding.

The Paperwork Reduction Act of 1995 (Pub. L. 104–13): There is no public reporting burden associated with this notice.

I. Funding Opportunity Description

This solicitation is issued pursuant to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Pub. L. 109–97), as amended by the Department of Defense Appropriations Act, 2006 (Pub. L. 109–148) directing funds ''for a cooperative research agreement with a qualified academic institution to conduct research on the national economic impact of all types of cooperatives.'' The Secretary of Agriculture has delegated the program's administration to USDA Rural Development.

The primary objective of this cooperative research agreement program is to facilitate university research on the national economic impact of cooperatives. The research program will need to develop a methodology for collecting and assembling basic impact data on a periodic basis; apply the methodology to collect data and estimate economic impact of cooperatives; estimate cooperative specific community impact multipliers; and conduct other appropriate studies to examine the socio-economic impact of cooperatives on their local communities.

The cooperative agreement proposal must address the following deliverables:

1. Development of a methodology for collection and assembly of basic impact data on a periodic basis. This methodology will need to account for cooperative organizational complexity, such as a single organization's several local, regional, and national locations, as well as sector differences.

2. Application of the developed methodology, by major sector, to collect data and estimate economic impact of cooperatives. Data items to be collected/measured must include:

- Number and location of cooperatives,
- Volume measures appropriate for each sector (revenues, dollar value, and other appropriate size indicators),
- Number of persons impacted by the cooperative (members, patrons, or investors), and
- Number of full-time equivalent jobs and other economic impact variables.

Sectors for which summary data should be prepared include:

- Housing,
- Health care,
- Daycare/elder care,
- Financial services,
- Grocery/consumer retail,
- Business-to-business (wholesaling, manufacturing),
- Agricultural marketing (including organic and conventional),
- Agricultural supplies and services,
- Public services (including transportation and education), and
- Utilities.

3. Creation and population of a database for individual cooperative and summary data collected. Database is to be delivered to USDA Rural Development.

4. Estimation of cooperative specific community impact multipliers for each of the following four categories or classes of cooperatives:

i. *Commercial sales or marketing*—includes farm supply and marketing, grocery and consumer goods, business-to-business, and manufacturing.

ii. *Social and public services*—includes housing, health care, day care/elder care, transportation, and educational services.

iii. *Financial services*—includes credit unions, banks, and mutual insurance.

iv. *Utilities*—includes electric, telephone, water, waste, and other regulated utilities.

5. Performance of subcontracting services, oversight, and financial controls for the overall project.

6. Submission of quarterly progress reports and quarterly financial reports to USDA Rural Development.

7. Preparation and submission of publishable quality written reports for Deliverables 2 and 4 to USDA Rural Development.

USDA Rural Development will competitively award one cooperative agreement to fund the collection and analysis of data to determine the national economic impact of cooperatives. An institution of higher education may subcontract or collaborate with others on the research and data collection. A formal consortium of academic institutions is encouraged.

Definitions

The definitions at 7 CFR 3019.2 are incorporated by reference.

II. Award Information

Type of Award: Cooperative Agreement.

Fiscal Year Funds: FY 2006.

Approximate Total Funding: $495,000.

Approximate Number of Awards: 1.

Approximate Average Award: $495,000.

Floor of Award Range: None.

Ceiling of Award Range: $495,000.

Anticipated Award Date: September 15, 2006.

Budget Period Length: 24 months.

Project Period Length: 24 months.

III. Eligibility Information

A. Eligible Applicants

Applicants must be institutions of higher education. Proposals may be submitted by public or private colleges or universities, research foundations maintained by a college or university, or private nonprofit organizations funded by a group of colleges or universities. Under the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(4)) which engages in lobbying activities, is not eligible to apply.

B. Cost Sharing or Matching

Matching funds are not required but are highly encouraged. Applicants must verify in their applications that matching funds are available for the time period of the agreement if the matching funds are required to complete the project. Matching funds must be provided by either the applicant or by a third party in the form of cash or in-kind contributions. Matching funds must be spent on eligible expenses and must be from eligible sources.

C. Other Eligibility Requirements

Indirect Cost Eligibility: Public Law 109–97, Sec. 708 states ''No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties.'' Indirect costs in excess of 10 percent of the direct cost, therefore, will be ineligible for funding.

Activity Eligibility: A cooperative agreement reflects a relationship between the United States Government and an eligible recipient where the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the eligible recipient to carry out the desired research; and substantial involvement is anticipated between USDA Rural Development acting for the United States Government and the eligible recipient during the performance of the research in the agreement. A cooperative agreement is not a grant. Therefore, the project proposed must include a description of USDA Rural Development's substantial participation. USDA Rural Development may subsequently negotiate its participation before the cooperative agreement is executed.

Applicants that propose budgets that include more than 10 percent of total project costs that are ineligible for the program will be ineligible, and the application will not be considered for funding. However, if an application with 10 percent or less of ineligible costs is selected for funding, all ineligible costs must be removed from the project and replaced with eligible activities or the amount of the award will be reduced accordingly.

Cooperative Agreement Period Eligibility: Applications that have a timeframe of more than 24 months will be considered ineligible and will not be considered for funding. Applications that request funds for a time period ending after September 30, 2008, will not be considered for funding.

Completeness Eligibility: Applications without sufficient information to determine eligibility will not be considered for funding. Applications that are missing any required elements (in whole or in part) will not be considered for funding, except where specifically allowed in the following paragraphs.

IV. Application and Submission Information

A. Address to Request Application Package

If you plan to apply using a paper application, you can obtain the application package for this funding opportunity at *http://www.rurdev.usda.gov/rbs/coops/reic.htm.* If you do not have access to the Internet, or if you have difficulty accessing the forms online, you may contact the National Office by calling (202) 690–0368 (TDD: (800) 877–8339 Federal Information Relay Service). Application forms can be mailed to you. If you plan to apply electronically, you must visit *http://www.grants.gov* and follow the instructions.

B. Content and Form of Submission

You may submit your application in paper or in an electronic format. You may view the Application Guide at *http://www.rurdev.usda.gov/rbs/coops/reic.htm.*

If you submit your application in paper form, you must submit one signed original of your complete application along with two additional copies.

If you submit your application electronically, you must follow the instructions given at *http://www.grants.gov.* Applicants are advised to visit the site well in advance of the application deadline if they plan to apply electronically to insure that they have obtained the proper authentication and have sufficient computer resources to complete the application.

An application must contain all of the following elements. Any application that is missing any element or contains an incomplete element will not be considered for funding:

1. Form SF–424, ''Application for Federal Assistance.'' In order for this form to be considered complete, it must contain the legal name of the applicant, the applicant's Dun and Bradstreet Data Universal Numbering System (DUNS) number, the applicant's complete mailing address, the name and telephone number of a contact person, the employer identification number (EIN), the start and end dates of the project, the Federal funds requested, other funds that will be used as matching funds, an answer to the question, ''Is applicant delinquent on any Federal debt?'', the name and signature of an authorized representative, the telephone number of the authorized representative, and the date the form was signed. Other information requested on the form may be applicable, but the above-listed information is required for an application to be considered complete.

The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Applicants can receive a DUNS number at no cost by accessing *http://www.dnb.com/us/* or calling (866) 705–5711.

2. Form SF–424A, ''Budget Information—Non-Construction Programs.'' In order for this form to be considered complete, the applicant must fill out Sections A, B, C, and D. The applicant must include both Federal and any matching funds to be included.

3. Form SF–424B, ''Assurances—Non-Construction Programs.'' In order for this form to be considered complete, the form must be signed by an authorized official and include the title, name of applicant, and date.

4. Title Page. The title page must include the title of the project as well as any other relevant identifying information. The length should not exceed one page.

5. Table of Contents. For ease of locating information, each proposal must contain a detailed Table of Contents immediately following the title page.

6. Executive Summary. A summary of the proposal, not to exceed one page, must briefly describe the project, including goals, tasks to be completed, and other relevant information that provides a general overview of the project. In the event an applicant submits more than one page for this element, only the first page submitted will be considered.

7. Eligibility Discussion. A detailed discussion, not to exceed four pages, will describe how the applicant meets the eligibility requirements. In the event that more than four pages are submitted, only the first four pages will be considered.

i. Applicant Eligibility. The applicant must first describe how it meets the definition of an institution of higher education.

ii. Purpose Eligibility. The applicant must describe how the project purpose is eligible for funding. The project purpose is comprised of two components. First, the applicant must describe how the proposed project consists of activities needed to determine the national economic impact of all types of cooperatives. Second, the applicant must demonstrate that the combined activities are sufficient to estimate the national economic impact of all types of cooperatives.

8. Proposal Narrative. The narrative must include the following information:

i. Project Title. The title of the proposed project must be brief, not to exceed 75 characters, yet describe the essentials of the project. It should match the project title submitted on the SF–424. The project title does not need to appear on a separate page. It can be included on the title page and/or on the information sheet.

ii. Information Sheet. A separate one-page information sheet listing each of the evaluation criteria referenced in this funding announcement followed by the page numbers of all relevant material contained in the proposal that address or support each criterion.

iii. Goals of the Project. A clear statement of the ultimate goals of the project must be included. There must be an explanation of how economic benefit will be measured.

iv. Workplan. The narrative must contain a description of the project and set forth the tasks involved in reasonable detail. The description should specify the activity, who will perform the activity, during what timeframe the activity will take place, and the cost of the activity. Please note that one of the proposal evaluation criteria evaluates the workplan and budget. Applicants should only submit the workplan and budget once, either in this section or as part of the workplan/budget evaluation criterion discussion.

v. Proposal Evaluation Criteria. Each of the proposal evaluation criteria referenced in this funding announcement must be addressed, specifically and individually, in narrative form.

9. Certification of Judgment. Applicants must certify that the United States has not obtained a judgment against them. No Federal funds shall be used to pay a judgment obtained by the United States. It is suggested that applicants use the following language for the certification. ''[INSERT NAME OF APPLICANT] certifies that the United States has not obtained a judgment against it.'' A separate signature is not required.

10. Verification of Matching Funds. Applicants must provide a budget to support the workplan showing all sources and uses of funds during the project period. Applicants will be required to verify any and all matching funds, both cash and in-kind. All proposed matching funds must be specifically documented in the application. If the matching funds are to be provided by an in-kind contribution from the applicant, the application must include a signed letter from an authorized representative of the applicant verifying the goods or services to be donated, when the goods and

services will be donated, and the value of the goods or services. Applicants should note that only goods or services for which no expenditure is made can be considered in-kind. If the applicant is paying for goods and services as part of the matching funds contribution, the expenditure is considered a cash match, and should be verified as such. If the matching funds are to be provided by a third party in cash, the application must include a signed letter from that third party verifying how much cash will be donated and when it will be donated. Verification for funds donated outside the proposed time period of the cooperative agreement will not be accepted. If the matching funds are to be provided by a third party in-kind donation, the application must include a signed letter from the third party verifying the goods or services to be donated, when the goods and services will be donated, and the value of the goods or services. Verification for in-kind contributions donated outside the proposed time period of the cooperative agreement will not be accepted. Verification for in-kind contributions that are over-valued will not be accepted. The valuation process for the in-kind funds does not need to be included in the application, especially if it is lengthy, but the applicant must be able to demonstrate how the valuation was achieved at the time of notification of tentative selection for the award. If the applicant cannot satisfactorily demonstrate how the valuation was determined, the award may not be made.

If matching funds are in cash, they must be spent on goods and services that are eligible expenditures for this cooperative agreement program. If matching funds are in-kind contributions, the donated goods or services must be considered eligible expenditures for this program. The matching funds must be spent or donated during the agreement period. Some examples of acceptable uses for matching funds are: labor performing work required for the proposed project, office supplies, and travel expenses. Some examples of unacceptable uses of matching funds are: Land, fixed equipment, buildings, vehicles, political activities, costs of preparing the application, and costs incurred prior to the effective date of the cooperative agreement. (See 7 CFR parts 3015 and 3019 for funds use eligibility rules.) If acceptable verification for all proposed matching funds is missing from the application by the application deadline, the application will receive zero points for the Funding Match part of the evaluation criteria.

C. Submission Dates and Times

Application Deadline Date: June 30, 2006.

Explanation of Deadlines: Paper applications must be POSTMARKED by the deadline date (see Section IV.F. for the address). Final electronic applications must be received by *http://www.grants.gov* by the deadline date. If your application does not meet the deadline above, it will not be considered for funding. You will be notified whether or not your application was received on time.

D. Intergovernmental Review of Applications

Executive Order (EO) 12372, Intergovernmental Review of Federal Programs, does not apply to this program.

E. Funding Restrictions

Funding restrictions apply to both Federal funds and matching funds. Funds may only be used for activities related to determining the economic impact of cooperatives.

No funds made available under this solicitation shall be used to:

1. Plan, repair, rehabilitate, acquire, or construct a building or facility, including a processing facility;
2. Purchase, rent, or install fixed equipment, including processing equipment;
3. Purchase vehicles, including boats;
4. Pay for the preparation of the cooperative agreement application;
5. Pay expenses not directly related to the funded project;
6. Fund political or lobbying activities;
7. Fund any activities prohibited by 7 CFR parts 3015 or 3019;
8. Fund architectural or engineering design work for a specific physical facility;
9. Purchase land;
10. Duplicate current services or replace or substitute support previously provided;
11. Pay costs of the project incurred prior to the date of agreement approval;
12. Pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence; or
13. Pay any judgment or debt owed to the United States.

F. Other Submission Requirements

You may submit your paper application for a cooperative agreement to USDA Rural Development's Cooperative Programs, Attn: Cooperative Research, Mail STOP 3250, Room 4016–South, 1400 Independence Avenue, SW., Washington, DC 20250–3250. The phone number that should be used for FedEx packages is (202) 720–7558. You may also choose to submit your application electronically at *http://www.grants.gov*. Final applications may not be submitted by electronic mail, facsimile, or by hand-delivery. Each application submission must contain all required documents in one envelope, if by mail or express delivery service.

V. Application Review Information

A. Criteria

All eligible and complete applications will be evaluated based on the following criteria and maximum point allowances. Failure to address any one of the following criteria by the application deadline will result in a determination of incomplete and the application will not be considered for funding. The total points available for the set of criteria are 100.

1. *Relevance of the project proposal (30 points).* Proposals will be evaluated on how directly they address the stated objective of demonstrating economic impact of cooperatives in the United States. Factors to be weighed by evaluators in scoring a proposal's relevance will include:

- Demonstration of an understanding of cooperatives' unique impacts on communities;
- Definition of clear and objective measures of impact;
- Definition of specific measurement strategies for obtaining impact measures from each major cooperative sector and each category of persons impacted by cooperatives;
- Description of sound data collection and analysis methodology; and
- Establishment of systems for efficiently replicating the impact measure process in future years.

2. *Quality of Workplan (30 points).* The quality evaluations will be based on whether the proposal outlines a sound plan of work that will meet the objectives in a timely and cost-efficient manner. Factors to be weighed by evaluators in scoring a proposal's workplan will include:

- How well the steps for carrying out the work are defined;
- The logic of the sequence of proposed steps and the likelihood they will achieve their intended result;
- The establishment of clear benchmarks and timetables to measure progress of the project;

• The detail, accuracy, and reasonableness of the project's proposed budget; and

• The identification of partners and collaborators in the project and the specific roles to be played by each.

3. Quality of personnel and management plan (20 points). The quality of the management plan and the personnel involved in carrying out the proposed project will be evaluated in terms of the capabilities of individuals and institutions to carry out assigned roles in an effective manner. Factors to be weighed by evaluators in scoring a proposal's personnel and management plan will include:

• Experience of project leaders and the lead institution in managing complex research projects;

• Evidence of management controls, progress measurements, and reporting systems within a structured project management plan; and

• Experience and relevant skills of researchers, consultants, and subcontractors assigned to carry out specific roles in the project.

4. *Funding match and cooperative community support (20 points).* Points will be awarded on the basis of the percentage match provided by the applicant and the level of support for the proposal from the cooperative community as evidenced by contribution of resources to the match and other indications of support.

• Up to 10 points will be awarded for matching funds provided by or arranged for by the applicant. One point will be awarded for each 5 percent match, up to a maximum of 10 points for a 50 percent match.

• Five points will be awarded if at least 25 percent of the total match is sourced from contributions by the private sector cooperative community (cooperatives, cooperative-based trade associations).

• Up to five points will be awarded based on evidence of support for the applicant's proposal as expressed through letters of support from the cooperative community.

B. Review and Selection Process

Each application will be initially reviewed by Rural Development personnel for eligibility and to determine whether all required elements are complete. A list of required elements follows:

• SF–424.
• SF–424A.
• SF–424B.
• Title Page.
• Table of Contents.
• Executive Summary.
• Applicant Eligibility Discussion.
• Purpose Eligibility Discussion.
• Project Title.
• Information Sheet.
• Goals of the Project.
• Work Plan.
• Proposal Evaluation Criterion 1.
• Proposal Evaluation Criterion 2.
• Proposal Evaluation Criterion 3.
• Proposal Evaluation Criterion 4.
• Certification of Judgment.
• Verification of any Matching Funds.

Incomplete applications that have four or less incomplete required elements and appear to be otherwise eligible will receive a letter requesting the incomplete items be provided within 12 business days of the date the letter was sent. If the requested items are not received when requested or are not complete, the application will not be further evaluated or considered for funding. Any other incomplete or ineligible applications will not be further evaluated or considered for funding.

All eligible and complete proposals will be evaluated by at least three reviewers based on criteria 1 through 4 described in paragraph A of this section. All reviewers will be employees of USDA.

Once the scores for criteria 1 through 4 have been independently completed by the three reviewers, the scores will be used to rank the proposals. If the three reviewers rank the best proposal differently then, with the aid of a facilitator, the three reviewers will develop a consensus ranking. If the three reviewers cannot reach a consensus, two additional reviewers will review the proposals and be added to the rankings. A final ranking will be obtained based on the consensus rankings of the three member review panel, or the average of the five reviewers' rankings.

After the award selection is made, all applicants will be notified of the status of their applications by mail. The awardee must meet all statutory and regulatory program requirements in order to receive their award. In the event that an awardee cannot meet the requirements, the award will be withdrawn.

C. Anticipated Announcement and Award Dates

Award Date: The announcement of award selection is expected to occur on or about August 15, 2006.

VI. Award Administration Information

A. Award Notices

The successful applicant will receive a notification of tentative selection for funding from USDA Rural Development. The applicant must sign a mutually agreed to cooperative agreement and comply with all applicable statutes, regulations, and this notice before the award will receive final approval.

Unsuccessful applicants will receive notification, including mediation procedures and appeal rights, by mail.

B. Administrative and National Policy Requirements

This award is subject to 7 CFR parts 3015 and 3019. These regulations may be accessed at *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1.*

The following additional documentation requirements apply to the awardee selected for this program:

• Cooperative Agreement.

• Form RD 1940–1, ''Request for Obligation of Funds''.

• Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions''.

• Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions''.

• Form AD–1049, ''Certification Regarding a Drug-Free Workplace Requirements (Grants)''.

• Form RD 400–1, ''Equal Opportunity Agreement''.

• Form RD 400–4, ''Assurance Agreement''.

Additional information on these requirements can be found at *http://www.rurdev.usda.gov/rbs/coops/reic.htm.*

Reporting Requirements: You must provide USDA Rural Development with an original or an electronic copy that includes all required signatures of the following reports. The reports should be submitted to the Agency contact listed on your Cooperative Agreement. Failure to submit satisfactory reports on time may result in suspension or termination of your award.

1. Form SF–269 or SF–269A. A ''Financial Status Report,'' listing expenditures according to agreed upon budget categories, on a quarterly basis. Reporting periods end each December 31, March 31, June 30, and September 30. Reports are due 30 days after the reporting period ends.

2. Quarterly performance reports that compare accomplishments to the objectives stated in the proposal. Identify all tasks completed to date and provide documentation supporting the reported results. If the original schedule provided in the workplan is not being met, the report should discuss the problems or delays that may affect completion of the project. Objectives for

the next reporting period should be listed. Compliance with any special condition on the use of award funds should be discussed. Reporting periods end each December 31, March 31, June 30, and September 30. Reports are due 30 days after the reporting period ends. Supporting documentation must also be submitted for completed tasks. The supporting documentation for completed tasks include, but are not limited to, questionnaire or interview guides, publications of research findings, summaries of data collected, and any other documentation related to how funds were spent.

3. Final Project performance reports that compare accomplishments to the objectives stated in the proposal. Identify all tasks completed and provide documentation supporting the reported results. If the original schedule provided in the workplan was not met, the report must discuss the problems or delays that affected completion of the project. Compliance with any special condition on the use of award funds should be discussed. Supporting documentation for completed tasks must also be submitted. The supporting documentation for completed tasks include, but are not limited to, publications of research findings, summaries of data collected, documentation of data and software delivered to USDA Rural Development, and any other documentation related to how funds were spent. The final performance report is due within 90 days of the completion of the project.

VII. Agency Contacts

For general questions about this announcement and for program technical assistance, please contact the USDA Rural Development's Cooperative Programs, Mail STOP 3250, Room 4016-South, 1400 Independence Avenue, SW., Washington, DC 20250–3250, Telephone: (202) 690–0368 (TDD: (800) 877–8339 Federal Information Relay Service), e-mail: *cpgrants@wdc.usda.gov.*

VIII. Non-Discrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (800) 795–3272 (voice), or (202) 720–6382 (TDD). ''USDA is an equal opportunity provider, employer, and lender.''

Dated: April 14, 2006.

Jackie J. Gleason,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. E6–5913 Filed 4–19–06; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Open Meeting

The Information Systems Technical Advisory Committee will meet on April 26, 2006, 9 a.m., in the Herbert C. Hoover Building, Room 3884, 14th & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to computer systems and technology.

Agenda

1. Opening Remarks and Introductions.
2. Update on BIS Programs and Activities.
3. Summary of Export Control Workshop at SEMICON.
4. Introduction of Proposals for Category 5.
5. VoIP Networks.
6. 4A3b vs 4A3c Discussion.

The meeting will be open to the public and a limit number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to Yvette Springer at *Yspringer@bis.doc.gov.* For more information contact Yvette Springer on (202) 482–4814.

Dated: April 13, 2006.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 06–3760 Filed 4–19–06; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]

Certain Softwood Lumber Products from Canada: Notice of Rescission of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 20, 2006.

SUMMARY: On December 28, 2005, the Department of Commerce (the Department) published in the **Federal Register** (70 FR 76774) a notice announcing the initiation of a new shipper review of the antidumping duty order on certain softwood lumber products from Canada, covering the period May 1, 2005, to October 31, 2005. The review covers International Forest Products Corporation (IFP Corp.). We are now rescinding this review as a result of our determination that IFP Corp. was not the first party in the chain of distribution with knowledge that the merchandise was destined for the United States.

FOR FURTHER INFORMATION CONTACT: David Layton or Constance Handley at (202) 482–0371 or (202) 482–0631, respectively, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On November 28, 2005, the Department received a request to conduct a new shipper review of the antidumping duty (AD) order on certain softwood lumber from Canada. On December 21, 2005, the Department initiated this new shipper antidumping review covering the period May 1, 2005, to October 31, 2005. *See Certain Softwood Lumber Products from Canada: Notice of Initiation of Antidumping Duty New Shipper Review*, 70 FR 76774 (December 28, 2005). In that notice the Department stated that it intended to solicit and carefully examine information concerning the first party in the chain of distribution with knowledge of U.S. destination.

On January 5, 2006, the Department issued a letter to the respondent, IFP Corp., to solicit this information. IFP Corp. responded on January 11, 2006. On February 6, 2006, the Department issued a memorandum expressing its intent to rescind the new shipper review. *See* memorandum from Constance Handley, Program Manager to Susan H. Kuhbach, Director, Office 1, re: New Shipper Review: Intent to rescind the Review of International Forest Products Corporation (*Rescission Memo*). On February 24, 2006, the Department received comments from IFP Corp.

Analysis of Comments Received

In the *Rescission Memo*, the Department expressed its intent to rescind the review, because IFP Corp., the company from which the request for review had been received, was not the first party in the chain of distribution with knowledge that the merchandise was destined for the United States. Information provided by the producer, Terrace Lumber Company (Terrace), indicated that it had knowledge that the merchandise was destined for the United States. IFP Corp. does not dispute that Terrace was aware that its lumber was destined for the United States. However, it argues that the review request was intended to be for Terrace as well as for IFP.

According to IFP Corp., the request was made ''on behalf'' of IFP Corp. because, by agreement with Terrace, IFP Corp. was responsible for paying the legal fees incurred in participating in the review. IFP Corp. maintains that it clearly identified Terrace as the producer and as one of the two requesters on the front of the petition and in the supporting documents. IFP Corp. distinguishes this case from *Pasta from Italy* and *Garlic from the PRC*[1] in that in those cases, no request was made to review the producer's sales. Finally, IFP Corp. argues that Terrace's only sales are to IFP Corp., and therefore, the only sales of Terrace's which could be reviewed are sales to IFP and the only post–tariff sales to U.S. customers for review are from IFP.

Section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), provides that the Department will conduct a new shipper review if it receives a request from an exporter or producer of the subject merchandise. We disagree with IFP Corp.'s contention that the request for this review was received from both IFP Corp. and Terrace. The letter submitted to the Department states ''On behalf of International Forest Products Corporation, we submit the attached request for new shipper review . . .'' In the same paragraph it goes on to state ''IFP {Corp.} requests a new shipper review. . .'' Although Terrace is identified as the producer in the request, nowhere in the document does it specifically state that a review is being requested for Terrace. On the cover page to the request, and on page 4, IFP Corp. is clearly identified as the ''exporter and requester'' and Terrace as the ''producer.'' In addition, the request specifically identifies IFP Corp.'s first sale of Terrace–produced lumber to IFP Corp.'s customer and provides an invoice for that sale, further indicating that IFP Corp. was requesting a review of its sales to its customers. Section 751(a)(2)(B)(i) of the Act and the Department's regulations at 351.214(b) specify that an exporter may request a new shipper review. IFP Corp. made the request for this review, and the Department initiated a review based on that request from IFP Corp. However, the relevant sale for the purposes of conducting an antidumping duty review, is the sale from Terrace to IFP Corp., not the sale from IFP Corp. to its customer. Therefore, IFP Corp. does not qualify for a new shipper review and, accordingly, we are rescinding the review at this time.

Rescission of New Shipper Review

For the reasons stated in the *Rescission Memo* and as outlined above, and pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(f), we are rescinding this new shipper review.

Notification

Bonding is no longer permitted to fulfill security requirements for shipments of certain softwood lumber products from Canada produced and exported by IFP Corp., entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this rescission notice in the **Federal Register**.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

This notice is issued and published in accordance with sections 751(a)(2)(B)(iv) and 777(i) of the Act and 19 CFR 351.214(f)(3).

Dated: April 13, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–5949 Filed 4–19–06; 8:45 am]

BILLING CODE 3510–DS–S

[1] *See Certain Pasta From Italy: Termination of New Shipper Antidumping Duty Administrative Review*, 62 FR 66602 (December 19, 1997); *see also Fresh Garlic from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–821]

Notice of Correction to Notice of Intent to Rescind Countervailing Duty Administrative Review: Certain Hot–Rolled Carbon Steel Flat Products from India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 20, 2006.

FOR FURTHER INFORMATION CONTACT: Preeti Tolani, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–0395.

SUPPLEMENTARY INFORMATION:

CORRECTION:

On March 28, 2006, the Department of Commerce (the Department) published its intent to rescind the countervailing duty administrative review of certain hot–rolled carbon steel flat products from India, covering the period of January 1, 2005, through December 31, 2005. *See Notice of Intent to Rescind Countervailing Duty Administrative Review: Certain Hot–Rolled Carbon Steel Flat Products from India*, 71 FR 15379 (March 28, 2006) (*HRC Intent to Rescind*). Subsequent to the publication of the intent to rescind, we identified an inadvertent error in the **Federal Register**. The case number associated with the *HRC Intent to Rescind* is incorrect. The correct case number is C–533–821. This notice is to serve as a correction to the case number. The determination in the *HRC Intent to Rescind* is correct and remains unchanged.

This correction is issued and published in accordance with section 777(i) of the Tariff Act of 1930, as amended.

Dated: April 12, 2006.

Stephen J. Claeys,

Acting Assistant Secretaryfor Impo Administration.

[FR Doc. E6–5948 Filed 4–19–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041306F]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit (EFP) application submitted by the University of Maryland Eastern Shore (UMES), contains all of the required information and warrants further consideration. The Assistant Regional Administrator has made a preliminary determination that the activities authorized under this EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies and Monkfish Fishery Management Plans (FMPs). However, further review and consultation may be necessary before a final determination is made to issue an EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow one commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP, which would enable researchers to study the biology of large monkfish, would grant exemptions from the NE Multispecies FMP as follows: Western Gulf of Maine (GOM) Closure Area; GOM Rolling Closure Areas I and II; and monkfish effort control measures.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before May 5, 2006.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on UMES monkfish EFP, DA6–096.'' Comments may also be sent via fax to 978–281–9135. Comments may also be submitted via e-mail to the following address: *DA6–096@noaa.gov*. Include in the subject line of the e-mail ''Comments on UMES monkfish EFP.''

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Management Specialist, 978–281–9341.

SUPPLEMENTARY INFORMATION: An application for an EFP was submitted on March 22, 2006, by Andrea K. Johnson, Research Assistant Professor at UMES, for a project funded under the New England and Mid-Atlantic Fishery Management Councils' Monkfish Research Set-Aside (RSA) Program. The primary goal of this study is to provide information on the biology of large monkfish that can be used to enhance the management of this species.

The project is scheduled to be conducted for one year (May 2006–April 2007) and would collect large monkfish from three industry collaborators fishing using 57.5 Monkfish Days-At-Sea (DAS) awarded to the project through the RSA Program. Monkfish gillnet vessels fishing off of Maryland, Delaware, New York, and Rhode Island would collect large monkfish as part of otherwise normal fishing activities and do not require an EFP. One vessel would fish inside the eastern edge of the Western GOM Closure Area from August 2006 through April 2007. The approximate location where fishing would take place is 42°30′ N latitude, 70°00′ W longitude. This is east of the Stellwagen Bank National Marine Sanctuary and would require exemption from the gear restrictions of the Western GOM Closure Area at 50 CFR 648.81(e) as well as from the restrictions of Rolling Closure Areas I and II at § 648.81(f) that will be in effect during March and April 2007. It is expected that this location would provide access to large monkfish and would avoid gear interactions between these gillnets and trawls. The applicant is also requesting exemption from the Monkfish effort control measures at § 648.92(b)(2) in order to create sufficient incentive for a commercial vessel to participate in this experiment. This would exempt the vessel from the need to use a NE Multispecies DAS concurrent with a Monkfish DAS for these trips.

The vessel would make 28 trips using gillnets that are 13–inch stretch mesh with 24 gauge web and are 12 meshes deep. Each net is 300 feet long by 3 feet high and 150 nets will be used with an average soak time of 72 hours. Ten fish per week (360 monkfish total) will be donated to the research project during the months of August 2006–April 2007. This project is specifically interested in large monkfish, so donated fish will be the largest from each trip of at least 90 cm total length. Additional catch, within applicable size and possession limits, will be sold to help offset the costs of the research. As a consequence of the exemption from the need to use a NE Multispecies DAS, the vessel will not keep any regulated groundfish. Since these trips will use very large mesh nets, the bycatch of regulated groundfish is expected to be minimal.

The applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: April 13, 2006.

James P. Burgess,

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

[FR Doc. E6–5902 Filed 4–19–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041306B]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Sea Scallop Survey Advisory Panel in May, 2006, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, May 4, 2006 at 9 a.m.

ADDRESSES: This meeting will be held at the Narragansett Town Hall, 25 Fifth Avenue, Narragansett, RI 02882; telephone: (401) 789–1044; fax: (401) 783–9637.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The panel will review the strength and weaknesses of current and future scallop surveys, as well as hear plans for the new NMFS survey vessel, the RV Bigelow. The panel also will review the terms of reference to set short and long-term goals and objectives. Other issues related to the sea scallop surveys and their use in the management process may be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: April 14, 2006.

James P. Burgess,

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

[FR Doc. E6–5903 Filed 4–19–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket Number: 060411100–6100–01]

Science Advisory Board; The Preliminary Report of the External Review of NOAA's Ecosystem Research and Science Enterprise Panel

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of availability and request for public comment.

SUMMARY: NOAA Research (OAR) publishes this notice on behalf of the NOAA Science Advisory Board (SAB) to announce the availability of the preliminary report of the External Review of NOAA's Ecosystem Research and Science Enterprise panel (here called the External Ecosystem Task Team) for public comment. The preliminary report of the External Ecosystem Task Team is compiled pursuant to the request from the Under Secretary of Commerce for Oceans and Atmosphere to the SAB to conduct an external review of NOAA's ecosystem research and science enterprise.

DATES: Comments on this draft must be submitted by the close of business May 22, 2006.

ADDRESSES: The Preliminary Report of the External Ecosystem Task Team will be available on the NOAA Science Advisory Board Web site at *http://www.sab.noaa.gov/reports/prelim_eett0306.pdf*.

The public is encouraged to submit comments electronically to *noaa.sab.comments@noaa.gov*. For commenters who do not have access to a computer, comments may be submitted in writing to: NOAA Science Advisory Board (SAB) c/o Dr. Cynthia Decker, Silver Spring Metro Center Bldg. 3, Room 11117, 1315 East-West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11117, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–713–9121, Fax: 301–713–3515, E-mail: *Cynthia.Decker@noaa.gov*) during normal business hours of 9 a.m. to 5 p.m. Eastern Time, Monday through Friday, or visit the NOAA SAB Web site at *http://www.sab.noaa.gov*.

SUPPLEMENTARY INFORMATION: The preliminary report will be posted on the SAB Web site. The SAB is seeking public comment from all interested parties. This preliminary report is being issued for comment only and is not intended for interim use. Suggested changes will be incorporated where appropriate.

The preliminary report of the External Ecosystem Task Team is compiled pursuant to the request from the Under Secretary of Commerce for Oceans and Atmosphere to the SAB to conduct an external review of NOAA's ecosystem research and science enterprise. This review addresses questions and drafts recommendations regarding the appropriateness of the mix of scientific activities conducted and/or sponsored by NOAA to its mission and on the organization of NOAA ecosystem research and science enterprise. The SAB is chartered under the Federal Advisory Committee Act and is the only Federal Advisory Committee with the responsibility to advise the Under Secretary on long- and short-term strategies for research, education, and application of science to resource management and environmental assessment and prediction.

NOAA welcomes all comments on the content of the report. We also request comments on any inconsistencies perceived within the report, and possible omissions of important topics or issues. For any shortcoming noted within the draft report, please propose specific remedies.

Please follow these instructions for preparing and submitting a review. Using the format guidance described below will facilitate the processing of reviewer comments and assure that all comments are appropriately considered. Please provide background information about yourself on the first page of your comments: your name(s), organization(s), area(s) of expertise, mailing address(es), telephone and fax numbers, email address(es). Overview comments on the section should follow your background information and should be numbered. Comments that are specific to particular pages, paragraphs or lines of the section should follow any overview comments and should identify the page numbers to which they apply. Please number all pages and place your name at the top of each page.

Dated: April 13, 2006.

Stephen B. Brandt,

Acting Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. E6–5904 Filed 4–19–06; 8:45 am]

BILLING CODE 3510–22–P

PATENT AND TRADEMARK OFFICE

Customer Panel Quality Survey

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), 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 this new information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 19, 2006.

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

- E-mail: *Susan.Brown@uspto.gov.* Include ''0651–00xx Customer Panel Quality Survey'' in the subject line of the message.
- Fax: 571–273–0112, marked to the attention of Susan Brown.
- Mail: Susan K. Brown, Records Officer, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- Federal e-Rulemaking Portal: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Martin Rater, Management Analyst, Office of Patent Quality Assurance, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone 571–272–5966; by facsimile at 571–273–5966; or by e-mail at *martin.rater@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

For over the past 10 years, the USPTO has used surveys to obtain customer feedback regarding the products, services, and related service standards of the USPTO. The USPTO used the data to measure how well the agency is meeting established customer service standards, to identify any disjoints between customer expectations and USPTO performance, and to develop improvement strategies. Typically, these surveys ask customers to express their satisfaction with the USPTO's products and services based upon their interactions with the agency as a whole over a 12 month period.

To obtain further data concerning customer ratings of the USPTO's services, service standards, and performance, the USPTO has developed the proposed Customer Panel Quality Survey. This study will narrow the focus of customer satisfaction to examination quality and will use a longitudinal, rotating panel design to assess changes in customer perceptions and to identify key areas for examiner training and opportunities for improvement. All patent agents and attorneys who have been registered to practice before the USPTO for longer than one year and who belong to a company or firm that has filed six or more patents in the past year will be eligible for the study. The study will also include independent inventors who have filed six or more patents in the past year. The USPTO will draw a random sample of these customers from their database. Due to the rotating panel design, some sample members will be surveyed twice in order to measure change over a period of time. Each year of the survey will include four waves of data collection.

The Customer Panel Quality Survey is a mail survey, although respondents also have the option to complete the survey electronically on the Web. The content of both versions will be identical. A survey packet containing the questionnaire, a separate cover letter prepared by the Commissioner of Patents, a postage-paid, pre-addressed return envelope, and instructions for completing the survey electronically will be mailed to all sample members. A pre-notification letter, reminder/thank you postcards, and telephone calls will be used to encourage response from the sample members.

This is a voluntary survey and all responses will remain confidential. The collected data will not be linked to the respondent and contact information that is used for sampling purposes will be maintained in a separate file from the quantitative data. Respondents are not required to provide any identifying information such as their name, address, or Social Security Number. In order to access and complete the online survey, respondents will need to use the username and password provided by the USPTO.

II. Method of Collection

By mail, or electronically over the Internet if respondents choose to complete the survey online.

III. Data

OMB Number: 0651–00xx.

Form Number(s): N/A.

Type of Review: New information collection.

Affected Public: Individuals or households; business or other for profit; not-for-profit institutions; Federal Government; and state, local, or tribal Government.

Estimated Number of Respondents: 3,168 responses per year. Out of a sample size of 2,842 for each wave of data collection, the USPTO estimates that 792 completed surveys will be received. Each year of the survey will include four waves of data collection with an estimated 3,168 completed surveys received. Of this total, the USPTO estimates that 70% or 2,218 surveys will be returned by mail and that 30% or 950 surveys will be completed using the online option.

Estimated Time per Response: The USPTO estimates that it will take approximately 10 minutes (0.17 hours) to complete either the paper or online version of this survey. This includes the time to gather the necessary information, complete the request, and submit it to the USPTO.

Estimated Total Annual Respondent Burden Hours: 539 hours per year.

Estimated Total Annual Respondent Cost Burden: $154,154 per year. The USPTO believes that patent attorneys will be responding to these surveys. Using the professional hourly rate of $286 for associate attorneys in private firms, the USPTO estimates that the salary costs for the respondents completing these surveys will be $154,154 per year.

Item	Estimated time for response (min)	Estimated annual responses	Estimated annual burden hours
Customer Panel Quality Survey (paper)	10	2,218	377
Customer Panel Quality Survey (electronic)	10	950	162
Total		3,168	539

Estimated Total Annual Non-hour Respondent Cost Burden: $0 per year. There are no capital start-up, maintenance, operation, or recordkeeping costs, nor are there any filing fees associated with this

information collection. The USPTO covers the costs of all survey materials and provides postage-paid, pre-addressed return envelopes for the completed mail surveys.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.*, the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 13, 2006.

Susan K. Brown,

Records Officer, U.S. Patent and Trademark Office, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division.

[FR Doc. E6–5929 Filed 4–19–06; 8:45 am]

BILLING CODE 3510–16–P

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)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of 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 19, 2006.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

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 Office of the Under Secretary of Defense (Personnel and Readiness) (Program Integration) (Legal Policy), ATTN: LTC Gingras, 4000 Defense Pentagon, Washington, DC 20301–4000, or call at (703) 697–3387; facsimile (703) 693–6708.

Title, Associated Form, and OMB Control Number: Application for Review of Discharge or Separation from the Armed Forces of the United States; DD Form 293; OMB Control Number 0704–0004.

Needs and Uses: Former members of the Armed Forces who received an administrative discharge have the right to appeal the characterization or reason for separation. Title 10 of the U.S.C., Section 1553, and DoD Directive 1332.28 established a Board of Review consisting of five members to review appeals of former embers of the Armed Forces. The DD Form 293, *Application for Review of Discharge or Separation from the Armed Forces of the United States,* provides the respondent a vehicle to present to the Board their reasons/justifications for a discharge upgrade as well as providing the Services the basic data needed to process the appeal.

Affected Public: Individuals or households.

Annual Burden Hours: 6,000.

Number of Respondents: 8,000.

Responses Per Respondent: 1.

Average Burden Per Response: 45 minutes.

Frequency: One-time.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Under Title 10 U.S.C., Section 1553, the Secretary of a Military Department established a Board of Review, consisting of five members, to review appeals of former members of the Armed Forces. This information collection allows an applicant to request a change in the type of military discharge issued. Applicants are former members of the Armed Forces who have been discharged or dismissed (other than a discharge or dismissal by sentence of a general court-martial), or if the former member is deceased or incompetent, the surviving spouse, next-of-kin, or legal representative who is acting on behalf of the former member. The DD Form 293, *Application for Review of Discharge or Separation from the Armed Forces of the United States*, provides the former member an avenue to present to their respective Service Discharge Review Board their reasons/justifications for a discharge upgrade as well as providing the Services the basic data needed to process the appeal.

Dated: April 11, 2006.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–3771 Filed 4–19–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD–2006–OS–0004]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by May 22, 2006.

Title and OMB Number: Marine Corps Marathon Race Applications; OMB Control Number 0703–TBD.

Type of Request: New.

Number of Respondents: 31,739.

Responses Per Respondent: 1.

Annual Responses: 31,739.

Average Burden Per Response: 5 minutes.

Annual Burden Hours: 2,645.

Needs and Uses: The information collection requirement is necessary to obtain and record the information of runners to conduct the races, for timing purposes and for statistical use.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Hillary Jaffe. Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings. Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 13, 2006.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–3772 Filed 4–19–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0079]

Federal Acquisition Regulation; Submission for OMB Review; Corporate Aircraft Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0079).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning corporate aircraft costs. A request for public comments was published in the **Federal Register** at 71 FR 7743, on February 14, 2006. No comments were received. This OMB clearance expires on June 30, 2006.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before May 22, 2006.

ADDRESSES: Submit comments, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jerry Olson, Contract Policy Division, GSA, (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

Government contractors that use company aircraft must maintain logs of flights containing specified information to ensure that costs are properly charged against Government contracts and that directly associated costs of unallowable activities are not charged to such contracts.

B. Annual Reporting Burden

Number of Respondents: 3,000.

Responses Per Respondent: 1.

Total Responses: 3,000.

Average Burden Per Response: 6 hours.

Total Burden Hours: 18,000.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0079, Corporate Aircraft Costs, in all correspondence.

Dated: April 7, 2006

Gerald Zaffos,

Director,Contract Policy Division.

[FR Doc. 06–3767 Filed 4–19–06; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0076]

Federal Acquisition Regulation; Submission for OMB Review; Novation/Change of Name Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0076).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning novation/change of name requirements. A request for public comments was published in the Federal Register at 71 FR 7546, on February 13, 2006. No comments were received. This OMB clearance expires on June 30, 2006.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to

respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before June 19, 2006.

ADDRESSES: Submit comments including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jeritta Parnell, Contract Policy Division, GSA (202) 501–4082.

SUPPLEMENTARY INFORMATION:

A. Purpose

When a firm performing under Government contracts wishes the Government to recognize (1) a successor in interest to these contracts or (2) a name change, it must submit certain documentation to the Government.

B. Annual Reporting Burden

Respondents: 1,000.
Responses Per Respondent: 1.
Annual Responses: 1,000.
Hours Per Response: .458.
Total Burden Hours: 458.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0076, Novation/Change of Name Requirements, in all correspondence.

Dated: April 3, 2006.

Gerald Zaffos

Director, Contract Policy Division.

[FR Doc. 06–3768 Filed 4–19–06; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Chief of Naval Operations (CNO) Executive Panel

AGENCY: Department of the Navy, DOD.

ACTION: Notice of closed meeting.

SUMMARY: The CNO Executive Panel will discuss multiple topics and report on the findings and recommendations of the Global Governance and China Subcommittees to the Chief of Naval Operations. The meeting will also consist of discussions of Naval Education, command and control capabilities and organization, force structure, maritime capabilities and capacity, and requirements.

DATES: The meeting will be held on May 2, 2006, from 8:30 a.m. to 4 p.m., and May 3, 2006, from 8:30 a.m. to 1 p.m.

ADDRESSES: The meeting will be held in the Center for Naval Analysis Corporation (CNAC) boardroom at 4825 Mark Center Drive, Alexandria, VA 22311–1846.

FOR FURTHER INFORMATION CONTACT: LCDR Chris Stopyra, Chief of Naval Operations Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311, 703–681–4909.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), these matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Dated: April 14, 2006.

S.K. Melancon,

Paralegal Specialist, Office of the Judge Advocate General, Alternate Federal Register Liaison Officer.

[FR Doc. E6–5925 Filed 4–19–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 22, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: April 13, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Extension.
Title: Direct Loan Program's General Forbearance Request Form.
Frequency: On Occasion.
Affected Public: Individuals or household.
Reporting and Recordkeeping Hour Burden:
Responses: 1,162,530.
Burden Hours: 232,506.
Abstract: Borrowers who receive loans through the William D. Ford Federal Direct Loan Program will use this form to request forbearance on their loans when they are willing but unable to make their currently scheduled monthly payments because of a temporary financial hardship.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2989. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to IC *DocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title

of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to IC *DocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–5936 Filed 4–19–06; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8160–2]

Proposed Reissuance of the NPDES General Permit for Oil and Gas Exploration, Development and Production Facilities Located in State and Federal Waters in Cook Inlet, AK (AKG–31–5000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed NPDES general permit reissuance—extension of the comment period.

SUMMARY: In response to numerous requests from the oil and gas industry, local governments, community groups, and Tribes, EPA hereby extends the comment period for an additional 30 days, from May 1, 2006 to May 31, 2006.

DATES: Comments must be received by May 31, 2006.

ADDRESSES: Comments should be sent to: Director, Office of Water and Watersheds, U.S. EPA, Region 10, 1200 Sixth Avenue, M/S OWW–130, Seattle, Washington 98101.

Comments may also be submitted via e-mail to the following address: *shaw.hanh@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Hanh Shaw, U.S. EPA, Region 10, 1200 Sixth Avenue, M/S OWW–130, Seattle, Washington 98101. Telephone: (206) 553–0171. A copy of the Proposed Permit, the fact sheet that fully explains the proposal and a copy of EPA's Environmental Assessment (EA) and preliminary Finding of No Significant Impacts (FONSI), prepared pursuant to the National Environmental Policy Act (NEPA), may be obtained from Ms. Shaw. EPA's current administrative record on the proposal is available for examination at U.S. EPA, 1200 Sixth Avenue, Seattle, WA 98101. Additionally, a copy of the proposed permit, fact sheet, EA, preliminary FONSI, and this **Federal Register** Notice may be obtained on the Internet at: *http://www.epa.gov/r10earth.*

The documents are also available from the EPA Alaska Operations Office, Room 537, Federal Building, 222 West 7th Avenue, Anchorage, Alaska 99513. Please contact Ms. Dianne Soderlund at (907) 271–3425 for assistance.

SUPPLEMENTARY INFORMATION: The existing permit, NPDES Permit No. AKG–28–5000 (Existing Permit), was previously reissued on April 1, 1999 and expired on April 1, 2004 (64 FR 19156). The Existing Permit will remain in effect until a new permit is reissued for those discharges which were covered at the time of expiration. The Existing Permit authorizes discharges from oil and gas exploration, development, and production facilities located in and discharging to state and Federal waters in Cook Inlet north of a line extending between Cape Douglas (at 58°51′ latitude, 153°15′ longitude) on the west and Port Chatham (at 59°13′ latitude, 151°47′ longitude) on the east. EPA proposes to replace the Existing Permit with the proposed reissued permit (Proposed Permit), renumbered as AKG–31–5000.

The following changes are proposed to be made as a part of the permit reissuance:

1. EPA proposes to expand the existing coverage area to include the recent Minerals Management Service Lease Sales Nos. 191 and 199 and the State waters adjoining those lease areas.
2. EPA proposes to authorize discharges from oil and gas exploration facilities located within the expanded coverage area, including discharges associated with the use of synthetic-based drilling fluids.
3. EPA proposes to authorize discharges from new oil and gas development and production facilities located within the expanded coverage area, including sanitary waste water, domestic waste water, deck drainage, and miscellaneous discharges such as cooling water and boiler blowdown. These new development and production facilities, however, would not be authorized to discharge produced water, drilling fluids, or drill cuttings under the Proposed Permit.
4. EPA proposes to add new whole effluent toxicity and technology-based limits for discharges that contain treatment chemicals, such as biocides and corrosion inhibitors. These discharges include, but are not limited to, water flood waste water, cooling water, boiler blowdown, and desalination unit waste water.
5. EPA proposes to add a new water quality-based effluent limit for total residual chlorine.
6. EPA proposes to change the monitoring requirements found in the Existing Permit. The proposed changes would result in increased monitoring for facilities that violate the effluent limits, and reduced monitoring for facilities that demonstrate a good compliance record.
7. EPA proposes to expand the Existing Permit's baseline study to include all new facilities.
8. EPA proposes to include a new study that will involve collecting ambient data to determine the effect of large volume produced water discharges on Cook Inlet.
9. EPA proposes to expand the permit's discharge prohibition near protected areas, coastal marshes, and deltas.
10. EPA proposes to change the permit number from AKG–28–5000 to AKG–31–5000.

Dated: April 17, 2006.

Michael F. Gearheard,

Director, Office of Water and Watersheds.

[FR Doc. E6–5958 Filed 4–19–06; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 85]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. The form will be used by exporters to report and pay premiums on insured shipment to various foreign buyers. Our customers will be able to submit this form on paper or electronically.

DATES: Written comments should be received on or before May 22, 2006 to be assured of consideration.

ADDRESSES: Address all comments to David Rostker, Office of Management and Budget, Office of Information and Regulatory Affairs, NEOB, Room 10202, Washington, DC 20503, (202) 395–3897.

SUPPLEMENTARY INFORMATION:

Title and Form Number: Report of Premiums Payable for Exporters Only, EIB 92–29.

OMB Number: None.

Type of Review: Regular.

Need and Use: The information requested enables the applicant to

provide Ex-Im Bank with the information necessary to record customer utilization and manage prospective insurance liability relative to risk premiums received.

Affected Public: The form affects entities involved in the export of U.S. goods and services.

Estimated Annual Respondents: 1,600.

Estimated Time Per Respondent: 30 Minutes.

Estimated Annual Burden: 9,600.

Frequency of Reporting or Use: Monthly.

Dated: April 13, 2006.

Solomon Bush,

Agency Clearance Officer.

BILLING CODE 6690–01–M

EXPORT-IMPORT BANK--REPORT OF PREMIUMS PAYABLE FOR EXPORTERS ONLY

(please type or print all information)

IF NO PREMIUMS PAYABLE, CHECK HERE ☐

POLICY NUMBER:(_____) - _____ Report for period: _____ through _____
(prefix) (number) (month) (day) (year) (month) (day) (year)

POLICYHOLDER: _____

Contact: _____

Tel: _____ Fax: _____ E-Mail: _____

BROKER: _____

Date Received

USING SAME CODE? If same for all transactions check these code and rate boxes instead of those in the reporting columns below

- Coverage Type ☐ _____
- Risk Type ☐ _____
- Transaction Type ☐ _____
- Term Code ☐ _____
- Premium Rate ☐ $ _____

ITEM	BUYER NAME (refer to Step 1. on back)	COUNTRY	Coverage Type Code	Risk Type Code	Transaction Type Code	Term Code	TRANSACTION AMOUNT *	SHIPMENT DATE	Premium Rate Per $100	PREMIUM DUE
1.										
2.										
3.										
4.										
5.										
6.										
7.										
8.										
		PAGE TOTALS								
	complete only on last page →	REPORT TOTALS								

* Enter financed amount for Financial Institution Supplier Credit Policy (FISC)

We hereby certify that this report is a complete and accurate declaration of all transactions required to be reported under the terms of the policy and that premiums have been correctly computed and remitted. We understand that Ex-Im Bank's acceptance of this report or the premium due is not an acknowledgement of coverage and does not constitute a waiver of any policy condition or limitation. Unless otherwise specified by us in this report, we understand Ex-Im Bank will assume that short term transactions were made with private-sector obligors on six-month open account terms, and that premium rates will be calculated accordingly. We understand that, for purposes of policy compliance, this report is not received by Ex-Im Bank until both this report and the premium due hereunder are received.

Name of Preparer: _____ Phone: (___) _____ - _____

Signature: _____ Date Prepared: _____, ___
(month) (day) (year)

Page No. ___ of ___ pages

EIB-92-29 (0//06)

SEE REVERSE SIDE FOR ADDITIONAL NOTES AND INSTRUCTIONS ON COMPLETING THIS REPORT

COVERAGE TYPES (see Note C. on next page)	CODE
Comprehensive	A
Political Only	B
Sales to Your Subsidiaries or Affiliates	B

RISK TYPES	CODE
Private Sector Buyer or Guarantor	4
Government Sector (Non-Sovereign) Buyer or Guarantor	3
Financial Institution Buyer or Guarantor or Letter of Credit issuer	2
Government Sector (Sovereign) Buyer or Guarantor	1

(A "sovereign" is a national government or government entity that the insurer has determined carries the full faith and credit of the national government. Most government sector companies and/or agencies do not carry the full faith and credit of their government and are therefore considered "non-sovereign" and should be reported as such unless the insurer has determined otherwise.)

TRANSACTION TYPE	CODE
Letters of Credit (deferred payment or sight)	A
Bank-Guaranteed (if applicable, use in lieu of any other code)	B
Drafts/Promissory Notes/CAD or SDDP*	C
Open Account	D
Pre-Shipment (selective contracts)	E
Consignment	F

TERM (corresponding to Transaction Type being reported)	CODE
Sight Letters of Credit	1
CAD or SDDP**	2
1-30 Days	3
31-60 Days	4
61-120 Days	5
121-180 Days	6
181-270 Days	7
271-360 Days	8
1 1/2 Years	9
2 Years	10
2 1/2 Years	11
3 Years	12
3 1/2 Years	13
4 Years	14
4 1/2 Years	15
5 Years	16
Over 5 Years	17

** CAD = Cash Against Documents

SDDP = Sight Draft Documents Against Payment

MAKE CHECKS PAYABLE TO: EXPORT-IMPORT BANK OF THE UNITED STATES OR EX-IM BANK

MAIL THIS REPORT WITH YOUR PAYMENT TO: EXPORT-IMPORT BANK OF THE UNITED STATES
DEPT. 22
WASHINGTON, D.C. 20055

INSTRUCTIONS FOR REPORTING PREMIUMS PAYABLE

Complete the page heading on the front of this report-form, then follow the steps shown below to report each transaction.
(If NO premiums are payable, check the appropriate box on the front of this report-form.)

STEP 1. Enter the FOREIGN BUYER NAME, or if you are reporting a letter of credit transaction, the name of the bank issuing the letter of credit. (please avoid using acronyms if possible.)

STEP 2. Enter the COUNTRY in which the foreign buyer is located, or if you are reporting a letter of credit transaction, the COUNTRY in which the bank issuing the letter of credit is located. (Abbreviate if necessary.)

STEP 3. Enter the applicable COVERAGE TYPE CODE from the list given on the front of this report-form. **(see Note A and Note C below.)**

STEP 4. Enter the applicable FOREIGN BUYER TYPE CODE from the list given on the front of this report-form. **(see NOTE A below.)**

STEP 5. Enter the applicable TRANSACTION TYPE CODE from the list given on the front of this report-form. **(see NOTE A and NOTE B below.)**

STEP 6. Enter the applicable TERM CODE from the list given on the front of this report-form. (Note that the term should correspond only to the particular TRANSACTION TYPE you are recording. For example, if you are reporting a "pre-shipment" or "consignment" transaction indicate the length of the "pre-shipment" or "consignment" period only.) **(see NOTE A and NOTE B below.)**

STEP 7. Enter the AMOUNT of the transaction. (Use the contract price for short-term transactions. Use contract price, less down payment for medium term transaction.)

STEP 8. Enter your PREMIUM RATE. (if your policy has more than one premium rate, or if your premium rate is taken from a rate schedule, be sure to use the correct premium rate.) **(see NOTE A below.)**

STEP 9. Enter the PREMIUM DUE by applying the AMOUNT you have declared under Step #7 to the applicable PREMIUM RATE. (if you are using the same premium rate for all transactions reported on this form and have checked the box marked "USING SAME CODE", you need only show **total** premium due at the end of your report.)

STEP 10. Enter PAGE TOTALS and REPORT TOTALS for AMOUNT and for PREMIUM DUE.

STEP 11. Read the paragraph at the bottom of the report-form, then enter your SIGNATURE and DATE PREPARED.

ADDITIONAL NOTES

NOTE A. If you expect to use the same code (or rate) for each transaction recorded on this page, check the box on the front of this report-form marked "USING SAME CODE" then enter the appropriate code (or rate) in the space provided. You need not enter the code (or rate) for each transaction thereafter.

NOTE B. Be certain that your policy allows you to use the TRANSACTION TYPE or TERM being reported.

NOTE C. "Comprehensive" means commercial and political risks coverage.
"Political Only" means that coverage is restricted to political risks. Insured transactions with your subsidiaries or affiliates are covered on a "political only" basis.

SPECIAL POLICIES--REPORTING ADDITIONAL INFORMATION (If your policy has been endorsed to require you to report information not included on the front of this report-form, you may use the space provided below to report that information. Numbers to the left refer to line-item numbers on the front of this form.) ITEM

1. _____

2. _____

3. _____

4. _____

5. _____

EIB-92-29 (10/05)

[FR Doc. 06–3755 Filed 4–19–06; 8:45 am]
BILLING CODE 6690–01–C

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Diversity for Communications in the Digital Age

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons that the Advisory Committee on Diversity for Communications in the Digital Age (''Diversity Committee'' or ''the Committee'') will be holding a public meeting.

DATES: Tuesday, April 25, 2006, from 2 p.m. until 4 p.m. EDT.

ADDRESSES: The meeting, which will be held telephonically, will be open to the public via a ''listen only'' telephone bridge. The number of lines is limited and will be available on a ''first-come, first-served'' basis. Members of the public interested in attending by telephone should call (800) 347–3350 and identify Diego Ruiz as the conference call's chairman.

FOR FURTHER INFORMATION CONTACT: Diego Ruiz, Designated Federal Officer of the Diversity Committee, 445 12th St. SW., Washington, DC 20554; telephone (202) 418–2034, e-mail *diego.ruiz@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Diversity Committee was established by the Federal Communications Commission to advise it on promoting diversity of participation in the communications sector.

The purpose of the meeting is to discuss the Federal Communications Commission's consideration of new rules that could change the Commission's implementation of Section 309(j) of the Communications Act, which requires the Commission to ensure, inter alia, that small businesses and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services. The Commission is unable to provide the full 15 calendar day notice for this public meeting because it is considering imminent action on the matter. Delay could result in the inability of the Commission to receive the input of the Diversity Committee on this important matter. At this meeting, the Diversity Committee will discuss and develop input on new rules the Commission is considering regarding Section 309(j) of the Communications Act, also commonly referred to as the ''Designated Entity'' rules. Copies of materials to be used during the meeting will be posted on the Meetings and Documents section of the Committee's Web site at *http://www.fcc.gov/DiversityFAC/* in advance of the meeting.

The public may submit written comments to the Council's designated Federal Officer before the meeting.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 06–3818 Filed 4–19–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

PREVIOUSLY SCHEDULED DATE AND TIME: Thursday, April 20, 2006 at 10 a.m.

PLACE: 999 E Street, NW.; Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

The following item was added to the agenda: Final Audit Report on CWA COPE Political Contributions Committee.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 06–3807 Filed 4–18–06; 11:52 am]

BILLING CODE 6715–01–M

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 Web site at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 15, 2006.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. BB&T Corporation, Winston–Salem, North Carolina; to merge with First Citizens Bancorp, Cleveland, Tennessee, and thereby indirectly acquire voting shares of The Bank/First Citizens Bank, Cleveland, Tennessee, The Home Bank, Ducktown, Tennessee, and The Home Bank of Tennessee, Maryville, Tennessee.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Triumph Bancshares, Inc., Germantown, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Triumph Bank, Germantown, Tennessee (in organization).

C. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Dickinson Financial Corporation II, Kansas City, Missouri; to acquire 100 percent of the voting shares of Southern Commerce Bank, Tampa, Florida.

Board of Governors of the Federal Reserve System, April 17, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–5930 Filed 4–19–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Establishing a Surveillance System for Chronic Kidney Disease in the U.S., Program Announcement PEP 2006–R–08

Correction: This notice was published in the **Federal Register** on April 10, 2006, Volume 71, Number 68, page 18102. The matters to be discussed during the Special Emphasis Panel meeting have been changed.

Matters to be Discussed: To conduct an expert review of the scientific and technical merit of research proposals in response to the development of a comprehensive national kidney disease surveillance system that will capture and track all manifestations of Chronic Kidney Disease in the general population.

FOR FURTHER INFORMATION CONTACT: Felix Rogers, PhD, M.P.H., Scientific Review Administrator, CDC, 1600 Clifton Road, NE., Mailstop E–05, Atlanta, GA 30333, Telephone Number 404.639.6101, e-mail *fxr3@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 14, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–5928 Filed 4–19–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Exotic Animal Importation, Sale, and Distribution Discussions; Notice of Public Meeting

AGENCY: Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting on the subject of the importation, sale, and distribution of exotic animals. The purpose of the meeting is to gather information and discuss issues and concerns related to infectious disease threats associated with the importation, sale, and distribution of exotic animals.

DATES: The public meeting will be held May 18, 2006, from 1 p.m. to 5 p.m. in Decatur, Georgia. Registration will begin at 12 p.m.

ADDRESSES: The public meeting will be held at the following location: Holiday Inn Decatur Conference Plaza, 130 Clairemont Ave., Decatur, GA 30030.

Persons who are unable to attend the meeting may e-mail, fax, or mail their comments to: Attn: Kelly Crossett, *kcrossett@constellagroup.com;* fax 919–544–7507; Constella Group LLC, 2605 Meridian Parkway, Durham, NC 27713; Written comments regarding the subject of this meeting that are received by May 18, 2006 will receive the same consideration as statements made at the public meeting.

FOR FURTHER INFORMATION CONTACT: Attn: Kelly Crossett, telephone 919–313–7615; *kcrossett@constellagroup.com;* fax 919–544–7507; Constella Group LLC, 2605 Meridian Parkway, Durham, NC 27713.

SUPPLEMENTARY INFORMATION:

Participation at the Public Meeting

Submit requests to present a statement at the public meeting to the contact listed in the section titled **FOR FURTHER INFORMATION CONTACT**. The CDC should receive your requests to present oral statements at the public meeting no later than 10 days prior to the meeting. Include a written summary of oral remarks you would like to present and the estimated time needed for your presentation. A maximum of 15 minutes per speaker will be permitted. Requests received after the date specified above will be scheduled during the meeting if time allows; however, the names of those individuals may not appear on the written agenda. The CDC will prepare an agenda of speakers available at the meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the estimated 15 minute maximum. Those persons desiring to have audiovisual equipment available should notify the CDC when they request placement on the agenda. All statements submitted during the meeting will be considered part of the public record.

Background

Zoonoses are diseases that can be transmitted from animals to people, and prevention of zoonoses in humans poses special challenges and requires consideration of the role of exotic animals in disease transmission. Wild exotic animals may carry a variety of known and emerging zoonotic pathogens. The 2003 outbreak of monkeypox in the United States, which involved 37 confirmed human cases, ultimately traced back to the importation of African rodents, and illustrates the special risk associated with keeping wild animals as pets. CDC's regulations regarding the importation of African rodents may be found at 42 CFR 71.56. In addition, CDC has issued orders prohibiting the introduction into the United States of birds from countries where highly pathogenic avian influenza H5N1 subtype is present and civets. These actions were taken to prevent the introduction of monkeypox, avian influenza, and SARS-coronavirus into the United States. However, these actions may not fully protect the general public against the entry of zoonotic diseases because they are limited to specific species.

The American Veterinary Medical Association (AVMA), the Council of State and Territorial Epidemiologists (CSTE), and the National Association of State Public Health Veterinarians (NASPHV) have issued position statements calling for CDC to coordinate a meeting to address the issue of infectious disease risks associated with the importation of exotic animals. This meeting will invite discussion from several federal agencies with regulatory oversight of animals, interested stakeholders (including AVMA, CSTE, and NASPHV), and the general public regarding infectious disease threats related to exotic animal importation, sale, and distribution. The public meeting will be used as a forum to share information, answer questions, and discuss potential solutions concerning infectious disease risks associated with exotic animal importation, sale, and distribution.

Public Meeting Procedures

The following procedures for this meeting are as follows:

1. Admission and participation in the public meeting are free. The meeting will be open to all persons who have requested in advance to present statements or who register on the day of the meeting (between 12 p.m. and 1 p.m.).

2. Representatives from the CDC will conduct the public meeting. A panel of Federal personnel and representatives from veterinary and public health organizations will discuss information presented by participants.

3. The public meeting is intended as a forum to share information and

answer questions concerning infectious disease risks associated with the importation, sale, and distribution of exotic animals. Participants must limit their presentations to the issue of exotic animal importation, sale, and distribution.

4. All interested parties will have the opportunity to present any information on the topic they want to be available to CDC and other Federal partners. The CDC and other federal partners will then have the opportunity to explain the methodology and technical assumptions supporting its current observations.

5. Federal staff, representatives from public health and veterinary organizations, and public participants may engage in a full discussion of all technical material presented at the meeting. Anyone presenting conclusions will be expected to submit their supporting data to the CDC.

6. The CDC will try to accommodate all speakers. A maximum of 15 minutes will be allowed for each speaker. Time may be additionally limited for each presentation, depending on the number of speakers.

7. Sign interpretations will be made available at the meeting, including assistive listening devices, if requested 15 calendar days before the meeting.

8. Proceedings of the meeting will be recorded and a summary will be posted in the **Federal Register**.

9. The CDC will review and consider all material presented by participants at the public meeting. Position papers or material presenting views or information related to the subject of the meeting may be accepted. The CDC requests that persons participating in the meeting provide 10 copies of all materials to be presented for distribution to the panel members; other copies may be provided to the audience at the discretion of the participant.

10. Statements made by CDC personnel and other federal personnel are intended to facilitate discussion of the issues or to clarify issues. Such statements should not be interpreted as providing legal, professional, or other advice.

11. The meeting is designed to share information and solicit individual views from the public and additional information. The meeting will not operate in consensus fashion. The meeting will be conducted in an informal and non-adversarial manner. All statements submitted during the meeting will be considered part of the public record.

Dated: April 12, 2006.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–5926 Filed 4–19–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 71 FR 6777, dated February 9, 2006) is amended to reflect the title change for the Division of Policy Analysis and Coordination, Office of Enterprise Communication, Office of the Director, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title for the *Division of Policy Analysis and Coordination (CAUB)* and insert the *Division of Issues Management and Executive Secretariat (CAUB).*

Dated: April 4, 2006.

William H. Gimson,

Chief Operating Officer, Centers for Disease Control and Prevention (CDC).

[FR Doc. 06–3749 Filed 4–19–06; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Family Violence Prevention and Services/Grants for Battered Women's Shelters/Grants to Native American Tribes (Including Alaska Native Villages) and Tribal Organizations

Program Office: Administration on Children, Youth, and Families (ACYF), Family and Youth Services Bureau (FYSB).

Program Announcement Number: HHS–2006–ACF–ACYF–FVPS–0124.

CFDA Number: 93.671.

Due Date for Applications: May 22, 2006.

Executive Summary: This announcement governs the proposed award of formula grants under the Family Violence Prevention and Services Act (FVPSA) to Native American Tribes (including Alaska Native Villages) and Tribal organizations. The purpose of these grants is to assist Tribes in establishing, maintaining, and expanding programs and projects to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents.

This announcement sets forth the application requirements, the application process, and other administrative and fiscal requirements for grants in Fiscal Year (FY) 2006. Grantees are to be mindful that although the expenditure period for grants is a two-year period, an application is required every year to provide continuity in the provision of services. (See *Section II. Award Information, Expenditure Periods.*)

I. Description

Legislative Authority: Title III of the Child Abuse Amendments of 1984 (Public Law (Pub. L.) 98–457, 42 U.S.C. 10401 *et seq.*) is entitled the ''Family Violence Prevention and Services Act'' (FVPSA). FVPSA was first implemented in FY 1986. The statute was subsequently amended by Public Law 100–294, the ''Child Abuse Prevention, Adoptions, and Family Services Act of 1988;'' further amended in 1992 by Public Law 102–295; and then amended in 1994 by Public Law 103–322, the ''Violent Crime Control and Law Enforcement Act.'' FVPSA was amended again in 1996 by Public Law 104–235, the ''Child Abuse Prevention and Treatment Act (CAPTA) of 1996''; in 2000 by Public Law 106–386, the ''Victims of Trafficking and Violence Protection Act,'' and amended further by Public Law 108–36, the ''Keeping Children and Families Safe Act of 2003.'' FVPSA was most recently amended by Public Law 109–162, the ''Violence Against Women and Department of Justice Reauthorization Act of 2005.''

FVPSA may be found at 42 U.S.C. 10401 *et seq.*

Background

The purpose of this legislation is to assist States and Tribes or Tribal organizations in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents.

During FY 2005, the Department of Health and Human Services (HHS) made 237 grants to States and Tribes or Tribal organizations. HHS also made 53 family violence prevention grant awards to non-profit State domestic violence coalitions.

In addition, HHS supports the Domestic Violence Resource Center Network (DVRN). DVRN consists of the National Resource Center for Domestic Violence (NRC) and four Special Issue Resource Centers (SIRCs). The four SIRCs are: the Battered Women's Justice Project, the Resource Center on Child Custody and Protection, the Resource Center for the Elimination of Domestic Violence Against Native Women (Sacred Circle), and the Health Resource Center on Domestic Violence. The purpose of NRC and the SIRCs are to provide resource information, training, and technical assistance to Federal, State, and Native American agencies; local domestic violence prevention programs; and other professionals who provide services to victims of domestic violence.

In February, 1996, HHS funded the National Domestic Violence Hotline (Hotline) to ensure that every woman has access to information and emergency assistance wherever and whenever she needs it. The Hotline is a 24-hour, toll-free service that provides crisis assistance, counseling, and local shelter referrals to women across the country. Hotline counselors also are available for non-English speaking persons and for people who are hearing-impaired. The hotline number is 1–800–799–SAFE (7233); the TTY number for the hearing-impaired is 1–800–787–3224.

General Grant Program Requirements for Tribes or Tribal Organizations

Definitions

Tribes and Tribal organizations should use the following definitions in carrying out their programs. The definitions are found in section 320 of FVPSA.

Family Violence: Any act, or threatened act, of violence, including any forceful detention of an individual, which (a) results or threatens to result in physical injury and (b) is committed by a person against another individual (including an elderly person) to whom such person is, or was, related by blood or marriage, or otherwise legally related, or with whom such person is, or was, lawfully residing.

Indian Tribe and Tribal organization: Have the same meanings given such terms in section 450b of Title 25.

Shelter: The provision of temporary refuge and related assistance in compliance with applicable State law and regulation governing the provision, on a regular basis, which includes shelter, safe homes, meals, and related assistance to victims of family violence and their dependents.

Related assistance: The provision of direct assistance to victims of family violence and their dependents for the purpose of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of the violence. Related assistance includes:

(a) Prevention services such as outreach and prevention services for victims and their children, assistance to children who witness domestic violence, employment training, parenting, and other educational services for victims and their children, preventive health services within domestic violence programs (including services promoting nutrition, disease prevention, exercise, and prevention of substance abuse), domestic violence prevention programs for school-age children, family violence public awareness campaigns, and violence prevention counseling services to abusers;

(b) Counseling with respect to family violence, counseling or other supportive services by peers individually or in groups, and referral to community social services;

(c) Transportation, technical assistance with respect to obtaining financial assistance under Federal and State programs, and referrals for appropriate health-care services (including alcohol and drug abuse treatment), but shall not include reimbursement for any health-care services;

(d) Legal advocacy to provide victims with information and assistance through the civil and criminal courts, and legal assistance; or

(e) Children's counseling and support services, child care services for children who are victims of family violence or the dependents of such victims, and children who witness domestic violence.

The Importance of Coordination of Services

The impact of family and intimate violence includes physical injury and death of primary or secondary victims, psychological trauma, isolation from family and friends, harm to children witnessing or experiencing violence in homes in which the violence occurs, increased fear, reduced mobility and employability, homelessness, substance abuse, and a host of other health and related mental health consequences.

The physical and cultural obstacles existing in much of Indian country compound the basic dynamics of domestic violence. Barriers such as the isolation of vast rural areas, the concern for safety in isolated settings, and the transportation requirements over long distances heighten the need for the coordination of the services through an often limited delivery system.

It is estimated that between 12 percent and 35 percent of injured women visiting emergency rooms are there because of battery. In a project intended to broaden the reach of the Native American domestic violence community, the Indian Health Service (IHS) and FVPSA have collaborated to oversee the development of domestic violence community projects. These projects are designed to develop improved health care responses to domestic violence and to facilitate collaboration between the local health care system and local American Indian and Alaskan Native domestic violence advocacy programs. In this effort, IHS also is collaborating with representatives of Mending the Sacred Hoop, Cangleska, Inc., and the Family Violence Prevention Fund to provide training, technical assistance, and oversight to the pilot projects.

To help bring about a more effective response to the problem of domestic violence, HHS urges Tribes and Tribal organizations receiving funds under this grant announcement to coordinate activities under this grant with other new and existing resources for the prevention of family and intimate violence.

Annual Tribal Grantee Conference

FVPSA administrators should plan to attend the annual Tribal Grantee Conference. A subsequent Program Instruction and/or Information Memorandum will advise the Tribal FVPSA Administrators of the date, time, and location of the grantee conference.

Client Confidentiality

FVPSA programs must establish or implement policies and protocols for maintaining the safety and confidentiality of the victims of domestic violence, sexual assault, and stalking. It is essential that the confidentiality of adult victims and their children receiving FVPSA services be protected. Consequently, when providing statistical data on program activities, individual identifiers of client

records will not be used (section 303(a)(2)(E)).

II. Funds Available

For FY 2006, HHS will make available for grants to designated State agencies 70 percent of the amount appropriated under section 310(a)(1) of the FVPSA, which is not reserved under section 310(a)(2). In this separate announcement, HHS will allocate 10 percent of the foregoing appropriation to the Tribes and Tribal organizations for the establishment and operation of shelters, safe houses, and the provision of related services. HHS also plans to make 10 percent of the foregoing appropriation available to State domestic violence coalitions to continue their work within the domestic violence community by providing technical assistance and training and advocacy services, among other activities, with local domestic violence programs to encourage appropriate responses to domestic violence within the States.

Five percent of the amount appropriated under section 310(a)(1) of the FVPSA, which is not reserved under section 310(a)(2), will be available in FY 2006 to continue the support for the NRC and the four SIRCs. Additional funds appropriated under FVPSA will be used to support other activities, including training and technical assistance, collaborative projects with advocacy organizations and service providers, data collection efforts, public education activities, research and other demonstration projects, as well as the ongoing operation of the NDVH.

Native American Tribal Allocations

Native American Tribes and Tribal organizations are eligible for funding under this program if they meet the definition of ''Indian Tribe'' or ''Tribal organization'' at 25 U.S.C. 450b, and if they are able to demonstrate their capacity to carry out family violence prevention and services programs.

Any Tribe that believes it meets the eligibility criteria should provide supportive documentation in its application and a request for inclusion on the list of eligible Tribes. (See *Section IV. Application Requirements for Tribes or Tribal Organizations*.)

In computing Tribal allocations, we will use the latest available population figures from the Census Bureau. Where Census Bureau data are unavailable, we will use figures from the Bureau of Indian Affairs' (BIA's) Indian Population and Labor Force Report.

Because section 304 of FVPSA specifies a minimum base amount for State allocations, we have set a base amount for Tribal allocations. Since FY 1986, we have found, in practice, that the establishment of a base amount has facilitated our efforts to make a fair and equitable distribution of limited grant funds.

Due to the expanded interest in the prevention of family violence and in the provision of services to victims of family violence and their dependents, we have received an increasing number of Tribal applications over the past several years. In order to ensure the continuance of an equitable distribution of family violence prevention and services funding in response to the increased number of Tribes that apply, we have adjusted the funding formula for the allocation of family violence funds.

Tribes that meet the application requirements and whose reservation and surrounding Tribal Trust Lands' population is:

- Less than or equal to 1,500 will receive a minimum base amount of $1,500;
- Between 1,500 and 3,001 will receive a minimum base amount of $3,000;
- Between 3,001 and 4,000 will receive a minimum base amount of $4,000; and,
- Between 4,001 and 5,000 will receive a minimum base amount of $5,000.

The minimum base amounts are computed in relation to the Tribe's population and the progression of an additional $1,000 per 1,000 persons if the population range continues until the Tribe's population reaches 50,000.

Tribes with a population of 50,000 to 100,000 will receive a minimum of $50,000 and Tribes with a population of 100,001 to 150,000 will receive a minimum of $100,000.

Once the base amounts have been distributed to the Tribes that have applied for FVPSA funding, the ratio of the Tribe's population to the total population of all the applicant Tribes is then considered in allocating the remainder of the funds. We have accounted for the variance in actual population and scope of the FVPSA programs with the distribution of a proportional amount plus a base amount to the Tribes. Under the previous allocation plan, we did not have a method by which to consider the variance in Tribal census counts. As in previous years, Tribes are encouraged to apply as consortia for the FVPSA funding.

Expenditure Periods

The FVPSA funds may be used for expenditures on and after October 1 of each fiscal year for which they are granted, and will be available for expenditure through September 30 of the following fiscal year, *i.e.*, FY 2006 funds may be used for expenditures from October 1, 2005 through September 30, 2007. Funds are available for obligation only through September 30, 2006 and must be liquidated by September 30, 2007.

Reallotted funds, if any, are available for expenditure until the end of the fiscal year following the fiscal year that the funds became available for reallotment. FY 2006 grant funds that are made available to Tribes and Tribal organizations through reallotment must be expended by the grantee no later than September 30, 2007.

III. Eligibility

Tribes and Tribal organizations are eligible for funding under this program if they meet the definition of ''Indian Tribe'' or ''Tribal organization'' set forth in section 450B of Title 25 and if they are able to demonstrate their capacity to carry out a family violence prevention and services program.

Any Tribe or Tribal organization that believes it meets the eligibility criteria and should be included in the list of eligible Tribes should provide supportive documentation and a request for inclusion in its application. (See Application Content Requirements below.)

As in previous years, Tribes may apply singularly or as a consortium. In addition, a non-profit private organization, approved by a Tribe for the operation of a family violence shelter or program on a reservation is eligible for funding.

Additional Information on Eligibility

D–U–N–S Requirement

All applicants must have a D&B Data Universal Numbering System (D–U–N–S) number. On June 27, 2003, the Office of Management and Budget (OMB) published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires Federal grant applicants to provide a D–U–N–S number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The D–U–N–S number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal, Grants.gov. A D–U–N–S 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 D–U–N–S number. You may acquire a D–U–N–S number at no cost by calling the dedicated toll-free D–U–N–S number request line at 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

IV. Application Requirements for Tribes and Tribal Organizations

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average six 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 0970–0280, which expires October 31, 2008.

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.

Form and Content of Application Submission

The application from the Tribe or Tribal organization must be signed by the Chief Executive Officer or Tribal Chairperson of the applicant organization.

1. The name of the organization or agency and the Chief Program Official designated as responsible for administering funds under FVPSA and coordinating related programs, and the name, telephone number, and fax number, if available, of a contact person in the designated organization or agency.

2. A copy of a current resolution stating that the designated organization or agency has the authority to submit an application on behalf of the individuals in the Tribe(s) and to administer programs and activities funded under this program (section 303(b)(2)).

3. A description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services under FVPSA (section 303(b)(2)). For example, knowledgeable individuals and interested organizations may include: Tribal officials or social services staff involved in child abuse or family violence prevention, Tribal law enforcement officials, representatives of State coalitions against domestic violence, and operators of family violence shelters and service programs.

4. A description of the applicant's operation of and/or capacity to carry out a family violence prevention and services program. This might be demonstrated in ways such as the following:

(a) The current operation of a shelter, safe house, or family violence prevention program;

(b) The establishment of joint or collaborative service agreements with a local public agency or a private non-profit agency for the operation of family violence prevention activities or services; or

(c) The operation of social services programs as evidenced by receipt of ''638'' contracts with BIA; Title II Indian Child Welfare grants from BIA; Child Welfare Services grants under Title IV–B of the Social Security Act; or Family Preservation and Family Support grants under title IV–B of the Social Security Act.

5. A description of the services to be provided, how the applicant organization plans to use the grant funds to provide the direct services, to whom the services will be provided, and the expected results of the services.

6. Documentation of the procedures that assure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services by any program assisted under FVPSA (section 303(a)(2)(E)).

7. The Employee Identification Number (EIN) of the applicant organization submitting the application.

Assurances

Each application must contain the following assurances:

(a) That not less than 70 percent of the funds shall be used for immediate shelter and related assistance for victims of family violence and their dependents and not less than 25 percent of the funds distributed shall be used to provide related assistance (section 303(g)).

(b) That any grants made to an entity other than a State or Tribe will meet the matching requirements in section 303(f), i.e., not less than 20 percent of the total funds provided for a project under Chapter 110 of Title 42 of the U.S. Code with respect to an existing program, and with respect to an entity intending to operate a new program under this title, not less than 35 percent. The local share will be cash or in-kind; and the local share will not include any Federal funds provided under any authority other than this chapter (section 303(f)).

(c) That grant funds made available under FVPSA will not be used as direct payment to any victim or dependent of a victim of family violence (section 303(d)).

(d) That no income eligibility standard will be imposed on individuals receiving assistance or services supported with funds appropriated to carry out FVPSA (section 303(e)).

(e) That the address or location of any shelter or facility assisted under FVPSA will not be made public, except with the written authorization of the person or persons responsible for the operations of such shelter (section 303(a)(2)(E)).

(f) That a law or procedure has been implemented for the eviction of an abusing spouse from a shared household (section 303(a)(2)(F)).

(g) That all grants, programs or other activities funded by the State in whole or in part with funds made available under FVPSA will prohibit discrimination on the basis of age, handicap, sex, race, color, national origin or religion (section 307).

(h) That the applicant will comply with the applicable Departmental recordkeeping and reporting requirements and general requirements for the administration of grants under 45 CFR part 92.

Certifications

All applications must submit or comply with the required certifications found in the Appendices as follows:

Anti-Lobbying Certification and Disclosure Form (See Appendix A): Applicants must furnish prior to award an executed copy of the SF–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 OMB under control number 0348–0046). Applicants should sign and return the certification with their application.

Certification Regarding Environmental Tobacco Smoke (See Appendix B): 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.

Certification Regarding Drug-Free Workplace Requirements (See Appendix C): The signature on the application by the chief program official attests to the applicant's intent to comply with the

Drug-Free Workplace requirements and compliance with the Debarment Certification. The Drug-Free Workplace certification does not have to be returned with the application.

These certifications also may be found at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Notification Under Executive Order 12372

The review and comment provisions of the Executive Order (E.O.) and part 100 do not apply. Federally recognized Tribes are exempt from all provisions and requirements of E.O. 12372.

Applications should be sent to: Family and Youth Services Bureau, Administration on Children, Youth, and Families, Administration for Children and Families, Attention: William D. Riley, Portals One, 1250 Maryland Avenue, SW., Room 8239, Washington, DC 20024.

V. Approval/Disapproval of a Tribal or Tribal Organization Application

The Secretary of HHS will approve any application that meets the requirements of FVPSA and this announcement. The Secretary will not disapprove an application except after reasonable notice of the Secretary's intention to disapprove has been provided to the applicant and after a six-month period providing an opportunity for applicant to correct any deficiencies.

The notice of intention to disapprove will be provided to the applicant within 45 days of the date of the application.

VI. Reporting Requirements

Performance Reports

A performance report must be filed with HHS describing the activities carried out, and including an assessment of the effectiveness of those activities in achieving the purposes of the grant. A section of this performance report must be completed by each grantee or sub-grantee that performed the direct services contemplated in the application certifying performance of such services. Consortia grantees should compile performance reports into a comprehensive report for submission.

The Performance Report should include the following data elements:

Funding—The total amount of the FVPSA grant funds awarded; the percentage of funding used for shelters, and the percentage of funding used for related services and assistance.

Shelters—The number of shelters and shelter programs (safe homes/motels, etc.) assisted by FVPSA program funding. Data elements should include:

- The number of shelters.
- The number of women sheltered.
- The number of young children sheltered (birth–12 years of age).
- The number of teenagers and young adults (13–17 years of age).
- The number of men sheltered.
- The number of the elderly serviced.
- The average length of stay.
- The number of women, children, teens, and others that were turned away because shelter was unavailable.
- The number of women, children, teens, and others that were referred to other shelters due to lack of space.

Types of individuals served (including special populations)—Record information by numbers and percentages against the total population served. Individuals and special populations served should include:

- The elderly.
- Individuals with physical challenges.
- Other special needs populations.

Related services and assistance—List the types of related services and assistance provided to victims and their family members by indicating the number of women, children, and men that have received services. Services and assistance may include, but are not limited to, the following:

- Individual counseling.
- Services to children.
- Crisis intervention/hotline.
- Information and referral.
- Batterers support services.
- Legal advocacy services.
- Transportation.
- Services to teenagers.
- Emergency child care.
- Training and technical assistance.
- Housing advocacy.
- Other innovative program activities.

Volunteers—List the total number of volunteers and hours worked.

Service referrals—List the number of women, children, and men referred for the following services: (**Note:** If the individual was identified as a batterer please indicate.)

- Physical abuse.
- Alcohol abuse.
- Drug abuse.
- Batterer intervention services.
- Child abuse.
- Witnessed abuse.
- Emergency medical intervention.
- Law enforcement intervention.

The performance report should include narratives of success stories about services provided and the positive impact on the lives of children and families. Examples may include the following:

- An explanation of the activities carried out including an assessment of the major activities supported by the family violence funds; what particular priorities within the Tribe or Tribal organization were addressed; and what special emphases were placed on these activities;
- A description of the specific services and facilities that your program funded, contracted with, or otherwise used in the implementation of your program, *e.g.*, shelters, safe houses, related assistance, programs for batterers;
- An assessment of the effectiveness of the direct service activities contemplated in the application;
- A description of how the needs of under-served populations, including those persons geographically isolated were addressed; and
- A description and assessment of the prevention activities supported during the program year, *e.g.*, community education events, and public awareness efforts.

Performance reports for Tribes and Tribal organizations are due on an annual basis at the end of the calendar year (December 29). Performance reports should be sent to: Family and Youth Services Bureau, Administration on Children, Youth and Families, Administration for Children and Families, Attn: William Riley, Portals One, 1250 Maryland Avenue, SW., Room 8238, Washington, DC 20024.

Financial Status Reports

Grantees must submit annual Financial Status Reports. The first SF–269A is due December 29, 2006. The final SF–269A is due December 29, 2007. SF 269A can be found at *http://www.whitehouse.gov/omb/grants/grantsforms.html.*

Completed reports may be mailed to: Rachel Hickson, Division of Mandatory Grants, Office of Grants Management, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447.

Grantees have the option to submit their reports online through the Online Data Collection (OLDC) system at the following address: *http://extranet.acf.hhs.gov/oldc/.*

Failure to submit reports on time may be a basis for withholding grant funds, suspension, or termination of the grant. In addition, all funds reported after the obligation period will be recouped.

VII. Administrative and National Policy Requirements

Tribes and Tribal Organizations will comply with the applicable Departmental recordkeeping and reporting requirements and general requirements for the administration of grants under 45 CFR part 92.

Direct Federal grants, sub-award funds, or contracts under this ACF 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 Equal Treatment for Faith-Based Organizations, which includes the prohibition against Federal funding of inherently religious activities, can be found at the HHS Web site at *http://www.os.dhhs.gov/fbci/waisgate21.pdf.* Faith-based and community organizations may reference the ''Guidance to Faith-Based and Community Organizations on Partnering with the Federal Government'' at *http://www.whitehouse.gov/government/fbci/guidance/index.html.*

VIII. Other Information

FOR FURTHER INFORMATION CONTACT: Shena Williams at (202) 205–9532 or e-mail at *swilliams1@acf.hhs.gov;* William D. Riley at (202) 401–5529 or e-mail at *wriley@acf.hhs.gov;* or Sunni Knight at (202) 401–5319 or e-mail at *gknight@acf.hhs.gov.*

Dated: April 12, 2006.

Joan E. Ohl,

Commissioner, Administration on Children, Youth, and Families.

Appendices: Required Certifications:

A. Certification Regarding Lobbying.
B. Certification Regarding Environmental Tobacco Smoke.
C. Drug-Free Workplace Requirements.

Appendix A—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

Appendix B—Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Appendix C—Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR part 76, subpart F, sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW., Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (*e.g.*, all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the

change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within 10 calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted —

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[FR Doc. E6–5906 Filed 4–19–06; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0152]

Preparation for International Conference on Harmonization Meetings in Yokohama, Japan; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting entitled ''Preparation for ICH meetings in Yokohama, Japan'' to provide information and receive comments on the International Conference on Harmonization (ICH) as well as the upcoming meetings in Yokohama, Japan. The topics to be discussed are the topics for discussion at the forthcoming ICH Steering Committee Meeting. The purpose of the meeting is to solicit public input prior to the next Steering Committee and Expert Working Groups meetings in Yokohama, Japan on June 5 through 8, 2006, at which discussion of the topics underway and the future of ICH will continue.

Date and Time: The meeting will be held on Monday, May 8, 2006, from 9:30 a.m. to 12:30 p.m.

Location: The meeting will be held at 5600 Fishers Lane, 3rd floor, Maryland Conference Room, Rockville, MD 20857. For security reasons, all attendees are asked to arrive no later than 9:25 a.m., as you will be escorted from the front entrance of 5600 Fishers Lane to the Maryland Conference Room.

Contact Person: All participants must register with Sema Hashemi, Office of the Commissioner, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, e-mail: *Sema.Hashemi@fda.hhs.gov* or FAX: 301–480–0716.

Registration and Requests for Oral Presentations: Send registration information (including name, title, firm name, address, telephone, and fax number), written material and requests to make oral presentations, to the contact person by May 1, 2006.

If you need special accommodations due to a disability, please contact Sema Hashemi at least 7 days in advance.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857,

approximately 15 working days after the meeting at a cost of 10 cents per page.

SUPPLEMENTARY INFORMATION: The ICH was established in 1990 as a joint regulatory/industry project to improve, through harmonization, the efficiency of the process for developing and registering new medicinal products in Europe, Japan and the United States without compromising the regulatory obligations of safety and effectiveness.

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization, and FDA is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for medical product development among regulatory agencies. ICH was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. ICH is concerned with harmonization among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labor and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA). The ICH Steering Committee includes representatives from each of the ICH sponsors and Health Canada, the European Free Trade Area and the World Health Organization. The ICH process has achieved significant harmonization of the technical requirements for the approval of pharmaceuticals for human use in the three ICH regions.

The current ICH process and structure can be found at the following Web site: *http://www.ich.org*.

Interested persons may present data, information, or views orally or in writing, on issues pending at the public meeting. Oral presentations from the public will be scheduled between approximately 11:30 a.m. and 12:30 p.m. Time allotted for oral presentations may be limited to 10 minutes. Those desiring to make oral presentations should notify the contact person by May 1, 2006, and submit a brief statement of the general nature of the evidence or arguments they which to present, the names and addresses, phone number, fax, and e-mail of proposed participants, and an indication of the approximate time requested to make their presentation.

The agenda for the public meeting will be made available on April 24, 2006, on the Internet at *http://www.fda.gov/cder/meeting/ICH_20060508.htm*.

Dated: April 13, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–5905 Filed 4–19–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; ODS Assessment of Dietary Supplement Education

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995. In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act, for opportunity for public comment on proposed data collection projects, the Office of Dietary Supplements (ODS), at the National Institutes of Health (NIH) is soliciting public comments on the subject proposal.

Proposed Collection

Title: ODS Assessment of Dietary Supplement Education.

Type of Information Collection Request: New data collection.

Need and Use of Information Collection: The mission of ODS is to strengthen knowledge and understanding of dietary supplements by evaluating scientific information, stimulating and supporting research, disseminating research results, and educating the public to foster an enhanced quality of life and health for the U.S. population. To assist ODS in prioritizing educational and training needs for researchers in the field, ODS is requesting OMB Clearance for a survey of members of academic health institutions. This effort involves a dual method (mail/Web) survey consisting of nine questions (including four two-part questions), which will be attempted with an estimated 2600 individuals at approximately 1000 academic institutions, yielding an annual total of approximately 1820 respondents (based on a 70 percent response rate). The survey results will help ODS in measuring the scope of higher education's curriculum on dietary supplements, identifying gaps in dietary supplement education, and determining the level of interest in potential ODS seminars and programs, and the specific content needs.

Frequency of Response: This is a one-time data collection.

Affected Public: Academic institutions.

Type of Respondents: Faculty members at academic institutions.

The annual reporting burden is as follows.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Telephone or web survey completion				
Individuals at academic institutions	1820	1	0.12	218
Review of course information for survey completion				
Individuals at academic institutions	1820	1	0.25	455

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Collection and submission of materials				
Individuals at academic institutions	910	1	0.50	455
Annualized totals	1820			1128

The annualized cost to respondents is estimated at $31,978.86, $6,189.46 for survey completion, and $12,894.70 for the review of course information and collection and submission of materials, respectively.

There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Paul M. Coates, Director, Office of Dietary Supplements, National Institutes of Health, Suite 3B01, 6100 Executive Boulevard, Bethesda, MD 20892–7517; or fax your request to 301–480–1845; or e-mail *ods@nih.gov*. Dr. Coates can be contacted by telephone at 301–435–2920.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: April 13, 2006.

Paul M. Coates,

Director, Office of Dietary Supplements, National Institutes of Health.

[FR Doc. E6–5922 Filed 4–19–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP); Liaison and Scientific Review Office; Meeting of the NTP Board of Scientific Counselors

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Meeting announcement and request for comments

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a meeting of the NTP Board of Scientific Counselors (NTP BSC). The NTP BSC is composed of scientists from the public and private sectors and provides primary scientific oversight to the Director for the NTP and evaluates the scientific merit of the NTP's intramural and collaborative programs.

DATES: The NTP BSC meeting will be held on June 13, 2006. In order to facilitate planning for this meeting, persons wishing to make an oral presentation are asked to notify the Executive Secretary for the NTP BSC by May 31, 2006 (see **FOR FURTHER INFORMATION CONTACT** below). Written comments should also be received by May 31, 2006, to enable review by the NTP BSC and NIEHS/NTP staff prior to the meeting. Persons needing special assistance, such as sign language interpretation or other reasonable accommodation in order to attend, should contact 919–541–2475 (voice), 919–541–4644 TTY (text telephone), through the Federal TTY Relay System at 800–877–8339, or by e-mail to *niehsoeeo@niehs.nih.gov*. Requests should be made at least 7 days in advance of the event.

ADDRESSES: The NTP BSC meeting will be held in the Rodbell Auditorium, Rall Building at the National Institute of Environmental Health Sciences, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

FOR FURTHER INFORMATION CONTACT: Public comments and any other correspondence should be submitted to Dr. Barbara Shane, Executive Secretary for the NTP Board (NTP Liaison and Scientific Review Office, NIEHS, P.O. Box 12233, MD A3–01, Research Triangle Park, NC 27709; telephone: 919–541–4253, fax: 919–541–0295; or e-mail: *shane@niehs.nih.gov*).

SUPPLEMENTARY INFORMATION:

Preliminary Agenda Topics and Availability of Meeting Materials

Preliminary agenda topics are as follows:

- NIEHS Strategic Plan.
- Update of NTP Activities.
- NTP BSC's Technical Report Review Subcommittee Report.
- NTP Testing Nominations.

A copy of the preliminary agenda, committee roster, and any additional information, when available, will be posted on the NTP Web site or may be requested in hardcopy from the Executive Secretary for the NTP BSC (see **FOR FURTHER INFORMATION CONTACT** above). Following the meeting, summary minutes will be prepared and made available on the NTP Web site.

Attendance and Registration

The meeting is scheduled for June 13, 2006, from 8:30 a.m. to adjournment and is open to the public with attendance limited only by the space available. Individuals who plan to attend are encouraged to register online at the NTP Web site by May 31, 2006, to facilitate access to the NIEHS campus. Please note that a photo ID is required to access the NIEHS campus. The NTP is making plans to videocast the meeting through the Internet at *http://www.niehs.nih.gov/external/video.htm*.

Request for Comments

Time is allotted during the meeting for the public to present comment to the NTP BSC and NTP staff on the agenda topics. Each organization is allowed one time slot per agenda topic. At least 7 minutes will be allotted to each speaker, and if time permits, may be extended to 10 minutes. Registration for oral comments will also be available on-site, although time allowed for presentation by on-site registrants may be less than that for pre-registered speakers and will be determined by the number of persons who register at the meeting.

Persons registering to make oral comments are asked, if possible, to send a copy of their statement to the Executive Secretary for the NTP BSC (see **FOR FURTHER INFORMATION CONTACT** above) by May 31, 2006, to enable review by the NTP BSC and NIEHS/NTP staff prior to the meeting. Written statements can supplement and may expand the oral presentation. If registering on-site and reading from written text, please bring 40 copies of the statement for distribution to the NTP BSC and NIEHS/NTP staff and to supplement the record. Written comments received in response to this notice will be posted on the NTP Web site. Persons submitting written comments should include their name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any) with the document. Please note that this meeting provides a second opportunity for the public to provide comment on testing recommendations for substances nominated to the NTP. Comments submitted to the NTP in response to the April 2006 **Federal Register** notice on this topic (Volume 71, Number 69, pages 18341–18344) will be considered at the NTP BSC meeting and do not need to be resubmitted.

Background Information on the NTP Board of Scientific Counselors

The NTP BSC is a technical advisory body comprised of scientists from the public and private sectors who provide primary scientific oversight to the overall program and its centers. Specifically, the NTP BSC advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purposes of determining and advising on the scientific merit of its activities and their overall scientific quality. Its members are selected from recognized authorities knowledgeable in fields, such as toxicology, pharmacology, pathology, biochemistry, epidemiology, risk assessment, carcinogenesis, mutagenesis, molecular biology, behavioral toxicology and neurotoxicology, immunotoxicology, reproductive toxicology or teratology, and biostatistics. Members serve overlapping terms of up to four years. NTP BSC meetings are held annually or biannually.

Dated: April 11, 2006.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. E6–5924 Filed 4–19–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Revision of Final Fiscal Year (FY) 2006 State Allotment of Community Mental Health Services (CMHS) Block Grant (BG)

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA).

ACTION: Public notice.

SUMMARY: SAMHSA has revised the final FY 2006 calculations for the CMHS BG 50 States and Washington, DC after it has been discerned that the July 1, 2003 population estimates used in the calculation involved multiple counting of persons who reported more than one race. This notice describes the background and rationale for revising the calculations and presents a revised set of State-specific final FY 2006 CMHS BG allotment figures, showing the differences in the two sets of calculations.

FOR FURTHER INFORMATION CONTACT: Joe Gfroerer, Office of Applied Studies/SAMHSA, 1 Choke Cherry Road, Room 7–1015, Rockville, MD 20857, (240) 276–1262.

Background

Under Public Law 102–321, the Secretary of the U.S. Department of Health and Human Services (DHHS), acting through the Director of SAMHSA's Center for Mental Health Services, determines the allotments for States and territories for the CMHS BG and disburses federal funds to eligible States and territories. Public Law 102–321 contains the eligibility criteria for receipt of funds under the CMHS BG, and provides the formulae and methods for determining State and territory allotments. The Office of Applied Studies (OAS) at SAMHSA is responsible for acquisition and compilation of required source data and the computation of BG allotment amounts for States and territories. The preliminary and final FY 2006 CMHS BG allotment calculations were performed in accordance with SAMHSA procedures established during 1995 that were documented in the **Federal Register** notice published on June 26, 1996. The law requires that the CMHS BG calculations use the most recent State-level data for resident population by age (18–24, 25–44, 45–64, and 65 or over) and for the cost-of-services index and the fiscal capacity index.

Rationale for Revising Final FY 2006 CMHS BG Calculations

SAMHSA used the July 1, 2003 population estimates file (SC–EST2003–race5.txt; released by the Census Bureau on September 30, 2004) that was available on the cut-off date of October 1, 2004 for both preliminary and final FY 2006 CMHS BG allotment calculations. The file included a 5-category, mutually-nonexclusive race variable that allowed multiple counting of persons who reported more than one race. Internal reviews have indicated that though calculations for determining State allotments were done correctly, the file (SC–EST2003–race6.csv; released by the Census Bureau on September 30, 2004) containing a 6-category, race6.csv; released by the Census Bureau on September 30, 2004) containing a 6-category, mutually-exclusive (i.e., no multiple counting) race variable would have been more appropriate for use in the calculations. An examination of these two data files has indicated that multiple counting of persons was particularly higher for Hawaii (26.3%), Alaska (5.0%), California (2.5%), Colorado (1.9%), Nevada (2.6%), Oklahoma (4.2%), Oregon (2.5%) and Washington (3.1%), compared to the national average (1.6%).

Revised Final FY 2006 CMHS Allotments

Taking into consideration both the multiple-counting problem with the population estimates source data used and the procedural requirement for using source data for the FY 2006 CMHS BG allotment determinations that were released on or before October 1, 2004, SAMHSA has revised the final FY 2006 CMHS BG allotments. Revised final State allotments for FY 2006 were determined by replacing the 5-category-race-based population estimates with the 6-category-race-based population estimates. A comparison of the revised final FY 2006 CMHS BG State allotments with current allotments is shown in the following Table. The attachment shows FY 2005 final allotments, current and revised FY 2006 CMHS BG allotments, and the difference in these allotments in dollars and percent. The revised allotments are lower for Alaska, California, Colorado, Hawaii, Montana, Nevada, New York, Oklahoma, Oregon, Washington, and the District of Columbia, while the revised allotments for all other States increased by small amounts. The allotments for all territories would remain unchanged with the revision, as would the

SAMHSA administrative Set-Aside amount.

Dated: March 31, 2006.

Eric B. Broderick,

Acting Deputy Administrator, SAMHSA.

BILLING CODE 4160–01–M

Attachment - A

Substance Abuse and Mental Health Services Administration
Community Mental Health Services FY 2006 Block Grant Allotments
Appropriation Amount $428,256,000, 1998 Actual Allocation Hold Harmless Constraint, 5% Set-Aside

State	FY 2005 Actual Allocation	Current FY 2006 Formula Allocation	Recomputed FY 2006 Formula Allocation	Current vs. Recomputed Dollar Difference	Current vs. Recomputed Percent Difference	Current vs. FY 2005 Percent Difference	Recomputed vs. FY 2005 Percent Difference
Alabama	$6,217,429	$6,049,777	$6,091,357	$41,580	0.7%	-2.8%	-2.0%
Alaska	$776,797	$806,713	$776,739	-$29,974	-3.7%	3.7%	0.0%
Arizona	$7,863,945	$7,913,340	$7,923,469	$10,129	0.1%	0.6%	0.8%
Arkansas	$3,899,354	$3,824,569	$3,838,248	$13,679	0.4%	-2.0%	-1.6%
California	$54,955,073	$55,333,534	$54,738,307	-$595,227	-1.1%	0.7%	-0.4%
Colorado	$5,756,635	$5,771,392	$5,757,965	-$13,427	-0.2%	0.3%	0.0%
Connecticut	$4,427,225	$4,457,725	$4,476,858	$19,133	0.4%	0.7%	1.1%
Delaware	$972,665	$935,632	$941,631	$5,999	0.6%	-4.0%	-3.2%
District Of Columbia	$896,557	$830,540	$826,530	-$4,010	-0.5%	-7.9%	-7.8%
Florida	$26,360,593	$26,408,298	$26,502,869	$94,571	0.4%	0.2%	0.5%
Georgia	$13,063,235	$12,959,801	$13,040,333	$80,532	0.6%	-0.8%	-0.2%
Hawaii	$1,717,222	$2,207,985	$1,692,303	-$515,682	-23.4%	22.2%	-1.5%
Idaho	$1,818,491	$1,834,079	$1,836,761	$2,682	0.1%	0.8%	1.0%
Illinois	$16,897,228	$16,545,951	$16,661,707	$115,756	0.7%	-2.1%	-1.4%
Indiana	$8,129,212	$7,926,123	$7,986,358	$60,235	0.8%	-2.6%	-1.8%
Iowa	$3,699,900	$3,598,003	$3,633,696	$35,693	1.0%	-2.8%	-1.8%
Kansas	$3,263,548	$3,198,235	$3,199,492	$1,257	0.0%	-2.0%	-2.0%
Kentucky	$5,815,099	$5,522,787	$5,566,178	$43,391	0.8%	-5.3%	-4.3%
Louisiana	$6,000,390	$5,860,149	$5,906,512	$46,363	0.8%	-2.4%	-1.6%
Maine	$1,774,427	$1,713,122	$1,726,295	$13,173	0.8%	-3.6%	-2.7%
Maryland	$8,269,375	$8,156,229	$8,173,587	$17,358	0.2%	-1.4%	-1.2%
Massachusetts	$8,426,142	$8,103,114	$8,136,813	$33,699	0.4%	-4.0%	-3.4%
Michigan	$12,952,196	$12,724,565	$12,753,293	$28,728	0.2%	-1.8%	-1.5%
Minnesota	$5,988,839	$5,899,213	$5,928,327	$29,114	0.5%	-1.5%	-1.0%
Mississippi	$4,086,465	$3,972,419	$4,010,494	$38,075	1.0%	-2.9%	-1.9%
Missouri	$7,086,105	$6,922,755	$6,948,882	$26,127	0.4%	-2.4%	-1.9%
Montana	$1,248,901	$1,238,249	$1,237,268	-$981	-0.1%	-0.9%	-0.9%
Nebraska	$2,086,159	$2,035,288	$2,051,634	$16,346	0.8%	-2.5%	-1.7%
Nevada	$3,408,088	$3,552,310	$3,519,858	-$32,452	-0.9%	4.1%	3.3%
New Hampshire	$1,486,177	$1,457,395	$1,470,650	$13,255	0.9%	-2.0%	-1.0%
New Jersey	$12,226,675	$11,968,238	$12,012,925	$44,687	0.4%	-2.2%	-1.7%
New Mexico	$2,353,002	$2,327,181	$2,328,061	$880	0.0%	-1.1%	-1.1%
New York	$28,325,933	$27,905,271	$27,882,211	-$23,060	-0.1%	-1.5%	-1.6%
North Carolina	$10,564,989	$10,401,052	$10,482,190	$81,138	0.8%	-1.6%	-0.8%
North Dakota	$822,445	$793,485	$799,860	$6,375	0.8%	-3.6%	-2.7%
Ohio	$14,543,753	$14,264,417	$14,343,712	$79,295	0.6%	-2.0%	-1.4%
Oklahoma	$4,722,554	$4,794,880	$4,647,187	-$147,693	-3.1%	1.5%	-1.6%
Oregon	$4,312,546	$4,366,950	$4,320,525	-$46,425	-1.1%	1.2%	0.2%
Pennsylvania	$15,832,034	$15,415,872	$15,554,126	$138,254	0.9%	-2.7%	-1.8%
Rhode Island	$1,429,555	$1,391,862	$1,394,704	$2,842	0.2%	-2.7%	-2.4%
South Carolina	$5,637,663	$5,429,394	$5,475,602	$46,208	0.9%	-3.8%	-2.9%
South Dakota	$911,126	$889,150	$894,669	$5,519	0.6%	-2.5%	-1.8%
Tennessee	$8,049,985	$7,941,149	$8,000,069	$58,920	0.7%	-1.4%	-0.6%
Texas	$32,486,643	$32,180,975	$32,358,806	$177,831	0.6%	-0.9%	-0.4%
Utah	$3,127,375	$3,066,950	$3,079,094	$12,144	0.4%	-2.0%	-1.5%
Vermont	$803,122	$786,193	$789,780	$3,587	0.5%	-2.2%	-1.7%
Virginia	$10,976,710	$10,852,419	$10,867,318	$14,899	0.1%	-1.1%	-1.0%
Washington	$8,400,033	$8,514,188	$8,385,030	-$129,158	-1.5%	1.3%	-0.2%
West Virginia	$2,589,813	$2,525,546	$2,546,151	$20,605	0.8%	-2.5%	-1.7%
Wisconsin	$6,814,203	$6,659,971	$6,715,876	$55,905	0.8%	-2.3%	-1.4%
Wyoming	$514,940	$506,383	$508,508	$2,125	0.4%	-1.7%	-1.2%
State Sub-total	**$404,788,571**	**$400,740,818**	**$400,740,818**	**$0**	**0.0%**	-1.0%	-1.0%
American Samoa	$80,409	$79,599	$79,599	$0	0.0%	-1.0%	-1.0%
Guam	$217,273	$215,082	$215,082	$0	0.0%	-1.0%	-1.0%
Northern Marianas	$97,153	$96,174	$96,174	$0	0.0%	-1.0%	-1.0%
Puerto Rico	$5,345,475	$5,291,584	$5,291,584	$0	0.0%	-1.0%	-1.0%
Palau	$50,000	$50,000	$50,000	$0	0.0%	0.0%	0.0%
Marshall Islands	$71,355	$70,636	$70,636	$0	0.0%	-1.0%	-1.0%
Micronesia	$150,188	$148,674	$148,674	$0	0.0%	-1.0%	-1.0%
Virgin Islands	$152,440	$150,903	$150,903	$0	0.0%	-1.0%	-1.0%
Territory Sub-Total	**$6,164,293**	**$6,102,652**	**$6,102,652**	**$0**	**0.0%**	-1.0%	-1.0%
SAMHSA Set-Aside	**$21,629,098**	**$21,412,530**	**$21,412,530**	**$0**	**0.0%**	-1.0%	-1.0%
Grand Total	**$432,581,962**	**$428,256,000**	**$428,256,000**	**$0**	**0.0%**	-1.0%	-1.0%

BlockGrant March 15, 2006

[FR Doc. 06–3764 Filed 4–19–06; 8:45 am]

BILLING CODE 4160–01–C

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–240–1784 (P)]

Notice of Correction for a Notice of Call for Nominations for the Sonoran Desert National Monument Advisory Committee

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of re-opening of call for nomination.

This notice was previously published in the **Federal Register**: Vol. 71, No. 26, Wednesday, February 8, 2006.

SUMMARY: Nominations have not been received for several positions on the Sonoran Desert National Monument Advisory Council. Positions for which nominations have not been received are: (1) Three persons, one from each tribe, who are selected from nominees submitted by the governing bodies of the following tribes: Tohono O'odham Nation, Gila River Indian Community, and Salt River Pima-Maricopa Indian Community, and who represent interests of the nominating tribe, (2) A person who represents Pinal County's interests, to be appointed from nominees submitted by the Supervisors of Pinal County, (3) A person who represents the State of Arizona, to be appointed from nominees submitted by the Governor of Arizona. Additional nominations may also be submitted for other positions on the Advisory Council. This **Federal Register** notice will extend the call for nominations for additional nominations for positions on the Advisory Council.

DATES: Submit nomination packets for positions to the address listed below by May 12, 2006.

ADDRESSES: Send completed nomination packets to: SDNM Advisory Council, c/o Karen Kelleher, Monument Manager, BLM, Phoenix District, 21605 North 7th Avenue, Phoenix, Arizona 85027; FAX 623–580–5580; e-mail: *AZ_SDNMAC@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Karen Kelleher, Monument Manager, Phone 623–580–5500 or e-mail *AZ_SDNMAC@blm.gov.* Nomination packets are also available for download at the BLM Internet site: *http://www.blm.gov/az/sonoran/council.htm.*

Dated: April 14, 2006.

Karen Kelleher,

Sonoran Desert National Monument Manager, Phoenix District of the Bureau of Land Management.

[FR Doc. E6–5927 Filed 4–19–06; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft General Management Plan/ Environmental Impact Statement, Amistad National Recreation Area, TX

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of termination of the Environmental Impact Statement for the General Management Plan, Amistad National Recreation Area.

SUMMARY: The National Park Service (NPS) is terminating preparation of an Environmental Impact Statement (EIS) for the General Management Plan, Amistad National Recreation Area, Texas. A Notice of Intent to prepare the EIS for the Amistad National Recreation Area General Management Plan was published in Vol. 68, No. 11, of the January 16, 2003, **Federal Register** (2351). The National Park Service has since determined that an Environmental Assessment (EA) rather than an EIS is the appropriate environmental documentation for the general management plan.

SUPPLEMENTARY INFORMATION: The general management plan will establish the overall direction for the national recreation area, setting broad management goals for managing the area over the next 15 to 20 years. The plan was originally scoped as an EIS.

However, few public comments were received in the scoping process. Although several concerns were expressed during the public scoping process, particularly on the future of recreational opportunities in the recreation area, no issues were identified for the general management plan that have the potential for controversial impacts.

In the general management planning process the NPS planning team developed two alternatives for the national recreation area, neither of which would result in substantial changes in the operation and management of the area. The action alternative primarily focuses on maintaining and protecting resources, developing new visitor, administration, and law enforcement facilities, and addressing park maintenance/operations needs. The preliminary impact analysis of the alternatives revealed no major (significant) effects on the human environment or impairment of park resources and values. Most of the impacts to the recreation area's resources and values were negligible to minor in magnitude.

For these reasons the NPS determined the appropriate National Environmental Policy Act documentation for the general management plan is an EA.

DATES: The draft general management plan/EA is expected to be distributed for a 30 day public comment period in the spring/summer of 2006 and a decision is expected be made in the fall of 2006. The NPS will notify the public by mail, Web site, and other means, and will include information on where and how to obtain a copy of the EA, how to comment on the EA, and the length of the public comment period.

FOR FURTHER INFORMATION CONTACT: Alan Cox, Superintendent, Amistad National Recreation Area, 4121 Hwy 90 West, Del Rio, TX 78840–9350, telephone: (830) 775–7492, extension 201; e-mail: *alan_cox@nps.gov.*

Dated: March 15, 2006.

William E. Wellman,

Acting Director, Intermountain Region, National Park Service.

[FR Doc. E6–5938 Filed 4–19–06; 8:45 am]

BILLING CODE 4310–OR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Elk and Vegetation Management Plan, Draft Environmental Impact Statement, Rocky Mountain National Park, CO

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of availability of the Draft Environmental Impact Statement for the Elk and Vegetation Management Plan, Rocky Mountain National Park.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service announces the availability of a Draft Environmental Impact Statement for the Elk and Vegetation Management Plan for Rocky Mountain National Park, Colorado.

DATES: The National Park Service will accept comments on the Draft Environmental Impact Statement from the public through July 4, 2006. Public meetings will be held during the public comment period. Specific dates, times and locations will be announced in the local and regional news media and on the project Web page (*http://www.nps.gov/romo/planning/elkvegetation/*), and will be available by contacting Vaughn Baker, Superintendent of Rocky Mountain National Park.

ADDRESSES: Information will be available for public review and

comment (1) online at *http://parkplanning.nps.gov,* (2) in the office of the Superintendent, Vaughn Baker, 1000 West Hwy. 36, Rocky Mountain National Park, Estes Park, Colorado 80517, 970–586–1206, (3) at all Rocky Mountain National Park Visitor Centers and (4) at the Estes Park Public Library, 335 East Elkhorn Ave., Estes Park, Colorado 80517, 970–586–8116.

FOR FURTHER INFORMATION CONTACT: Therese Johnson, 1000 West Hwy. 36, Rocky Mountain National Park, Estes Park, Colorado 80517, 970–586–1262, *therese_johnson@nps.gov*.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Attn: EVMP, Therese Johnson (address above). You may also comment via the Internet at *http://parkplanning.nps.gov*. If you do not receive a confirmation from the system that we have received your Internet message, contact Therese Johnson (number above). Finally, you may hand-deliver comments to Beaver Meadows Visitor Center, 1000 West Hwy. 36, Rocky Mountain National Park, Estes Park, Colorado 80517. It is the practice of the NPS to make all comments, including names and addresses of respondents who provide that information, available for public review following the conclusion of the [NEPA] process. Individuals may request that the NPS withhold their name and/or address from public disclosure. If you wish to do this, you must state this prominently at the beginning of your comment. Commentators using the website can make such a request by checking the box ''keep my contact information private.'' NPS will honor such requests to the extent allowable by law, but you should be aware that NPS may still be required to disclose your name and address pursuant to the Freedom of Information Act.

Dated: March 15, 2006.

William E. Wellman,

Acting Director, Intermountain Region, National Park Service.

[FR Doc. E6–5939 Filed 4–19–06; 8:45 am]

BILLING CODE 4310–D8–P

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park, Bar Harbor, ME; Acadia National Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, June 5, 2006.

The Commission was established pursuant to Public Law 99–420, Sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at Park Headquarters, Bar Harbor, Maine, at 1 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held February 6, 2006.
2. Committee reports:

—Land Conservation.
—Park Use.
—Science and Education.
—Historic.

3. Old business.
4. Superintendent's report.
5. Public comments.
6. Proposed agenda for next Commission meeting, September 11, 2006.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: December 2, 2005.

Sheridan Steele,

Superintendent.

[FR Doc. E6–5937 Filed 4–19–06; 8:45 am]

BILLING CODE 4310–2N–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Central Valley Project Improvement Act, Water Management Plans

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability.

SUMMARY: The following Water Management Plans are available for review:

- Ivanhoe Irrigation District.
- Terra Bella Irrigation District.
- Stone Coral Irrigation District.
- Saucelito Irrigation District.
- Exeter Irrigation District.
- San Luis Water District.

To meet the requirements of the Central Valley Project Improvement Act of 1992 (CVPIA) and the Reclamation Reform Act of 1982, the Bureau of Reclamation has developed and published the Criteria for Evaluating Water Management Plans (Criteria).

Note: For the purpose of this announcement, Water Management Plans (Plans) are considered the same as Water Conservation Plans. The above districts have developed Plans, which Reclamation has evaluated and preliminarily determined to meet the requirements of these Criteria. Reclamation is publishing this notice in order to allow the public to review the Plans and comment on the preliminary determinations. Public comment on Reclamation's preliminary (*i.e.*, draft) determination is invited at this time.

DATES: All public comments must be received by May 22, 2006.

ADDRESSES: Please mail comments to Becky Ortiz, Bureau of Reclamation, 2800 Cottage Way MP–410, Sacramento, California 95825, or contact at 916–978–5281 (TDD 978–5608), or e-mail at *bortiz@mp.usbr.gov.*

FOR FURTHER INFORMATION CONTACT: To be placed on a mailing list for any subsequent information, please contact Ms. Ortiz at the e-mail address or telephone number above.

SUPPLEMENTARY INFORMATION: We are inviting the public to comment on our preliminary (*i.e.*, draft) determination of Plan adequacy. Section 3405(e) of the CVPIA (Title 34 Public Law 102–575) requires the Secretary of the Interior to establish and administer an office on Central Valley Project water conservation best management practices (BMPs) that shall ''* * * develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by Section 210 of the Reclamation Reform Act of 1982.'' Also, according to Section 3405(e)(1), these Criteria must be developed ''* * * with the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices.'' These Criteria state that all parties (Contractors) that contract with Reclamation for water supplies (municipal and industrial contracts over 2,000 acre-feet and agricultural contracts over 2,000 irrigable acres) must prepare Plans that contain the following information:

1. Description of the District.
2. Inventory of Water Resources.
3. BMPs for Agricultural Contractors.

4. BMPs for Urban Contractors.
5. BMP Plan Implementation.
6. BMP Exemption Justification.

Reclamation will evaluate Plans based on these Criteria. A copy of these Plans will be available for review at Reclamation's Mid-Pacific (MP) Regional Office located in Sacramento, California, and the local area office.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that Reclamation withhold their home address from public disclosure, and we will honor such request to the extent allowable by law. There also may be circumstances in which Reclamation would elect to withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. We will make all submissions from organizations, businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses available for public disclosure in their entirety. If you wish to review a copy of these Plans, please contact Ms. Ortiz to find the office nearest you.

Dated: March 2, 2006.

Donna E. Tegelman,

Regional Resources Manager, Mid-Pacific Region.

[FR Doc. 06–3763 Filed 4–19–06; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[FES–06–06]

Navajo Dam, Colorado River Storage Project, New Mexico and Colorado

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of Navajo Reservoir Operations Final Environmental Impact Statement.

SUMMARY: The Bureau of Reclamation (Reclamation), the Federal agency responsible for operation of the Navajo Unit (Navajo Dam and Reservoir) has prepared and made available to the public a final environmental impact statement (FEIS) pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 United States Code (U.S.C.) 4332.

ADDRESSES: Copies of the FEIS are available from Pat Page, Bureau of Reclamation, Western Colorado Area Office, 835 East Second Avenue, Suite 400, Durango, Colorado 81301–5475; telephone (970) 385–6500; faxogram (970) 385–6539; e-mail: *ppage@uc.usbr.gov.* The FEIS is also available on Reclamation's Web site at *http://www.usbr.gov/uc/* (click on Environmental Documents).

Copies of the FEIS are also available at the following locations:

- Bureau of Reclamation, Main Interior, Room 7060–MIB, 1849 C Street, NW., Washington, DC 20240–0001.
- Bureau of Reclamation, Denver Office Library, Denver Federal Center, Sixth & Kipling, Building 67, Room 167, Denver, Colorado 80225–0007.
- Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1147.
- Bureau of Reclamation, Western Colorado Area Office, 835 East Second Avenue, Suite 400, Durango, Colorado 81301–5475.
- Bureau of Reclamation, Western Colorado Area Office, 2764 Compass Drive, Suite 106, Grand Junction, Colorado 81506.
- Colorado Department of Natural Resources, Attention: Russell George, Executive Director, 1313 Sherman Street, Room 718, Denver, Colorado 80203.
- Colorado Department of Local Affairs, Attention: Eric Bergman, 1313 Sherman Street, Room 521, Denver, Colorado 80203.
- Energy, Minerals and Natural Resources Department, Attention: Joanna Prukop, Wendell Chino Building, 1220 St. Francis Drive, Santa Fe, New Mexico 87505.
- Environmental Department, Attention: Gedi Cibas, Environmental Impact Review Coordinator, Harold Runnels Building, 1190 St. Francis Drive, Room 4050, Santa Fe, New Mexico 87502.

Libraries

Cortez Public Library, Cortez, Colorado
Denver Public Library, Denver, Colorado
University of Colorado, Denver, Colorado
Durango Public Library, Durango, Colorado
Fort Lewis College Library, Durango, Colorado
Albuquerque Public Library, Albuquerque, New Mexico
Bloomfield Library, Bloomfield, New Mexico
Farmington Public Library, Farmington, New Mexico
San Juan College Library, Farmington, New Mexico
Diné College Library, Shiprock, New Mexico

FOR FURTHER INFORMATION CONTACT: Pat Page, Bureau of Reclamation, Western Colorado Area Office, 835 East Second Avenue, Suite 400, Durango, Colorado 81301–5475; telephone (970) 385–6500; faxogram (970) 385–6539; e-mail: *ppage@uc.usbr.gov.*

SUPPLEMENTARY INFORMATION: The FEIS describes the environmental impacts of alternatives to operate Navajo Dam and Reservoir to implement the flow recommendations provided by the San Juan River Basin Recovery Implementation Program (Recovery Program), or a reasonable alternative to those recommendations. The purpose of the proposed Federal action is to provide sufficient releases of water at times, quantities, and durations necessary to conserve, in concert with other fish recovery plans authorized under the Recovery Program, two endangered fish species and their designated critical habitat in the San Juan River downstream from Farmington, New Mexico. The two endangered fish species are the Colorado pikeminnow (*Ptychocheilus lucius*) and the razorback sucker (*Xyrauchen texanus*). Reclamation would maintain the authorized purposes of the Navajo Unit which include enabling future water development to proceed in the San Juan River Basin in compliance with applicable laws, compacts, court decrees, and Indian trust responsibilities.

Background

Navajo Dam, located on the San Juan River approximately 38 miles northeast of Farmington, New Mexico, and about 55 miles southeast of Durango, Colorado, is an authorized storage unit of the Colorado River Storage Project (CRSP). Navajo Dam was completed in 1963 as one of the four key features of the CRSP intended to develop the water resources of the Upper Colorado River Basin and is operated in accordance with the CRSP Act and applicable Reclamation and other Federal laws.

Reclamation proposes to take action to protect and assist in recovery of the populations and designated critical habitat of the two endangered fishes found in the San Juan River, while maintaining all authorized purposes of the Navajo Unit. Reclamation would implement the proposed action by modifying the operation of Navajo Dam, to the extent possible within CRSP authority, to achieve the flow recommendations developed by the Recovery Program. Reclamation's goal is to implement the proposed action and,

at the same time, continue to meet all authorized purposes of the CRSP.

Purpose and Need for Action

Under the proposed action, Navajo Dam will be operated to avoid jeopardy and assist in recovery of the two endangered fishes, while maintaining the authorized purposes of the Navajo Unit of the CRSP. This will allow future water development to proceed in the San Juan River Basin in compliance with applicable laws, compacts, court decrees, and Indian trust responsibilities. The proposed action is needed for the following reasons:

- The operation of Navajo Dam, under its original operating criteria, adversely affected the endangered fishes in the San Juan River.
- Reclamation is required to comply with the Endangered Species Act (ESA) for the operation of facilities, including Navajo Dam. Within the exercise of its discretionary authority, Reclamation must avoid jeopardizing the continued existence of listed species or adversely modifying designated critical habitat.
- Formal consultation under the ESA on the Navajo Unit was requested by Reclamation in 1991. At that time, Reclamation committed to operate Navajo Dam in concert with ongoing research to determine hydrologic conditions beneficial to endangered fish and in a manner most consistent with endangered fish recovery. In a 1991 response to Reclamation, the U.S. Fish and Wildlife Service concurred that the consultation process should be initiated and that the consultation period for the operation of the Navajo Unit be extended while research on the San Juan River was conducted. Under the direction of the Recovery Program, Navajo Dam releases were evaluated from 1992 to 1998. At the completion of the research period, the Recovery Program completed the *Flow Recommendations for the San Juan River* (Holden, 1999). The recommendations included suggested Navajo Dam operating rules for various hydrologic conditions and levels of water development in the San Juan River Basin. Applying these rules would allow the flow recommendations to be met and would allow water development consistent with the ESA and other applicable laws.

Proposed Federal Action

Reclamation proposes to take action to protect and assist in recovery of the populations and designated critical habitat of the two endangered fishes found in the San Juan River Basin. Reclamation would implement the proposed action by modifying the operations of Navajo Dam, to the extent possible, to achieve the flow recommendations developed by the Recovery Program. Reclamation's goal is to implement the proposed action and, at the same time, maintain and continue all authorized purposes of the CRSP.

The Navajo Reservoir Operations Draft Environmental Impact Statement was issued in September 2002 and the public review process was conducted from September 4 through December 4, 2002. Over 300 written comment letters were received. In addition, three public hearings were held to provide an opportunity for interested parties and agencies to present oral and written comments on the document and the proposed Navajo Reservoir operations. Comment letters, Reclamation responses, and public hearing statements are included in Volume III of the FEIS. The majority of comments received expressed concern with adverse impacts of the preferred alternative on resources such as the trout fishery, recreation, water quality, and hydropower. Other comments indicated that the preferred alternative was the only reasonable way to meet ESA obligations and protect water development. All written and oral comments received were carefully reviewed and considered in preparing the FEIS. Where appropriate, revisions were made to the document in response to specific comments. The comments and responses, together with the final environmental impact statement, will be considered in determining whether or not to implement the proposed action.

No decision will be made on the proposed Federal action until 30 days after release of the FEIS. After the 30-day waiting period, Reclamation will complete a Record of Decision. The Record of Decision will state the action that will be implemented and discuss all factors leading to that decision.

Dated: March 9, 2006.

Rick L. Gold,

Regional Director—UC Region, Bureau of Reclamation.

[FR Doc. E6–5844 Filed 4–19–06; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–502]

In the Matter of Certain Automobile Tail Light Lenses and Products Incorporating Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

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'') granting the joint motion of complainants and respondents to terminate the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3115. Copies of the public version of the ID and 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. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION: The Commission instituted the above-referenced investigation under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, as amended, on January 7, 2004, based on a complaint filed by Jens E. Sorensen of Rancho Santa Fe, California and Jens E. Sorensen, as Trustee of the Sorensen Research and Development Trust. 69 FR 937. The complaint alleged infringement of U.S. Patent No. 4,935,184 (''the '184 patent''), in the importation, sale for importation, and sale within the United States after importation of automobile tail light covers made in accordance with claims

1, 6, 8, and 10 of the '184 patent. The Commission named Daimler-Chrysler AG of Stuttgart, Baden-Wuerttemberg, Germany and Mercedes-Benz USA, LLC of Montvale, New Jersey as respondents.

On July 9, 2004, the presiding ALJ issued an ID granting respondents' motion for summary determination that their accused processes for making automobile tail light covers did not infringe any of the asserted claims of the '184 patent. Having found that the accused products did not infringe, he terminated the investigation. The Commission determined not to review the ID, and it thus became the Commission's final determination.

The complainants appealed the Commission's determination to the U.S. Court of Appeals for the Federal Circuit. The Court disagreed with the Commission's claim construction, reversed the Commission's finding of no infringement, and remanded the investigation to the Commission so that the investigation could continue. *See Sorensen et al.* v. *International Trade Commission*, 427 F.3d 1375 (Fed. Cir. 2005). On January 19, 2006, the Commission issued an order remanding the subject investigation to the ALJ for proceedings in accordance with the Federal Circuit's opinion.

On March 2, 2006, the complainants and respondents filed a joint motion for termination of the investigation based upon a settlement agreement. On March 9, 2006, the Commission investigative attorney filed a response in support of the motion. No party opposed the motion.

On March 29, 2006, the ALJ issued the subject ID which terminates the investigation on the basis of a settlement agreement. The ALJ indicates in the ID that the settlement agreement complies with Commission rule 210.21(b) and that settlement will not prejudice the public interest.

No party petitioned for review of the ID pursuant to 19 CFR 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 CFR 210.44. The ID thus has become the determination of the Commission pursuant to 19 CFR 210.42(h)(3).

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

By order of the Commission.

Issued: April 17, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–5950 Filed 4–19–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Richardson Constr. Co.,* No. 3:06 cv 1079, was lodged with the United States District Court for the District of South Carolina on April 7, 2006.

This proposed Consent Decree concerns a complaint filed by the United States against Richardson Construction Co., pursuant to sections 301 and 404 of the Clean Water Act, 33 U.S.C. 1311 and 1344, to obtain injunctive relief from the defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the restoration of the impacted wetlands to their previous condition and the payment of a civil penalty. The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to R. Emery Clark, Office of the United States Attorney for the District of South Carolina, Wachovia Building, Suite 500, 1441 Main Street, Columbia, South Carolina 29201 and refer to *United States* v. *Richardson Constr. Co.,* No. 3:06 cv 1079.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of South Carolina, United States Courthouse, 901 Richland Lane, Columbia, South Carolina. In addition, the proposed Consent Decree may be viewed at *http://www.usdoj.gov/enrd/open.html.*

Stephen Samuels,

Assistant Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 06–3751 Filed 4–19–06; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on April 6, 2006, a proposed consent decree (''proposed decree'') in *United States* v. *The Standard Oil Co. et al.*, Civil Action No. 3:06–cv–00539–JBA, was lodged with the United States District Court for the District of Connecticut.

The proposed decree resolves claims asserted by the United States, on behalf of the U.S. Environmental Protection Agency (''EPA''), against The Standard Oil Co. and Industrial Holdings Corp. (''Settling Defendants'') under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607. The claims sought to recover past response costs incurred at the Chase Brass & Copper site (''Site'') in Watertown, Connecticut. The proposed decree requires the Settling Defendants to reimburse the United States $4,000,000 in past response costs.

The Department of Justice will accept written comments relating to the proposed consent decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General c/o Jerome MacLaughlin, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to *United States* v. *The Standard Oil Co. et al.*, Civil Act No. 3:06–cv–00539–JBA (D. Conn.), DJ #90–11–3–08073.

Copies of the proposed decree may be examined at the Office of the United States Attorney for the District of Connecticut, 157 Church St. Floor 23, New Haven, CT 06510, or at the U.S. Environmental Protection Agency, Region I, One Congress St., Boston, MA 02114. During the public comment period, the proposed Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* Copies of the proposed Decree may also be obtained by mail from the U.S. Department of Justice, Consent Decree Library, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree library, please enclose a check in the amount of $4.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 06–3750 Filed 4–19–06; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting Notice No. 3–06]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME: Wednesday, April 26, 2006, at 10 a.m.

SUBJECT MATTER: (1) Issuance of Proposed Decisions in claims against Albania.

(2) Issuance of Proposed Decisions in claims against Cuba.

STATUS: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Mauricio J. Tamargo,

Chairman.

[FR Doc. 06–3794 Filed 4–17–06; 4:25 pm]

BILLING CODE 4410–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Reporting and Performance Standards System for the Indian and Native American Programs Under Title I–D, Section 166 of the Workforce Investment Act (WIA) of 1998

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

The Employment and Training Administration (ETA) is soliciting comments on modified reporting requirements for the Indian and Native American programs. This information collection request is necessary in order to collect data for calculating a set of common performance measures of the outcomes achieved by the Indian and Native American programs. A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice and also by accessing this Web site: *http://www.doleta.gov/Performance/guidance/OMBControlNumber.cfm.* In addition to the proposed ICR, ETA is requesting the extension of ETA Form 9080 (Financial Status Report). No changes are made to this form. Submit written comments to the office listed in the addressee section within 60 days after date of publication in the **Federal Register**. Comments may also be submitted via e-mail at: *etaperforms@doleta.gov* by using ''OMB 1205–0422'' in the subject line of the e-mail.

ADDRESSES: Send comments to: Ms. Athena R. Brown, Program Manager, Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C–4311, Washington, DC 20210; telephone: (202) 693–3737 (this is not a toll-free number); fax: (202) 693–3818; e-mail: *brown.athena@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Same information as **ADDRESSES** listed above.

SUPPLEMENTARY INFORMATION:

I. Background

Each grantee administering funds under the Indian and Native American programs is currently required to submit a Comprehensive Services Program (CSP) Semi-Annual and Annual Program report (ETA Form 9084), a Supplemental Youth Services (SYS) Semi-Annual and Annual Program report (ETA Form 9085), a Standardized Participant Record Data report, and Financial Status reports (ETA Form 9080) for both programs. The ETA Form 9084 provides adult participation data regarding agreed upon performance goals for the program year, information for system-wide reporting, and an evaluation for program improvement, and is the key means for measuring success in achieving goals of the program. The ETA Form 9085 provides cumulative data on youth participation, termination, performance outcomes, and socio-economic characteristics of participants. The information is used to determine the levels of program service and program accomplishments for the reporting program year. The ETA Form 9080 provides cumulative expenditure and obligation amounts for each funding stream. This information is used to ensure the appropriate use and management of Federal funds.

In 2001, under the President's Management Agenda, OMB and other Federal agencies developed a set of common performance measures to be applied to certain federally-funded employment and training programs with similar strategic goals. As part of this initiative, ETA recently issued Training and Employment Guidance Letter (TEGL) No. 17–05, ''Common Measures Policy for the Employment and Training Administration's Performance Accountability System and Related Performance Issues.'' The value of implementing common measures is the ability to describe, in a similar manner, the core purposes of the workforce system—how many people found jobs; did they keep their jobs; and what were their earnings. Multiple sets of performance measures have burdened states and grantees as they are required to report performance outcomes based on varying definitions and methodologies. By minimizing the different reporting and performance requirements, implementing a set of common performance measures can facilitate the integration of service delivery, reduce barriers to coordination among programs, and enhance the ability to assess the effectiveness and impact of the workforce investment system, including the performance of the system in serving individuals facing significant barriers to employment.

The common measures are an integral part of ETA's performance accountability system and ETA will continue to collect from grantees the data on program activities, participants, and outcomes that are necessary for program management and to convey complete and accurate information on the performance of workforce programs to policymakers and stakeholders.

This revision to the Indian and Native American programs' reporting system identifies changes in the level of information collection that is necessary to comply with Equal Opportunity requirements, holds grantees appropriately accountable for the Federal funds they receive, assesses

progress against the common performance measures, and allows the Department to fulfill its oversight and management responsibilities. It also requires grantees to submit all program reports on a quarterly basis; at this time they are required to report on an annual and semi-annual basis.

The ETA has implemented similar changes to the reporting requirements for the WIA Title I–B, Wagner-Peyser Act, and Trade Adjustment Assistance programs to incorporate the use of common performance measures for these programs.

Grantees are currently required to submit data according to measures established under the Government Performance and Results Act (GPRA), which are entered employment and positive termination rates for the CSP. For the SYS programs, current measures emphasize the attainment of academic skills and certificates, increases in literacy and numeracy skills, and other basic occupational competencies necessary for youth to compete for and obtain employment. While the adult GPRA measures for the Indian and Native American programs are similar to the common measures, the data elements that are needed to do the calculations are different, requiring modifications to the definitions and record layout of the current electronic reporting system used by grantees to report on program performance. Important changes include the following:

- Revising the current reporting forms;
- Revising the timeline of reporting to a quarterly basis;
- Elimination of data collection fields associated with the current Indian and Native American programs' performance standards system, and inclusion of data elements for calculating common measures;
- A change in the field that tracks the reason the participant exited the Indian and Native American program, because participants who exited due to certain reasons, such as becoming institutionalized, are excluded from calculations of common measures;
- Addition of three fields to track whether the participant was employed in the first, second, and third quarters after program exit, which are used to calculate the common measures; and
- The addition of fields to capture average earnings achieved by the participant over a six-month period following program participation for those employed during that period, to calculate the average earnings measure.

II. Desired Focus of Comments

Currently, the Department is soliciting comments concerning the revised information collection request for the Indian and Native American programs in order to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

Type of Review: Revision.

Agency: Employment and Training Administration, Labor.

Title: Reporting and Performance Standards System for the Indian and Native American programs authorized under Title I–D, section 166 of the Workforce Investment Act (WIA) of 1998.

OMB Number: 1205–0422.

Recordkeeping: Grantees shall retain all necessary documents related to the compilation and submission of the subject reports for three years after the submission of the final financial report for a specific grant reporting period.

Affected Public: Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, or Native Hawaiian organizations.

Cite/Reference/Form/etc.: Workforce Investment Act of 1998 (Public Law 105–220)/section 166(e)/ETA Form 9084 and ETA Form 9085.

Total Respondents: This ICR will be used by approximately 142 WIA section 166 CSP grantees as the reporting and performance measurement mechanism for programs serving adult participants. For the SYS program, this ICR will be used by approximately 98 WIA section 166 SYS grantees as the reporting and performance measurement mechanism for programs serving youth participants. Labor-funded grantees participating in the demonstration project under Public Law 102–477 will not be affected by this ICR and have not been included in the following burden estimates.

Frequency: Quarterly.

Total Responses: 240 submissions quarterly and 240 annually.

Estimated Total Burden Hours: 83,510.

Required section 166 activity/report	Number of respondents	Responses per year	Total responses	Average hours per response	Annual burden hours
ETA Form 9084 (CS)	142	4	568	24	13,632
SPIR Data	142	4	18,277	2.5	45,693
ETA Form 9085 (SYS)	98	4	392	24	9,408
ETA Form 9080–CSP	142	4	568	9.67	5,493
ETA Form 9080–SYS	98	4	392	9.67	9,284
Totals	240	20	20,197	348	83,510

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Costs associated with this collection will vary widely among grantees, from nearly no additional cost to some higher figure, depending on the size of individual grantee allotments, the state of automation attained by each grantee, and the wages paid to the staff managing the data collection, validation, and reporting process. However, since expenditures associated with the preparation and submittal of these reports should come from the associated Federal grant funds, there should be minimal additional costs, if any, to the grantees. The grantees will not be obligated to expend their own (*i.e.*, non-DOL) resources to fulfill these reporting

requirements. All costs associated with the submission of these forms are allowable grant expenses.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this ICR. Comments will become a matter of public record.

Dated: April 12, 2006.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

[FR Doc. E6–5935 Filed 4–19–06; 8:45 am]

BILLING CODE 4510–30–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Notice of Meeting; Sunshine Act

April 13, 2006.

TIME AND DATE: 10 a.m., Thursday, April 27, 2006.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the matter *Secretary of Labor* v. *Plateau Mining Corporation,* Docket Nos. WEST 2002–207 and WEST 2002–278. (Issues include whether the judge correctly determined that Plateau's bleeder system was not functioning in accordance with the requirements of 30 CFR 75.334(b)(1); whether the judge correctly determined that Plateau's alleged violation of section 75.334(b)(1) was of a significant and substantial nature; whether the judge correctly determined that Plateau violated 30 CFR 75.370(a) because its ventilation plan did not include a breached undercast; and whether the judge correctly determined that an operator may be held to have violated section 75.334(b)(1) even if it has complied with the terms of its ventilation plan).

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs, subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

FOR FURTHER INFORMATION CONTACT: Jean Ellen, (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 06–3809 Filed 4–18–06 12:13 pm]

BILLING CODE 6735–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Notice of Meeting; Sunshine Act

April 13, 2006.

TIME AND DATE: 10 a.m., Thursday, May 11, 2006.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the matter *Secretary of Labor* v. *Cumberland Coal Resources, LP,* Docket Nos. PENN 2044–73–R, PENN 2004–74–R, PENN 2004–75–R, PENN 2004–85–R, PENN 2004–86–R, PENN 2004–87–R, PENN 2004–88–R, PENN 2004–104–R, PENN 2004–105–R, PENN 2004–181, and PENN 2005–8. (Issues include whether substantial evidence supports the judge's findings that Cumberland violated 30 CFR 75.334(b)(1) on three occasions because its bleeder system failed to effectively dilute and carry away methane; whether substantial evidence supports the judge's finding that Cumberland had notice that its bleeder system violated 30 CFR 75.334(b)(1); and whether the judge correctly found that MSHA acted within its discretion in issuing imminent danger withdrawal orders on two occasions).

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs, subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

FOR FURTHER INFORMATION CONTACT: Jean Ellen, (202) 434–9950/(202 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 06–3810 Filed 4–18–05; 12:13 pm]

BILLING CODE 6739–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection: Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 40, Domestic Licensing of Source Material; and NRC Form 484, Detection Monitoring Data Report.

2. *Current OMB approval number:* 3150–0020.

3. *How often the collection is required:* On occasion. Reports required under 10 CFR part 40 are collected and evaluated on a continuing basis as events occur.

There is a one-time submittal of information to receive a license. Renewal applications need to be submitted every 5 to 10 years. Information in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis. NRC Form 484 is submitted biannually to report ground-water data necessary to implement EPA ground-water standards.

4. *Who is required or asked to report:* 10 CFR part 40: Applicants for and holders of NRC licenses authorizing the receipt, possession, use, or transfer of radioactive source and byproduct material.

NRC Form 484: Uranium recovery facility licensees reporting ground-water monitoring data pursuant to 10 CFR 40.64.

5. *The estimated number of annual respondents:* 340 licensees (68 NRC licensees and 272 Agreement State licensees).

6. *The number of hours needed annually to complete the requirement or request:* 65,418 hours [20,769 NRC Licensees (16,067 hours reporting and 4,702 hours recordkeeping) and 44,649 Agreement State Licensees (26,923 hours reporting and 17,726 hours recordkeeping)].

7. *Abstract:* 10 CFR part 40 establishes requirements for licenses for the receipt, possession, use and transfer of radioactive source and byproduct material. NRC Form 484 is used to report certain groundwater monitoring data required by 10 CFR part 40 for uranium recovery licensees. The application, reporting and recordkeeping requirements are necessary to permit the NRC to make a determination on whether the possession, use, and transfer of source and byproduct material is in conformance with the Commission's

regulations for protection of public health and safety.

Submit, by June 19, 2006, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–5 F52, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 11th day of April 2006.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E6–5932 Filed 4–19–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–237]

Exelon Generation Company, LLC; Notice of Issuance of Amendment to Facility Operating License: Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance; correction.

SUMMARY: This document corrects a Notice of Issuance of Amendment to Renewed Facility Operating License No. DPR–19 for Dresden Nuclear Power Station, Unit 2, appearing in the **Federal Register** on March 14, 2006 (71 FR 13185), that incorrectly referenced the applicable amendment number to be 210 when the correct amendment number was 218. This action is necessary to correct an erroneous amendment number.

FOR FURTHER INFORMATION CONTACT: Maitri Banerjee, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone (301) 415–2277, e-mail: *MXB@NRC.GOV.*

SUPPLEMENTARY INFORMATION: On page 13185 of the **Federal Register**, in the first column, eighth line from the bottom, it is corrected to read from ''210'' to ''218''.

Dated in Rockville, Maryland, this 13th day of April 2006.

For the Nuclear Regulatory Commission.

Maitri Banerjee,

Senior Project Manager, Plant Licensing Branch III–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–5934 Filed 4–19–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of April 24, 2006:

A closed meeting will be held on Wednesday, April 26, 2006 at 2 p.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), (8), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (8), (9)(ii) and (10) permit consideration of the scheduled matters at the closed meeting.

Commissioner Nazareth, as duty officer, voted to consider the items listed for the closed meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the closed meeting scheduled for Wednesday, April 26, 2006 will be: Formal orders of investigation; Institution and settlement of injunctive actions; Institution and settlement of administrative proceedings of an enforcement nature; Regulatory matter concerning financial institutions; and amicus consideration.

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) 551–5400.

Dated: April 17, 2006.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 06–3800 Filed 4–18–06; 11:09 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53652; File No. SR–Amex–2005–100]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendments No. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 4 Relating to the Establishment of a New Class of Registered Options Trader Called a Remote Registered Options Trader

April 13, 2006.

I. Introduction

On September 30, 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 establish a new class of Registered Options Trader called a Remote Registered Options Trader (''RROT''). On January 13, 2006, the Amex filed Amendment No. 1 to the proposed rule change.[3] On January 26, 2006, the Amex filed Amendment No. 2 to the proposed rule change.[4] The proposed rule change, as amended, was published for comment in the **Federal Register** on February 10, 2006.[5] The Commission received no comments in response to the proposed rule change. The Amex filed Amendment No. 3 to the proposed rule change on March 29, 2006, but the amendment was subsequently

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original filing in its entirety.

[4] Amendment No. 2 made clarifying changes to the Purpose section, as well as changes to the proposed rule text.

[5] *See* Securities Exchange Act Release No. 53220 (February 3, 2006), 71 FR 7083.

withdrawn on April 10, 2006. The Amex filed Amendment No. 4 to the proposed rule change on April 13, 2006.[6] This order approves the proposed rule, as amended by Amendments No. 1 and 2; grants accelerated approval to Amendment No. 4; and solicits comments from interested persons on Amendment No. 4.

II. Description

Amex proposes to adopt new Rule 994–ANTE to create a new category of registered options trader called an RROT. Amex also proposes to adopt amendments to existing Amex Rules 900–ANTE, 918–ANTE, 935–ANTE, 936–ANTE, 950–ANTE, 951–ANTE, 958–ANTE and 958A–ANTE to incorporate this new category of trader into relevant existing rules.

The Amex proposes to define an RROT as a ROT that is a member organization so designated by the Exchange and would be granted remote quoting rights to enter bids and offers electronically from locations other than the trading crowd, both on and off the Exchange's trading floor, where the applicable options class is traded. A member organization requesting approval to act as an RROT would be required to file a written application with the Exchange, pursuant to Exchange Rules, indicating that it is qualified as a ROT. The proposed rule also includes provisions that govern RROT applicant withdrawal, as well as suspension and/or termination of RROT assignments and review of such actions. Furthermore, RROTs may make adjustments to the option classes in which they will remotely quote in a form and manner prescribed by the Exchange.

Quoting Rights

RROTs would earn remote quoting rights based on the percentage of Amex floor volume they execute.[7] Specialists would earn remote quoting rights in two ways: (1) Based on the percentage of Amex floor volume they execute;[8] and (2) based on their percentage of the average market share of the industry volume in the option classes in which they specialize per quarter. The pool of quoting rights awarded by volume would be established quarterly by a Committee designated by the Board of Governors of the Exchange who would announce, not later than the first business day of each calendar quarter, the pool of available quoting rights available to be earned by percentage of Amex floor volume for the subsequent trading period.

The membership would be informed of the amount of quoting rights earned no later than one week prior to the commencement of the subsequent trading period. The award of remote quoting rights to specialists based upon their percentage of the average market share of the industry volume would depend on their percentage of the average market share of industry volume in the options classes in which they quote. The number of remote quoting rights earned[9] would vary quarterly, and no fractional remote quoting rights would be issued. The quoting rights earned by ROTs and specialists are not cumulative and are subject to change quarterly.[10] The quoting rights are calculated based solely on volume and market share earned from the previous quarter, and expire at the conclusion of each trading period.[11] Lastly, the remote quoting rights would be transferable between the members and member organizations, but the parties would be required to notify the Exchange of the transfer of any rights.

RROT Obligations

In exchange for remote quoting rights, RROTs would be required to fulfill a number of obligations. RROTs would be required to have at least one active floor member acting as a ROT, subject to certain limitations.[12] RROTs would be permitted to quote in up to five (5) option classes per seat owned or leased without any additional seat requirements, but would be required to purchase or lease one additional seat for every forty (40) option classes remotely quoted in excess of the five option classes. Exchange memberships used to satisfy membership requirements to remotely quote as an RROT would not be permitted to be used for any other purpose while being used in an RROT capacity, including being leased to another member or for trading on the trading floor.

RROTs would also be required to provide continuous two-sided quotations in at least 60% of the series of their assigned classes and may be called upon to submit a single quote or maintain continuous quotes in one or more series of an option class to which the RROT is assigned whenever it is in the interest of maintaining a fair and orderly market.

Limitation on RROT Activities

RROTs would be subject to the current designation of options areas that exist for ROTs.[13] In addition, the proposal would prohibit an RROT from executing an option transaction on a Paired Security if the RROT is standing in the Designated Stock Area where the related security is traded, unless given an exemption pursuant to Amex Rule 175(c).[14] The Exchange further proposes to amend Amex Rule 958–ANTE (e) and (f) to include RROTs.[15] In this regard, no RROT may act as such in a class of stock options on a stock in which he is registered in the primary market. An RROT may, however, act as such if the RROT meets the criteria set forth in Commentary.03(a) to Amex Rule 1000 or Commentary .02(a) to Amex Rule 1000A, or is approved by the Commission as eligible for trading arrangements under Amex Rule 958–ANTE(e) and Amex Rule 175(c)(2). The proposed changes to Amex Rule 958–ANTE (f) provide that no member, while acting as an RROT, if also registered as a registered equity trader or registered equity market-maker, would be required to execute a proprietary Exchange option transaction on a Paired Security if during the preceding 60 minutes he has been in the Designated Stock Area where the related security is traded.

The proposed rule would require that RROTs maintain information barriers and that no RROT be assigned to an options class where the RROT has a direct or indirect affiliate who is a specialist, ROT, SROT,[16] or RROT in such option class. The proposal further requires RROTs to comply with Amex Rule 193 regarding the misuse of material non-public information between the affiliate and the specialist member organization.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No.

[6] Amendment No. 4 proposes to clarify general statements in the Purpose section of Amendment No. 1, as well as changes to the proposed rule text that, among other things, incorporate changes recently approved by the Commission in SR–Amex 2005–075, which established a new class of Amex market maker, Supplemental Registered Options Traders (''SROTs''). *See* Securities Exchange Act Release No. 53635 (April 12, 2006).

[7] Volume executed via remote quoting would not count towards earning remote quoting rights.

[8] Volume executed via remote quoting would not count towards earning remote quoting rights.

[9] Each remote quoting right would permit an RROT to remotely quote one option class.

[10] *See* Amendment No. 4, *supra* note 6.

[11] *Id.*

[12] *See* Amendment No. 2, *supra* note 4.

[13] *See* Securities Exchange Act Release Nos. 39631 (February 9, 1998), 63 FR 8229 (February 18, 1998) and 46362 (August 15, 2002), 67 FR 54243 (August 21, 2002).

[14] *Id. See also* Amendment No. 4, *supra* note 6.

[15] *See* Amendment No. 4, *supra* note 6.

[16] *Id.* Amendment No. 4 also amends the ''Affiliation Limitations'' provision of Amex Rule 993–ANTE, which governs SROTs, to account for the establishment of RROTs.

4, including whether Amendment No. 4 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–2005–100 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9010.

All submissions should refer to File Number SR–Amex–2005–100. 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, Station Place, 100 F Street, NE., 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–2005–100 and should be submitted on or before May 11, 2006.

IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposal, as amended, is consistent with the provisions of section 6(b)(5) of the Act,[18] which requires, among other things, that a national securities exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Currently, the Exchange permits ROTs to submit quotes only from the physical trading floor. Under the proposal, RROTs would be permitted to quote electronically from locations other than the trading crowd where the applicable options class is traded on the Exchange's physical trading floor. Providing Registered Options Traders with the opportunity to quote in additional options classes should increase the liquidity available in those classes to which the RROTs are assigned.

Proposed Amex Rule 994(c)–ANTE sets forth the obligations that an RROT would be required to fulfill. Specifically, an RROT would be required to generate continuous, two-sided quotations in not less than 60% of the series of their assigned classes. The Commission believes that these obligations for RROTs are consistent with the Act. In particular, the Commission believes that RROT's affirmative obligations are sufficient to justify the benefits they receive as market makers.

Exchange rules require that information barriers would be in place to prevent the misuse of material, non-public information with any affiliates that may conduct a brokerage business in option classes assigned to an RROT, or that may act as a market maker in any security underlying options assigned to an RROT. RROTs would be required to also comply with Amex Rule 193 regarding the misuse of material non-public information between the affiliate and the specialist organization. In addition, RROTs would be prohibited from executing options transactions on a paired security if the RROT is standing in the Designated Stock area where the related security is traded, unless given an exemption by Amex Rule 175(c). Further, RROTs would be included in Amex Rule 958 –ANTE(e) and (f), which would impose limits on an RROT's ability to act as an RROT in an option on a stock in which the RROT is registered in the primary market. The Commission believes these provisions should help to ensure that options and equity trading will be sufficiently separated such that no time or place advantage is derived from the RROT's ability to stream quotes in a given option class from a location other than the post at which that option is traded on the Exchange floor.

Furthermore, the Commission finds good cause for approving Amendment No. 4 to the proposed rule change prior to the thirtieth day after publication for comment in the **Federal Register** pursuant to section 19(b)(2) of the Act.[19] Amendment No. 4 incorporates changes recently approved by the Commission, which modified many of the same rule provisions as proposed in the RROT filing. Additionally, the changes to the ''Affiliation Limitations'' sections of Amex Rules 993–ANTE and 994–ANTE should ensure that both SROTs and RROTs maintain appropriate information barriers and are assigned only to options classes where the SROT or RROT does not have a direct or indirect affiliate in such options classes and should help to ensure that equity trading will be sufficiently separated so that no time or place advantage is derived from the RROT's ability to stream quotes in a given option class from a location other than the post at which that option is traded on the Exchange floor. The Commission does not believe that Amendment No. 4 materially affects the original proposed rule change, as amended. Rather, Amendment No. 4 more accurately reflects the Exchange's current rules. Accordingly, the Commission finds good cause to accelerate approval of Amendment No. 4, consistent with sections 6(b)(5) of the Act,[20] and section 19(b) of the Act.[21]

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[22] that the proposed rule change (SR–Amex–2005–100), as amended by Amendments No. 1 and 2, be, and it hereby is, approved, and that Amendment No. 4 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–5918 Filed 4–19–06; 8:45 am]

BILLING CODE 8010–01–P

[17] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78s(b)(2).

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78s(b).

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53649; File No. SR–Amex–2006–29]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of the Allocation and Performance Evaluation Procedures for Securities Admitted to Dealings on an Unlisted Basis

April 13, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 6, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex seeks a one year extension of its allocations and performance evaluation procedures for securities admitted to dealings on an unlisted trading privileges (''UTP'') basis to permit these programs to remain in effect while the Commission considers permanent approval of these procedures.

The text of the proposed rule change is available on the Amex's Web site at *http://www.amex.com,* the Amex's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to extend its allocations and performance evaluation procedures for securities admitted to dealings on a UTP basis from April 6, 2006 through and including April 6, 2007. The text of the rules shall remain unchanged.

The Commission previously approved the Exchange's allocation and performance evaluation procedures on a pilot basis through two independent approval orders (''Pilots'').[3] In 2003, the Pilots were extended until October 5, 2003,[4] and April 5, 2004.[5] In 2004, the Pilots were extended through April 6, 2005.[6] In 2005, the Pilots were extended through April 6, 2006.[7] The instant proposed rule change makes no substantive change to the Pilots other than to extend them through April 6, 2007.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act[9] in general, and furthers the objectives of section 6(b)(5)[10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[11]

[3] *See* Securities Exchange Act Release No. 45698 (April 5, 2002), 67 FR 18051 (April 12, 2002) (SR–Amex–2001–107); and 46750 (October 30, 2002), 67 FR 67880 (November 7, 2002) (SR–Amex–2002–19).

[4] *See* Securities Exchange Act Release No. 47779 (May 1, 2003), 68 FR 24777 (May 8, 2003) (SR–Amex–2003–23).

[5] *See* Securities Exchange Act Release No. 48657 (October 17, 2003), 68 FR 61025 (October 24, 2003) (SR–Amex–2003–87).

[6] *See* Securities Exchange Act Release No. 49613 (April 26, 2004), 69 FR 24204 (May 3, 2004) (SR–Amex–2004–22).

[7] *See* Securities Exchange Act Release No. 52004 (July 8, 2005), 70 FR 41061 (July 15, 2005) (SR–Amex–2005–043).

[8] *See* e-mail from Nyieri Nazarian, Assistant General Counsel, Amex, to Terri Evans, Special Counsel, Division of Market Regulation (''Division''), Commission, dated April 10, 2006 (clarifying the establishment of two Pilots, as well as the dates and citations of prior extensions of the Pilots). The Amex also clarified that it was not seeking retroactive approval of the proposed rule change. Telephone conversation between Nyieri Nazarian, Assistant General Counsel, Amex, and Terri Evans, Special Counsel, Division, Commission, on April 10, 2006.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] Telephone conversation between Nyieri Nazarian, Assistant General Counsel, Amex, and Terri Evans, Special Counsel, Division, Commission, on April 10, 2006 (clarifying the statutory basis for the proposed rule change).

B. Self-Regulatory Organization's Statement on Burden on Competition

According to the Exchange, the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received by the Exchange on this proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of the filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

The Amex has requested that the Commission waive the 5-day pre-filing notice requirement and the 30-day operative delay. The Commission is exercising its authority to waive the 5-day prefiling requirement and believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest since it will allow the Pilots to continue without interruption in service to investors. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[14] At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] For purposes only of waiving the operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–2006–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–29. 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. 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–2006–29 and should be submitted on or before May 11, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–5919 Filed 4–19–06; 8:45 am]

BILLING CODE 8010–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53640; File No. SR–Amex–2005–096]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Relocation of Registered Options Traders Assigned Options Classes

April 12, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 22, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On April 5, 2006, the Amex submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to permit registered options traders (''ROTs'') to send proprietary electronic orders, representing a bona fide hedge or position liquidations, in an assigned option class for a period of up to three (3) months following a relocation of such option class when the ROT is no longer physically present in such trading crowd.

Below is the text of the proposed rule change. Proposed new language is in *italics.*

Options Transactions of Registered Options Traders

Rule 958–ANTE No registered options trader shall initiate an Exchange option transaction on the Floor and through the facilities of the Exchange for any account in which he has an interest except in accordance with the following provisions:

(a) through (i) No Change

Commentary * * *

.01 through .09 No Change

.10 A Registered Options Trader may apply to the Exchange for the ability to send electronic bona fide hedging and/or liquidating orders in a formerly assigned option class(es) that have been relocated to a different location on the trading floor, for up to a three (3) month period from the date the application is granted. The Registered Options Trader will not be required to be physically present in the new trading location for the purpose of sending bona fide hedging and/or liquidating orders to the option class(es) that have been relocated. Application is required to be made in writing to the Exchange's Division of Regulation and Compliance. The Exchange's Division of Regulation and Compliance is required to approve each application before a Registered Options Trader may send electronic orders pursuant to this Commentary. An extension of the three (3) month time period is not permitted. Upon the expiration of the three (3) month period, Registered Options Traders will no longer be permitted to electronically send orders from the floor of the Exchange for the purpose of bona fide hedging and/or liquidating positions in the formerly assigned options class.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

According to the Amex, the purpose of the proposed rule change is to provide ROTs who are no longer physically present in the trading crowd of his or her formerly assigned option class[4] with the ability to send electronic

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 (''Amendment No. 1'') supersedes and replaces the original filing in its entirety. The substance of Amendment No. 1 is incorporated into this notice.

[4] The Exchange states that a ROT would no longer be considered assigned to an option class once an assigned option class has been relocated to a different floor location and the ROT has not communicated his intention to relocate with such assigned options class. A ROT must communicate his intention to relocate if he wants to keep the assigned option class. This proposed rule change proposes a three (3) month grace period in which the ROT may electronically send orders to close-out or hedge those assigned options class positions.

orders in such option class or classes that have been relocated. The proprietary electronic orders of such ROT would be required to be part of a bona fide hedge [5] position or the liquidation of positions. The Exchange believes that providing ROTs with this limited ability to send orders for the purpose of creating a bona fide hedge or liquidating positions in an option class that has been relocated would provide an effective and efficient means for ROTs to reduce position risk.

The Exchange pursuant to Amex Rule 110 (applicable to options through Amex Rule 950–ANTE(a)) and Amex Rule 958–ANTE(a) require that each ROT be qualified and registered with the Exchange as a ROT and assigned by the Exchange in one or more classes of options. In addition, Amex Rule 958–ANTE(a) further provides that Exchange options transactions initiated by a ROT on the floor of the Exchange for any account in which such ROT has an interest must be in his or her assigned classes.

In those cases where an option class is relocated on the trading floor, a ROT has two alternatives: (i) Stay in his or her present location and no longer keep that assigned options class, in which case, the ROT may only hedge and/or liquidate positions by sending orders to another options exchange; [6] or (ii) keep the assigned options class and relocate with the option to the new location which may be difficult, and near impossible, depending on the ROTs other assigned classes. Accordingly, the Exchange submits that permitting ROTs, although not physically present in the trading crowd, to apply to the Exchange to send proprietary electronic orders constituting bona fide hedging and/or position liquidations in a formerly assigned option class or classes that have been relocated to different locations on the floor for up to a three (3) month period from the date the application is granted, would be reasonable and should help to reduce position risk and efficiently relocate options classes on the trading floor. The Exchange determined that three (3) months is a reasonable amount of time considering that that is the time period within which an expiration normally occurs. The Exchange also considered whether advance notice of an option class relocation is more suitable than a three (3) month extension; however, advance notice may be difficult, if not impossible, for such occurrences as market maker consolidations and mergers which is often the cause for the relocation. Therefore, the Exchange believes that the three (3) month extension is the best alternative to option class relocations.

Proposed Commentary .10 to Amex Rule 958–ANTE provides that a ROT would be required to apply to the Exchange and be granted approval in order to take advantage of the ability to send electronic orders under this proposal. Application in writing would have to be submitted to the Exchange's Division of Regulation and Compliance (''R&C''). The R&C would take into consideration several factors in determining whether to grant the ROT approval, including, but not limited to, if the ROT is in good standing with the Exchange, whether the ROT has had any recent regulatory issues and whether advance notice of the relocation was provided. The R&C would generally approve a ROT application to take advantage of the ability to send electronic orders under this proposal consistent with the absence of regulatory issues and sufficient advance notice of relocation. Once approved by R&C, a ROT would be able to send proprietary electronic orders, representing a bona fide hedge or position liquidation, in a formerly assigned option class, when such ROT is no longer physically present in the trading crowd, for a period of up to three (3) months without extension.

In connection with this proposal, the Exchange submits that rules governing ROTs relating to their assigned options classes would continue to apply to the use of electronic bona fide hedging and/or liquidating orders and that ROTs must continue to adhere to these rules. For example, ROTs would be required to adhere to their in-person trading requirements. Specifically, Amex Rule 958–NTE(g) provides that, except as otherwise determined by the Exchange, a minimum of 25% of a ROT's option contract volume, and a minimum of 25% of a ROT's total number of options transactions in any calendar quarter would have to be executed in person and not through the use of orders represented by another member or member organization. However, in any calendar quarter in which a ROT receives ROT treatment for off-floor orders in accordance with Commentary .01 of Amex Rule 958–ANTE, in addition to satisfying the requirements of Commentary .03 of Amex Rule 958–ANTE, the ROT would have to execute in person, and not through the use of orders represented by another member or member organization, at least 80% of his total transactions and option contract volume. Commentary .03 to Amex Rule 958–ANTE generally provides that at least 50% of a ROT's trading activity in any quarter be in his or her assigned classes. The Exchange notes that, if ROTs take advantage of this proposal, then they would become subject to the higher 75% requirement contained in Commentary .03 to Amex Rule 958–ANTE, whereby at least 75% of a ROT's trading activity in any quarter must be in his or her assigned classes.[7]

Amex Rule 935–ANTE(a) provides that non-broker-dealer customer orders are afforded priority over all other market participants. In addition, the orders for the accounts of all ''non-public customers,'' (*i.e.*, broker-dealers and members) are treated equally and may only retain priority over or be on parity with other orders of broker-dealers. Orders for the account of a ROT in connection with this proposal will not have priority over orders of

Therefore, for purposes of this rule filing, such relocated assigned option class shall be referred to as a ROT's ''formerly assigned option class.''

[5] Although the Act does not specifically define a ''bona fide hedge,'' the Exchange notes that the Commission has stated that it implies an appreciable offset of risk, for all or part of the position being hedged. A bona fide hedge may be established either by contemporaneous transactions in two securities where each position acquired reduces the risk of the other, or by a single transaction in which a position acquired in one security reduces the risk of a previously established position in another security. Any portion of a position that does more than offset the risk of the position or positions on the other side is not considered part of a bona fide hedge. *See* Commentary .13 to Amex Rule 111. An example of a bona fide hedge position would be owning the short sell position and then ''fully hedging'' (delta neutral) it with a long call position in the underlying securities.

[6] *See* Amex Rule 958–ANTE(a). In addition, Amex Rule 958–ANTE(h) provides, ''(i) Registered options traders may choose to either use an Exchange provided or proprietary automated quote calculation system to calculate and submit quotes in all or some of their assigned classes; join the specialist's disseminated quotation with the ability to manually change that quotation on a series-by-series basis in those classes the registered options trader has chosen not to use an automated quote calculation system; or enter orders into the ANTE System from their hand-held device. Whenever a registered options trader is either using an automated quote calculation system (pursuant to (i) above); joining the specialist's quote in a given option class (pursuant to (ii) above); or sending an order into the ANTE System, the registered options trader must be physically present at the specialist's post on the floor of the Exchange where that option class is traded.''

[7] According to the Exchange, the reason that a ROT would be subject to the higher 75% requirement is because the 50% requirement set forth in Commentary .03 to Amex Rule 958–ANTE applies to option transactions initiated by a ROT on the floor. Since the 75% requirement applies to ROTs receiving ROT treatment for off-floor orders, this higher 75% requirement would apply to ROTs who have been approved to take advantage of the ability to send electronic orders under this proposal due to the fact that electronic orders are considered off-floor orders.

customers and other broker-dealers, including specialists, other ROTs, away market makers and firms. Consistent with the Exchange's current rules on priority, parity, and precedence, the electronic hedging and/or liquidating orders of ROTs, as provided in this proposal, would be on parity with the orders of other broker-dealers, specialists, ROTs, and away market makers. The electronic hedging and/or liquidating orders of ROTs will continue to receive market maker treatment because the orders would be executed to reduce the risk of the positions put on by the ROT in connection with his market maker responsibilities in the formerly assigned option class.

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that providing ROTs with this limited ability to send orders in connection with a bona fide hedge or liquidating position in an option class that has been relocated would provide an effective and efficient means for ROTs to reduce position risk, and thereby, promote a free and open national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change, as amended, does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received by the Exchange on this proposal, as amended.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

A. By order approve the proposed rule change, as amended, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. 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–2005–096 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2005–096. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2005–096 and should be submitted on or before May 11, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–5920 Filed 4–19–06; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53655; File No. SR–DTC–2006–03]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change to Amend the Criteria Used to Place Participants on Surveillance Status

April 14, 2006.

I. Introduction

On February 3, 2006, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTC–2006–03 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on March 14, 2006.[2] The Commission received no comment letters in response to the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

Overview

DTC has developed certain criteria for placing participants on surveillance. Specifically, all broker-dealers from which DTC requires the submission of FOCUS or FOGS reports and banks from which DTC requires the submission of CALL reports [3] are assigned a rating that is generated by entering financial data of the participant into a risk evaluation matrix (''Matrix'') that was developed by

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 53435 (March 7, 2006), 71 FR 13198.

[3] A small number of DTC member banks which submit CALL reports are not assigned a rating. Because these banks do not make loans and do not take deposits as part of their business activities, their CALL reports do not contain information on asset quality and/or liquidity. Asset quality and liquidity are among the financial figures used in the Matrix. Since these figures would be zero in the Matrix for these banks, their Matrix results would not adequately portray their financial status. DTC has therefore concluded that these banks do not lend themselves to appropriate analysis using the Matrix.

credit risk staff.[4] Those participants with a ''weak'' rating (*i.e.*, deemed to pose a relatively higher degree of risk to DTC) are placed on an internal ''watch list'' and are monitored more closely. All participants that do not fall into the categories of banks and broker-dealers mentioned above are not currently included in the Matrix process but are monitored by DTC's credit risk staff using financial criteria deemed relevant by DTC.[5]

Procedures

Credit risk staff approaches its analysis of participants in the following manner. First, the required information of designated broker-dealers and banks are entered into the Matrix, and a rating for each participant is generated. Low-rated participants are placed on the watch list. At this point, credit risk staff may downgrade a particular participant's rating based on various qualitative factors. For example, one qualitative factor might be that the participant in question received a qualified audit opinion on its annual audit. In order for DTC to protect itself and its participants, it is important that credit risk staff maintain the discretion to downgrade a participant's Matrix rating and thus subject the participant to closer monitoring. All rated participants, including those on the watch list, are monitored monthly or quarterly, depending upon the participant's financial filing frequency, against basic minimum financial requirements and other parameters.

All broker-dealer participants included on the watch list are monitored more closely than those not on the watch list. This means that they are monitored for various parameter breaks which may include, but are not limited to, such things as a defined decline in excess net capital over a one month or three month period, a defined period loss, a defined aggregate indebtedness/net capital ratio, a defined net capital/aggregate debit items ratio, or a defined net capital/regulatory net capital ratio. All bank participants included on the watch list are also monitored more closely for watch list parameter breaks which may include, but are not limited to, such things as a defined quarter loss, a defined decline in equity, a defined tier one leverage ratio, a defined tier one risk-based capital ratio, and a defined total risk-based capital ratio.

Credit risk staff also monitors those participants not included in the Matrix process using similar criteria.[6] These criteria may include, but are not limited, to such things as failure to meet minimum financial requirements, experiencing a significant decrease in equity, or a significant loss. This class of participants may be placed on the watch list based on credit risk staff's analysis of this information. DTC continues to reserve the right to place a participant on the watch list for failure to comply with operational standards and requirements.[7]

III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to facilitate the safeguarding of securities and funds which are in its custody or control or for which it is responsible.[8] The Commission finds that DTC's proposed rule change is consistent with this requirement because it improves DTC's member surveillance process which should better enable DTC to safeguard the securities and funds which are in its custody or control or for which it is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2006–03) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–5933 Filed 4–19–06; 8:45 am]

BILLING CODE 8010–01–P

[4] The Matrix is used by DTC and its affiliated clearing agencies, the Fixed Income Clearing Corporation (''FICC'') and the National Securities Clearing Corporation (''NSCC''). In using the Matrix, credit risk staff uses the financial data of each applicable DTC participant and the financial data of each applicable member of FICC and NSCC. In this way, each applicable DTC participant, FICC member, and NSCC member are rated against each other.

[5] DTC will continually evaluate the matrix methodology and its effectiveness and will make such changes as it deems prudent and practicable within such time frames as it determines to be appropriate. DTC will update the Commission staff periodically on its evaluations of the Matrix.

[6] Participants that are not included in the Matrix are: the banks discussed in footnote 3, United States (''U.S.'') branches and agencies of non-U.S. banks, non-U.S. central securities depositories, and U.S. government sponsored enterprises.

[7] Participants are required to meet the standards of financial condition, operational capability, and character set forth in DTC Rule 2 (Participants and Pledgees).

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53653; File No. SR–NASD–2006–035]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Relating to Proposed Amendments to IM 2110–2 to Codify NASD's Existing Position that the Manning Rule Applies to All Members, Whether Acting as a Market Maker or Not

April 14, 2006.

On March 6, 2006, the National Association of Securities Dealers, Inc. (''NASD'') 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 relating to proposed amendments to NASD Interpretive Material 2110–2, Trading Ahead of Customer Limit Order (commonly referred to as the Manning Rule) to state that the rule applies to all members, whether acting as a market maker or not. NASD asked the Commission to grant accelerated approval to the proposed rule change. The Commission stated it would consider granting accelerated approval at the close of a 15-day comment period, and published the proposed rule change for notice and comment in the **Federal Register** on March 28, 2006.[3] The Commission received no comments on the proposal.

The Commission has reviewed carefully the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association[4] and, in particular, the requirements of section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 53527 (March 21, 2006), 71 FR 15503.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

15A(b)(6) of the Act,[5] which requires, among other things, NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change will improve treatment of customer limit orders and clarify the application of the Manning Rule to non-market makers. The Commission believes the anticipated improved treatment of customer limit orders and the clarification of the application of the Manning Rule to non-market makers will benefit investors and the public interest, and therefore, the Commission finds good cause to approve the proposed rule change prior to the 30th day after publication in the **Federal Register**.

It is therefore ordered, pursuant to section 19(b)(2) of the Act[6], that the proposed rule change (SR–NASD–2006–035) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–5915 Filed 4–19–06; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78o–3(b)(6).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53650; File No. SR–Phlx–2006–22]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, and Amendments No. 1 and No. 2 Thereto, Increasing Linkage Inbound Principal Order Fees

April 13, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2006, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Phlx. The Phlx has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization pursuant to section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. On April 10, 2006, the Exchange filed Amendments No. 1 and No. 2 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to increase from $0.15 to $0.25 per option contract the fee for P Orders[6] sent to the Exchange via the Intermarket Options Linkage (''Linkage'') pursuant to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (''Plan'').[7] The proposed change to the Exchange's Summary of Equity Options Charges are set forth below, with new text *italicized*, and text to be deleted [bracketed]:

SUMMARY OF EQUITY OPTIONS CHARGES (p. 2/6) OPTION TRANSACTION CHARGE

* * * * *

Linkage ''P'' [and ''P/A''] Orders[13]—$.[1]*25* per contract

Linkage ''P/A'' Orders[13]*—$.15 per contract*

[13] No proposed changes to the rule text.

* * * * *

This proposal is scheduled to become effective for trades settling on or after April 3, 2006 and will remain in effect as part of an existing pilot program, which is scheduled to expire July 31, 2006.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] By Amendment No. 1, the Exchange clarified Exhibit 5 by explaining the underlined text would be added and the bracketed text deleted. By Amendment No. 2, the Exchange added new proposed rule text to clarify that, as discussed below, it intends to increase only the Linkage Inbound Principal Order (''P Order'') fee, not the Linkage Principal Acting as Agent (''P/A Order'') fee.

[6] A Principal Order is an order for the principal account of an Eligible Market Maker.

[7] *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000) (order approving the Plan), and No. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000) (order approving Phlx as a participant in the Plan).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of increasing the charge for P Orders from $0.15 to $0.25 is to establish a fee that is competitive with other exchanges that charge similar or even higher fees for P Orders.[8] Consistent with current practice, the Exchange will charge the clearing member organization of the sender of Inbound Linkage P Orders.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with section 6(b) of the Act[9] in general, and furthers the objectives of section 6(b)(4) of the Act[10] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change. The Phlx has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act,[11] and paragraph (f)(2) of Rule 19b–4 thereunder[12] because it establishes or

[8] *See* Securities Exchange Act Release No. 52168 (July 29, 2005), 70 FR 45454 (August 5, 2005) (SR–ISE–2005–32), and No. 52073 (July 20, 2005), 70 FR 43474 (July 27, 2005) (SR–CBOE–2005–54).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

changes a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[13]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2006–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2006–22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the Phlx. 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–Phlx–2006–22 and should be submitted on or before May 11, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–5916 Filed 4–19–06; 8:45 am]

BILLING CODE 8010–01–P

[13] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change the Commission considers the period to commence on April 10, 2006, the date on which the Phlx filed Amendment No. 2. *See* 15 U.S.C. 78s(b)(3)(C).

[14] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: 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 package included in this notice is for approval of a new information collection.

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, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235. Fax: 410–965–6400.

E-mail: *OPLM.RCO@ssa.gov*.

The information collection listed below has been submitted to OMB for clearance. Your comments on the information collection 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 package by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

Section 107 Representative Payee Study—0960–NEW. As mandated by Section 107 of the Social Security Protection Act of 2004, the Social Security Administration is sponsoring an independently conducted study evaluating the Representative Payee Program. In this study, selected groups of SSA beneficiaries and representative payees will be interviewed about their experiences within the program. These two groups' responses will then be compared and contrasted. A re-contact study will also be conducted with 100 of the representative payees. The ultimate purpose of the study is to evaluate the knowledge level and performance of representative payees vis-à-vis the standards established for them by SSA. The respondents are recipients of SSA benefits (adults and youth ages 14–17) and representative payees (individuals and organizations).

Note: Please note that both the organization and numbers in the burden chart are different than those in the 60-day **Federal Register** Notice. The reason for this change is that the contractors who are conducting this study have made slight alterations to their study plan since the 60-day Notice was published.

Type of Request: New information collection.

BENEFICIARY BURDEN INFORMATION

	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
Advance Pre-Screening Letter	2,565	1	5	214
Screening Process	Same group as above	1	10	428
Survey Interview	Same group as above	1	30	1,283
Totals	2,565			1,925

REPRESENTATIVE PAYEE BURDEN INFORMATION

	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
Advance Pre-Screening Letter	5,130	1	5	428
Screening Process	Same group as above	1	10	855
Survey Interview	Same group as above	1	40	3,420
Re-Contact Interview	100 (a sample from the above group)	1	60	100
Totals	5,130			4,803

Total Burden Hours: 6,728 hours.

Dated: April 14, 2006.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E6–5899 Filed 4–19–06; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Delegation of Authority 291]

Delegation by the Secretary of State to the Under Secretary for Arms Control and International Security of Authority To Submit Certain Non-Proliferation Reports to the Congress

By virtue of the authority vested in me as Secretary of State, including Section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), I hereby delegate to the Under Secretary for Arms Control and International Security the authority to approve submission of reports to the Congress pursuant to Section 1302(b) of the Foreign Relations Authorization Act, Fiscal Year 2003, Pub. L. 107–228.

Any act, executive order, regulation or procedure subject to, or affected by, this delegation shall be deemed to be such act, executive order, regulation or procedure as amended from time to time.

Notwithstanding this delegation of authority, the Secretary or the Deputy Secretary may at any time exercise any authority or function delegated by this delegation of authority.

This delegation of authority shall be published in the **Federal Register**.

Dated: April 7, 2006.

Condoleezza A. Rice,

Secretary of State, Department of State.

[FR Doc. E6–5946 Filed 4–19–06; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2006–10]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 10, 2006.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–200X–XXXXX] by any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or John Linsenmeyer (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on April 12, 2006.

Ida M. Klepper,

Acting Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2006–24262.

Petitioner: Experimental Aircraft Association, Inc.

Section of 14 CFR Affected: 14 CFR 61.415(b)(1).

Description of Relief Sought:

To allow members of the Experimental Aircraft Association, Inc., who are sport pilot certified flight instructors holding powered parachute (PPC) or weight-shift control (WSC) category and class privileges to provide PPC and WSC category and class ratings, flight training, flight reviews, practical tests, and knowledge tests to individuals seeking a PPC or WSC private pilot certificate, without holding at least a private pilot certificate as required by the regulation.

[FR Doc. E6–5910 Filed 4–19–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Announcement of Safety Alert for Operators (SAFO) Web Site

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of SAFOs.

SUMMARY: In order to communicate safety information to the commercial aviation community more effectively, the FAA Flight Standards Service has issued FAA Order 8000.87, Safety Alert for Operators (SAFO). The public and operators can access this order at this Web site: *http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/safo.*

FOR FURTHER INFORMATION CONTACT: Hop Potter, Air Transportation Division, AFS–200, 800 Independence Avenue, SW., Washington, DC 20591, and Telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION:

Safety Alerts for Operators (SAFO)

FAA Order 8000.87, Safety Alerts for Operators (SAFO), established SAFOs on August 29, 2005. SAFOs permit the FAA to reclaim valuable guidance found in discontinued Air Carrier Operations Bulletins (ACOB). Much of that information is still valid. A SAFO may also contain new and important safety information alone or a combination of safety information and recommended (non-regulatory) actions. The respective operators identified in each SAFO may take action on a voluntary basis.

A SAFO exploits the power and reach of the Internet. A SAFO may be posted promptly, when its content may be most valuable, and that content is readily available for use by operators. We encourage operators to implement actions recommended in a SAFO.

Availability

We post SAFOs on an FAA Web site available to the public and maintained by the Flight Standards Service. The FAA does not distribute hard copies of individual SAFOs. Any person who wants a hard copy may download and print a SAFO from the Web site. We arrange SAFOs by category and by date, with the newest SAFO shown first in each category, the oldest shown last. Operators should check this site periodically for new safety information.

Issued in Washington, DC, on April 13, 2006.

John M. Allen,

Deputy Director, Flight Standards Service.

[FR Doc. E6–5911 Filed 4–19–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34859]

Red River Valley & Western Railroad Company—Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) has agreed to grant overhead trackage rights to Red River Valley & Western Railroad Company (RRVW) over BNSF's line of railroad between Jamestown, ND (milepost 93.2), and Casselton, ND (milepost 28.4), including BNSF's main line trackage from the switch at the intersection of RRVW's line to Ypsilanti, running west to the crossovers into the Jamestown yard tracks, a distance of approximately 74.0 miles.[1]

The transaction was expected to be consummated on or after April 7, 2006. The purpose of the trackage rights is to provide RRVW with an alternate route to other lines in its system. This alternate route has heavier rail, better quality track materials and can sustain higher operating speeds, thereby promoting safety and operating efficiencies.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34859, 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 Rose-Michelle Nardi, Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 13, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–5931 Filed 4–19–06; 8:45 am]

BILLING CODE 4915–01–P

[1] A redacted version of the trackage rights agreement between BNSF and RRVW was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. A protective order was served on April 13, 2006.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34847]

Lucas Rail Lines, Inc.—Acquisition and Operation Exemption—BPM Rail, Inc.

Lucas Rail Lines, Inc. (LRL), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from BPM Rail, Inc., d/b/a Louisville, New Albany & Corydon Railroad (LNAC), and operate 7.7 miles of rail line between milepost 0.0, at Corydon Junction, IN, and milepost 7.7, at Corydon, IN, as well as approximately 2.3 miles of side track and lead tracks.

LRL certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

The transaction was expected to be consummated on or after April 1, 2006, dependent upon the effective date of this notice of exemption and receipt of grant deeds to LNAC real property.

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. 34847, 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 Robert Patison, 302 North Sheridan Street, Corona, CA 92880–2067.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: April 11, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–5647 Filed 4–19–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34851]

Nittany and Bald Eagle Railroad Company—Temporary Trackage Rights Exemption—Norfolk Southern Railway Company

Norfolk Southern Railway Company (NSR) has agreed to grant non-exclusive, overhead, temporary trackage rights to Nittany and Bald Eagle Railroad Company (N&BE), over a portion of NSR's line between Driftwood, PA, at or near milepost 139.2, and Lock Haven, PA, at or near milepost 194.2, a distance of approximately 55 miles.[1]

The transaction is scheduled to be consummated on a date mutually agreed to in writing between N&BE and NSR, but shall occur no earlier than April 7, 2006, the effective date of the exemption (7 days after the exemption was filed). The temporary trackage rights will expire on December 30, 2006.

The purpose of this transaction is to allow N&BE adequate bridge train service for temporary, seasonal traffic originating on the N&BE for delivery to an off-line destination.

As a condition to this exemption, any employees affected by the acquisition of temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.-Trackage Rights-BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate,* 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of these temporary trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.-Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34732, 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 Richard R. Wilson, Esq., 127 Lexington Avenue, Suite 100, Altoona, PA 16601.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: April 12, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–5738 Filed 4–19–06; 8:45 am]

BILLING CODE 4915–01–P

[1] In conjunction with its Notice of Exemption, N&BE filed a motion for a protective order to cover the written agreement between N&BE and NSR, the Temporary Trackage Rights Agreement. In a decision served on April 12, 2006, the Board granted the motion for a protective order, finding that N&BE's motion conformed to the Board's rules at 49 CFR 1104.14, governing protective orders to maintain the confidentiality of materials submitted to the Board. An unredacted version of the agreement was subject to the Protective Order and Undertakings, ensuring that the parties' confidential information would be used solely for this proceeding and not for other purposes.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 12, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 22, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1225.

Type of Review: Extension.

Title: Notice of Plan Merger or Consolidation, Spin-off, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business.

Form: IRS Form 5310-A.

Description: Plan administrators are required to notify IRS of any plan mergers, consolidations, spin-offs, or transfers of plan assets or liabilities to another plan. Employers are required to notify IRS of separate lines of business for their deferred compensation plans. Form 5310-A is used to make these notifications.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 158,800 hours.

OMB Number: 1545–1434.

Type of Review: Extension.

Title: CO–26–96 (Final) Regulations Under Section 382 of the Internal Revenue Code of 1986; Application of Section 382 in Short Taxable Years and With Respect to Controlled Groups.

Description: Section 382 limits the amount of income that can be offset by loss carryovers after an ownership change. These regulations provide rules for applying section 382 in the case of short taxable years and with respect to controlled groups.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 875 hours.

OMB Number: 1545–1503.

Type of Review: Extension.

Title: Revenue Procedure 96–53, Section 482—Allocations Between Related Parties.

Description: The information requested in sections 4.02, 5, 8.02, 9, 11.01, 11.02(1), 11.04, 11.07 and 11.08 is required to enable the Internal Revenue Service to give advice on filing Advance Pricing Agreement applications, to process such applications and negotiate agreements, and to verify compliance with agreements and whether agreements require modification.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 8,200 hours.

OMB Number: 1545–1540.

Type of Review: Extension.

Title: REG–106871–00 (Final) Reporting Requirements for Widely Held Fixed Investment Trusts (TD 9241).

Description: The regulations clarify the reporting requirements of trustees and middlemen involved with widely held fixed investment trusts.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 2,400 hours.

OMB Number: 1545–1673.

Type of Review: Revision.

Title: Revenue Procedure 2003–44—Employee Plans Compliance Resolution System (RP 2002–47—revised).

Description: The information requested in this revenue procedure is required to enable the Commissioner, Tax Exempt and Government Entities Division of the Internal Revenue Service to make determinations on the issuance of various types of closing agreements and compliance statements. The issuance of these agreements and statements allows individual plans to maintain their tax-qualified status. As a result, the favorable tax treatment of the benefits of the eligible employees is retained.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, local or tribal government.

Estimated Total Burden Hours: 56,272 hours.

OMB Number: 1545–1971.

Type of Review: Extension.

Title: Household Employment Taxes.

Form: IRS Schedule H (Form 1040).

Description: Schedule H (Form 1040) is used by individuals to report their employment taxes. The data is used to verify that the items reported on the form is correct and also for general statistical use.

Respondents: Individuals or households and Business or other for-profit.

Estimated Total Burden Hours: 71,925 hours.

OMB Number: 1545–1972.

Type of Review: Extension.

Title: Supplemental Income and Loss.

Form: IRS Schedule E (Form 1040).

Description: Schedule E (Form 1040) is used by individuals to report their supplemental income. The data is used to verify that the items reported on the form is correct and also for general statistical use.

Respondents: Individuals or households and Business or other for-profit.

Estimated Total Burden Hours: 284,599 hours.

OMB Number: 1545–1973.

Type of Review: Extension.

Title: Net Profit From Business.

Form: IRS Schedule C–EZ (Form 1040).

Description: Schedule C–EZ (Form 1040) is used by individuals to report their employment taxes. The data is used to verify that the items reported on the form is correct and also for general statistical use.

Respondents: Individuals or households and Business or other for-profit.

Estimated Total Burden Hours: 1,027,515 hours.

OMB Number: 1545–1975.

Type of Review: Extension.

Title: Profit or Loss from Farming.

Form: IRS Schedule F, Parts 1 & 2 (Form 1040).

Description: Schedule F (Form 1040) is used by individuals to report their employment taxes. The data is used to verify that the items reported on the form is correct and also for general statistical use.

Respondents: Individuals or households and Business or other for-profit.

Estimated Total Burden Hours: 7,796,240 hours.

OMB Number: 1545–1976.

Type of Review: Extension.

Title: Profit or Loss from Farming.

Form: IRS Schedule F, Parts 2 & 3 (Form 1040).

Description: Schedule F (Form 1040) is used by individuals to report their employment taxes. The data is used to verify that the items reported on the form is correct and also for general statistical use.

Respondents: Individuals or households and Business or other for-profit.

Estimated Total Burden Hours: 49,356 hours.

OMB Number: 1545–1987.

Type of Review: Extension.

Title: Notice 138529–05 Section 1503(d) Failure to File Relief.

Description: Treasury regulation section 1.1503–2(b) provides that a dual consolidated loss of a dual resident corporation cannot offset the taxable income of any domestic affiliate in the taxable year in which the loss is recognized or in any other taxable year. To implement this general rule and its exceptions, Treas. Reg section 1.1503–2, 1.1503–2A, and 1.1503–2T require various filings to be included in a timely filed tax return. Taxpayers that fail to include section 1503(d) filings on a timely basis are currently required to request an extension of time to file under the provisions of section 301.9100–1 through 301.9100–3. This Notice announces that taxpayers will not be required to request extensions for most section 1503(d) filings if they can demonstrate that the failure to timely file was due to reasonable cause and not willful neglect.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 1,238 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–5912 Filed 4–19–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 13, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before May 22, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0168.

Type of Review: Extension.

Title: Application for Exemption from Self-Employment Tax Use by Ministers, Members of Religious Orders and Christian Science Practitioners.

Form: IRS Form 4361.

Description: Form 4361 is used by ministers, members of religious orders, or Christian Science practitioners to file for an exemption from self-employment tax on certain earnings and to certify that they have informed the church or order that they are opposed to the acceptance of certain public insurance benefits.

Respondents: Individuals or households.

Estimated Total Burden Hours: 10,168 hours.

OMB Number: 1545–0441.

Type of Review: Extension.

Title: Form 6559, Transmitter Report and Summary of Magnetic Media; Form

6559–A, Continuation Sheet for Form 6559.

Form: IRS Form 6559 and 6559–A.

Description: Forms 6559 and 6559–A are used by filers of Form W–2 wage and tax data to transmit filing on magnetic media. SSA and IRS need signed and summary data for processing purposes. The forms are used primarily by large employers and tax filing services (Service bureaus).

Respondents: Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; State, local or tribal government.

Estimated Total Burden Hours: 27,000 hours.

OMB Number: 1545–0919.

Type of Review: Extension.

Title: Limitations on Percentage Depletion in the Case of Oil and Gas Wells (PS–105–75) Final.

Description: The regulations require each partner to separately keep records of his share of the adjusted basis of partnership oil and gas property and require each partnership, trusts, estate, and operator to provide information necessary to certain persons to compute depletion with respect to oil and gas.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 1 hour.

OMB Number: 1545–1347.

Type of Review: Extension.

Title: FI–7–94 and FI–36–92 (Final).

Description: The Code limits the ability of State and local government issuers of tax-exempt bonds to earn and/or keep arbitrage profits earned with bond proceeds. This regulation requires recordkeeping of certain interest rate hedges so that the hedges are taken into account in determining those profits.

Respondents: State, local or tribal government.

Estimated Total Burden Hours: 42,050 hours.

OMB Number: 1545–1431.

Type of Review: Extension.

Title: Substantiation Requirement for Certain Contributions 1A–74–93 (Final)

Description: These regulations provide that, for purposes of substantiation for certain charitable contributions, consideration does not include *de minimis* goods or services. It also provides guidance on how taxpayers may satisfy the substantiation requirement for contributions of $250 or more.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Estimated Total Burden Hours: 51,500 hours.

OMB Number: 1545–1510.

Type of Review: Extension.

Title: Revenue Procedure 96–60, Procedure for filing Forms W–2 is certain Acquisitions.

Description: Information is required by the Internal Revenue Service to assist predecessor and successor employers in complying with the reporting requirements under Code sections 6051 and 6011 for Forms W–2 and 941.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 110,700 hours.

OMB Number: 1545–1533.

Type of Review: Extension.

Title: Revenue Procedure 97–22, 26 CFR 601.105 Examination of returns and claims for refund, credits, or abatement, determination of correct tax liability.

Description: The information requested in Revenue Procedure 97–22 under sections 4 and 5 is required to ensure that records maintained in an electronic storage system will constitute records within the meaning of section 6001.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; State, local or tribal government.

Estimated Total Burden Hours: 1,000,400 hours.

OMB Number: 1545–1667.

Type of Review: Extension.

Title: Revenue Procedure 99–50 Combined Information Reporting.

Description: The revenue procedure permits combined information reporting by a successor ''business entity'' (*i.e.*, a corporation, partnership, or sole proprietorship) in certain situations following a merger or an acquisition. The successor must file a statement with the Internal Revenue Service indicating what forms are being filed on a combined basis.

Respondents: Business or other for-profit; Not-for-profit institutions; Farms.

Estimated Total Burden Hours: 500 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–5914 Filed 4–19–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: ACH Vendor/Miscellaneous Payment Enrollment Form

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, 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 a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the SF 3881 ''ACH Vendor/Miscellaneous Payment Enrollment Form.''

DATES: Written comments should be received on or before June 19, 2006.

ADDRESSES: Direct all written comments to Financial Management Service, Records and Information Management Branch, Room 135, 3700 East West Highway, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Victor Robledo, EFT Strategy Division, Room 419A, 401 14th Street, SW., Washington, DC 20227, (202) 874–6919.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below:

Title: ACH Vendor/Miscellaneous Payment Enrollment Form.

OMB Number: 1510–0056.

Form Number: SF 3881.

Abstract: This form is used to collect payment data from vendors doing business with the Federal Government. The Treasury Department, Financial Management Service, will use the information to electronically transmit payment to vendors' financial institutions.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 70,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 17,500.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget 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.

Judith Tillman,

Assistant Commissioner, Regional Operations.

[FR Doc. 06–3769 Filed 4–19–06; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—New (EHSRDV)]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Policy, Planning and Preparedness, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Policy, Planning and Preparedness (OPP&P), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection of information, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine the factors impacting employment histories in recently discharged veterans.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 19, 2006.

ADDRESSES: Submit written comments on the collection of information to David Paschane, Office of Policy, Planning and Preparedness (008A), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420 or e-mail *David.Paschane@va.gov*. Please refer to ''OMB Control No. 2900—New (EHSRDV)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: David Paschane at (202) 273–6784 or FAX (202) 273–5993.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, the Office of Policy, Planning and Preparedness invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VA's functions, including whether the information will have practical utility; (2) the accuracy of VA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Employment Histories Survey of Recently Discharged Veterans.

Type of Review: New collection.

Abstract: The purpose of the study is to obtain information on recently discharged veterans and to test the feasibility of a two-wave pilot survey. The data includes recent employment history; occupation; senior management status; employment commensurate with previous work or military experience; experience with training, education, and employment assistance; education; disability status; and geographic mobility.

Affected Public: Individuals or households.

Estimated Time Per Respondent and Annual Burden: 647 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: Biennially.

Estimated Number of Respondents: 1,940.

Dated: April 10, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–5893 Filed 4–19–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0386]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 22, 2006.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202) 565–6950 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0386.'' Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0386'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Interest Rate Reduction Refinancing Loan Worksheet, VA Form 26–8923.

OMB Control Number: 2900–0386.

Type of Review: Extension of a currently approved collection.

Abstract: Title 38 U.S.C. 3729(a) requires VA to collect a funding fee in connection with guaranteed or direct loans. The fee is payable for both home and manufactured home loans. To be eligible for the guaranty, lenders must submit VA Form 26–8923, and VA Form 26–1820, Report and Certification of

Loan Disbursement when requesting a guaranty on an interest rate reduction refinancing loan and provide a receipt as proof that the funding fee was paid or evidence that the claimant is exempt from such fee. VA uses the data collected to ensure lenders correctly compute the funding fee and the maximum permissible loan amount for interest rate reduction refinancing loans.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 19, 2006 at page 3156.

Affected Public: Business or other for profit.

Estimated Annual Burden: 6,667 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Total Respondents: 40,000.

Dated: April 4, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–5894 Filed 4–19–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0564]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to enroll claimants receiving benefit payments into an electronic funds transfer program.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 19, 2006.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35 Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0564'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Direct Deposit Enrollment, VA Form 24–0296.

b. Direct Deposit Enrollment (Australia), VA Form 24–0296a.

c. Direct Deposit Enrollment (Canada), VA Form 24–0596b.

d. Direct Deposit Enrollment (Germany), VA Form 24–2096c.

e. Direct Deposit Enrollment (Ireland), VA Form 24–0296d.

f. Direct Deposit Enrollement (United Kingdom), VA Form 24–0296e.

OMB Control Number: 2900–0564.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete the Direct Deposit Enrollment forms to authorize VA to electronically deposit their benefit payments into their financial institution account.

Affected Public: Individuals or households.

Estimated Annual Burden:

a. VA Form 24–0296—750 hours.

b. VA Form 24–0296a (Australia)—100 hours.

c. VA Form 24–2096b (Canada)—100 hours.

d. VA Form 24–2096c (Germany)—100 hours.

e. VA Form 24–2096d (Ireland)—100 hours.

f. VA Form 24–2096e (United Kingdom)—100 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 5,000.

a. VA Form 24–0296—3,000.

b. VA Form 24–0296a (Australia)—400.

c. VA Form 24–2096b (Canada)—400.

d. VA Form 24–2096c (Germany)—400.

e. VA Form 24–0296d (Ireland)—400.

f. VA Form 24–0296e (United Kingdom)—400.

Dated: April 6, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–5896 Filed 4–19–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0554]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine applicants eligibility to receive a grant and/or per diem for programs to assist the homeless.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 19, 2006.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer to ''OMB Control No. 2900–0554'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Homeless Providers Grant and Per Diem Program, Capital Grant Application, VA Form 10–0361–CG.

b. Homeless Providers Grant and Per Diem Program, Life Safety Code Application, VA Form 10–0361–LSC.

c. Homeless Providers Grant and Per Diem Program, Per Diem Only Application, VA Form 10–0361–PDO.

d. Homeless Providers Grant and Per Diem Program, Special Needs Application, VA Form 10–0361–SN.

e. Compliance Reports for Per Diem and Special Needs Grants. No form needed. May be reported to VA in standard business narrative.

f. Homeless Providers Grant and Per Diem Program, Technical Assistance Application, VA Form 10–0361–TA.

g. Compliance Reports for Technical Assistance Grants. No form needed. May be reported to VA in standard business narrative.

OMB Control Number: 2900–0554.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 10–0361 series, Homeless Providers Grant and Per Diem Program, will be used to evaluate applicants eligibility to receive a grant/or per diem payments which provide supportive housing/services to assist homeless veterans transition to independent living. The collected information will be used to apply the specific criteria to rate and rank each application; and to obtain information necessary to ensure that Federal funds are awarded to applicants who are financially stable and who will conduct program for which a grant and/or per diem award was made.

Affected Public: Not-for-profit institutions, State, local or tribal governments.

Estimated Annual Burden: 14,340 hours.

a. Homeless Providers Grant and Per Diem Program, Capital Grant Application, VA Form 10–0361–CG—3,500 hours.

b. Homeless Providers Grant and Per Diem Program, Life Safety Code Application, VA Form 10–0361–LSC—2,000 hours.

c. Homeless Providers Grant and Per Diem Program, Per Diem Only Application, VA Form 10–0361–PDO—3,000 hours.

d. Homeless Providers Grant and Per Diem Program, Special Needs Application, VA Form 10–0361–SN—4,000 hours.

e. Compliance Reports for Per Diem and Special Needs Grants—1,500 hours.

f. Homeless Providers Grant and Per Diem Program, Technical Assistance Application, VA Form 10–0361–TA—250 hours.

g. Compliance Reports for Technical Assistance Grants—90 hours.

Estimated Average Burden Per Respondent:

a. Homeless Providers Grant and Per Diem Program, Capital Grant Application, VA Form 10–0361–CG—35 hours.

b. Homeless Providers Grant and Per Diem Program, Life Safety Code Application, VA Form 10–0361–LSC—10 hours.

c. Homeless Providers Grant and Per Diem Program, Per Diem Only Application, VA Form 10–0361–PDO—20 hours.

d. Homeless Providers Grant and Per Diem Program, Special Needs Application, VA Form 10–0361–SN—20 hours.

e. Compliance Reports for Per Diem and Special Needs Grants—5 hours.

f. Homeless Providers Grant and Per Diem Program, Technical Assistance Application, VA Form 10–0361–TA—10 hours.

g. Compliance Reports for Technical Assistance Grants—2.25 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents: 985.

a. Homeless Providers Grant and Per Diem Program, Capital Grant Application, VA Form 10–0361–CG—100.

b. Homeless Providers Grant and Per Diem Program, Life Safety Code Application, VA Form 10–0361–LSC—200.

c. Homeless Providers Grant and Per Diem Program, Per Diem Only Application, VA Form 10–0361–PDO—150.

d. Homeless Providers Grant and Per Diem Program, Special Needs Application, VA Form 10–0361–SN—200.

e. Compliance Reports for Per Diem and Special Needs Grants—300.

f. Homeless Providers Grant and Per Diem Program, Technical Assistance Application, VA Form 10–0361–TA—25.

g. Compliance Reports for Technical Assistance Grants—40.

Dated: April 4, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–5898 Filed 4–19–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0570]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 22, 2006.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, FAX (202) 565–6950 or e-mail:

denise.mclamb@mail.va.gov. Please refer to ''OMB Control No. 2900–0570.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0570'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Generic Veterans Health Administration Customer Satisfaction Surveys.

OMB Control Number: 2900–0570.

Type of Review: Extension of a currently approved collection.

Abstract: VA use customer satisfaction surveys to obtain its patients perception on the type and quality of healthcare services they need and their satisfaction with existing services. The data collected will be used to improve the quality of healthcare services.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 31, 2006 on page 5120.

Affected Public: Individuals or households.

Estimated Annual Burden: 130,644 hours.

a. Ad Hoc Facilities Surveys (VA Medical Facilities) and Special Emphasis Programs Conducted at Headquarters—44,182 hours.

b. Pre-approved Local Facilities Surveys (VA Medical Facilities)—86,461 hours.

Estimated Average Burden Per Respondent:

a. Special Emphasis Programs Conducted at Headquarters—11 minutes.

b. Local Facilities Surveys (VA Medical Facilities)—6 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 531,144.

a. Special Emphasis Programs Conducted at Headquarters—161,777.

b. Local Facilities Surveys (VA Medical Facilities)—369,367.

Dated: April 10, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–5900 Filed 4–19–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21) this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 22, 2006.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, FAX (202) 565–6950 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900-New.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900-New'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Certification of Change or Correction of Name, VA Form 29–586.

OMB Control Number: 2900-New.

Type of Review: Existing collection in use without an OMB control number.

Abstract: Claimants complete VA Form 29–586 to certify a change or correction to their name on Government Life Insurance policies.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 19, 2006 at pages 3155–3156.

Affected Public: Individuals or households.

Estimated Annual Burden: 20 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 120.

Dated: April 5, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–5901 Filed 4–19–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under the Department of Veterans Affairs (VA) Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: VA is announcing the availability of funds for applications for assistance under the Capital Grant component of the VA Homeless Providers Grant and Per Diem Program. This Notice contains information concerning the program, funding priorities, application process, and amount of funding available.

DATES: An original completed and collated grant application (plus three completed collated copies) for assistance under the VA Homeless Providers Grant and Per Diem Program must be received in the Grant and Per Diem Field Office, by 4 p.m. eastern time on June 14, 2006. Applications may not be sent by facsimile (FAX). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

For a Copy of the Application Package: Download directly from the VA Grant and Per Diem Program Web page at: *http://www.va.gov/homeless/page.cfm?pg=3* or call the Grant and Per Diem Program Office at (toll-free) 1–877–332–0334. For a document relating to the VA Homeless Providers Grant and Per Diem Program, see the Final Rule published in the **Federal Register** on September 26, 2003.

Submission of Application: An original completed and collated grant application (plus three copies) must be submitted to the following address: VA Homeless Providers Grant and Per Diem Field Office, 10770 N. 46th Street, Suite

C–200, Tampa, FL 33617. Applications must be received in the Grant and Per Diem Field office by the application deadline. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Dr. Guy Liedke, VA Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617; (toll-free) 1–877–332–0334.

SUPPLEMENTARY INFORMATION: This Notice announces the availability of capital funds for assistance under the VA Homeless Providers Grant and Per Diem Program for eligible entities to: (1) Expand existing transitional housing projects; or (2) develop new transitional housing programs. Supportive service centers will not be considered for funding. Funding applied for under the capital grant component may be used for:

(1) Remodeling or alteration of existing buildings; (2) acquisition of buildings, acquisition and rehabilitation of buildings; (3) new construction; and (4) acquisition of vans (in connection with a new or existing Grant and Per Diem Grant project) for outreach to and/or transportation for homeless veterans. Public Law 107–95, § 5(a)(1) the Homeless Veterans Comprehensive Assistance Act of 2001 *codified at* 38 U.S.C. 2011, 2012, 2061, and 2064 authorizes this program. The program has been extended through Fiscal Year 2006. For eligibility criteria please refer to the Final Rule published the **Federal Register** on September 26, 2003.

Capital grant applicants may not receive assistance to replace funds provided by any State or local government to assist homeless persons. A proposal for an existing project that seeks to shift its focus by changing the population being served or the precise mix of services being offered is not eligible for consideration. No more than 25 percent of services available in projects funded through this grant program may be provided to clients who are not receiving those services as veterans.

VA is pleased to issue this Notice of Fund Availability (NOFA) for the Homeless Providers Grant and Per Diem Program. The Department expects to award approximately $10 million under the Capital Grant component.

Funding available under this NOFA is being offered to help offset the capital expenses of existing State and local governments, Indian Tribal governments, faith-based, and community-based organizations that are capable of creating and providing supported transitional housing for homeless veterans. The District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, may be considered eligible entities under the definition of ''State'' in the Final Rule, Sec. 61.1 Definitions.

Per diem for these programs is requested in the grant application and may be paid at the time of grant project completion. It should be noted that VA per diem payment is limited to the applicant's cost of care per eligible veteran minus other sources of payments to the applicant for furnishing services to homeless veterans up to the per day rate VA pays for State Home Domiciliary care. Awardees will be required to support their request for per diem payment with adequate fiscal documentation as to program income and expenses.

Interested organizations should know that the vast majority of homeless veterans in this country suffer from mental illness or substance abuse disorders or are dually diagnosed with both mental illness and substance abuse disorders. In addition, many homeless veterans have serious medical problems. Collaboration with VA medical centers, VA community-based outpatient clinics or other health care providers as well as with VA and other benefit providers is an important aspect of assuring that homeless veterans have access to appropriate health care services. VA considers this program an important part of our effort to end chronic homelessness among veterans.

It is important to be aware that VA places great emphasis on responsibility and accountability. VA has procedures in place to verify the completion of the capital grant as well as monitor services provided to homeless veterans and outcomes associated with the services provided in grant and per diem-funded programs. Applicants should be aware of the following:

All awardees that are conditionally selected in response to *this NOFA* must meet the Life Safety Code of the National Fire and Protection Association as it relates to their specific facility. VA will conduct an inspection prior to awardees being able to submit request for per diem payment to ensure this requirement is met.

Upon capital grant completion each program seeking per diem will have a liaison appointed from a nearby VA medical facility to provide oversight and monitor services provided to homeless veterans in the per diem-funded program.

Monitoring will include at a minimum an annual review of each per diem program's progress toward meeting internal goals and objectives in helping veterans attain housing stability, adequate income support, and self sufficiency as identified in each per diem program's original application. Monitoring will also include a review of the agency's income and expenses as they relate to this project to ensure per diem payment is accurate.

Each per diem-funded program will participate in VA's national program monitoring and evaluation system administered by the VA Northeast Program Evaluation Center (NEPEC). NEPEC's monitoring procedures will be used to determine successful accomplishment of these housing outcomes for each per diem-funded program.

Authority: The VA Homeless Providers Grant and Per Diem Program is authorized by Public Law 107–95, § 5(a)(1) the Homeless Veterans Comprehensive Assistance Act of 2001 *codified at* 38 U.S.C. 2011, 2012, 2061, 2064 and has been extended through Fiscal Year 2006. The program is implemented by the final rule *codified at* 38 CFR 61.0. The final rule was published in the **Federal Register** on September 26, 2003, the regulations can be found in their entirety in 38 CFR, Sec. 61.0 through 61.82. Funds made available under this Notice are subject to the requirements of those regulations.

Allocation: Approximately $10 million is available for the Capital Grant component. Capital grant awards will be limited to transitional housing projects, (service centers will not be considered in this round), with no more than one award per tax identification number. Vans must be directly connected to a new or existing Grant and Per Diem Grant project and will be limited to one per project. Per diem payments to capital grant recipients are subject to the recipients maintaining the project for which the grant was awarded, the availability of funds and reauthorization of the program past September 30, 2006.

Funding Priorities: VA establishes priority for funding to underserved and low utilization populations and areas. In this round of capital grant funding, VA expects to award funding to create approximately 670 community-based supported housing beds.

Funding priority 1. Indian Tribal Governments or applicants whose projects are in partnership with Indian Tribal Governments and to the maximum extent possible are designed exclusively for homeless Native American veterans will be considered in the first funding priority. Provision of

housing services must occur on ''Indian Tribal property.'' Of those eligible entities in the first funding priority, that are legally fundable, the highest scoring applicants will be funded first until approximately $2 million is awarded. Applicants not funded in this priority will be considered in the third funding priority as applicable.

Funding priority 2. Applicants whose projects are physically located in Puerto Rico, and any territory or possession of the United States are the second funding priority. Eligible entities whose projects are located in these areas will be considered in the second funding priority. Of those eligible entities in the second funding priority, that are legally fundable, the highest scoring applicants will be funded first until approximately $1 million is awarded. Applicants not funded in this priority will be placed in the third funding priority.

Funding priority 3. VA is encouraging interested, state and local governments, faith-based, and community-based organizations to apply for funding under this NOFA. Eligible entities that are state and local governments, Indian Tribal governments, faith-based, and community-based organizations, along with those applicants not selected in the first or second funding priority will be considered in the third funding priority as applicable. Of those eligible entities that are legally fundable, the highest-ranked applications for which funding is available, will be conditionally selected for eligibility to receive a capital grant in accordance with their ranked order until funding is expended (approximately $7 million).

Methodology: VA will review all capital grant applications in response to this NOFA as follows: VA will group the applicants into the funding priorities categories. Applicants will then be ranked within their respective funding category based on score and any ranking criteria set forth in that funding category only if the applicant scores at least 600 cumulative points and must receive points under criteria from paragraphs (b), (c), (d), (e), and (i) of Section 61.13.

The highest-ranked application for which funding is available, within the highest funding category, will be conditionally selected in accordance with their ranked order until VA reaches the projected amount of funding for each category. If funds are still available after selection of those applications in the highest priority group VA will continue to conditionally select applicants in lower priority categories in accordance with the selection method set forth in the final rule Section 61.14.

Application Requirements: The grant application requirements will be specified in the application package. Applicants should be careful to complete the proper application package. Submission of the incorrect or incomplete application package will result in the application being rejected at threshold. The packages include all required forms and certifications. Selections will be made based on criteria described in the application, Final Rule, and NOFA. Applicants who are conditionally selected will be notified of any additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Dated: April 13, 2006.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E6–5897 Filed 4–19–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Disability Benefits Commission; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Veterans' Disability Benefits Commission has scheduled a town hall meeting for May 10, 2006, at the Sheraton St. Louis City Center Hotel & Suites, The Colonnade Ballroom, 400 South 14th Street, St. Louis, Missouri. The town hall meeting will begin at 7 p.m. and end at 9 p.m. The meeting is open to the public.

The purpose of the Commission is to carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service.

The Commission is conducting the fourth of eight fact-finding site visits throughout the United States. The St. Louis area was selected based on criteria that include the concentration of veterans, active-duty service personnel, and members of the National Guard and Reserves. Those criteria also include the location of Veterans Benefits Administration, Veterans Health Administration, and Department of Defense (DoD) facilities with particular interest in transition activities. The goal of this visit is to allow the commissioners the opportunity to tour local VA and DoD facilities; examine the processes in place which assist disabled veterans, service members, and survivors in their efforts to obtain benefits; and present these individuals and the general public with an opportunity to learn about the work of the Commission and to offer comments in face-to-face forums.

Interested persons may attend the meeting and present oral statements to the Commission. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may provide written comments for review by the Commission prior to the meeting or at any time, by e-mail to *veterans@vetscommission.intranets.com* or by mail to Mr. Ray Wilburn, Executive Director, Veterans' Disability Benefits Commission, 1101 Pennsylvania Avenue, NW., 5th Floor, Washington, DC 20004.

Dated: April 14, 2006.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–3752 Filed 4–19–05; 8:45am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veteran's Disability Benefits Commission; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Veterans' Disability Benefits Commission has scheduled a meeting for May 18–19, 2006, at the Holiday Inn National Airport, 2650 Jefferson Davis Highway, Arlington, VA. The meeting will begin each day at 8 a.m. On May 18, the meeting will end at 5 p.m., and on May 19 the meeting will end at 3 p.m. The meeting is open to the public.

The purpose of the Commission is to carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service.

The agenda for the session on May 18 will include an overview of the Department of Veterans Affairs National Compensation and Pension Exam Program located in Nashville, Tennessee, with additional briefings by QTC, Veterans Benefits Administration and Veterans Health Administration to address the process, quality, timeliness and cost of compensation and pension

examinations. The agenda will also feature a report of the Commission's site visits to Illinois and Missouri, and the Government Accountability Office will present its findings of the disability benefits available to Federal, state and local employees who serve the public in high-risk occupants and are injured in the line of duty. The agenda for the session on May 19 will feature updates on the progress of the studies being conducted by the Institute of Medicine (IOM) and the Center for Naval Analyses (CNA), to include the results of CNA's literature review, and a continuing discussion of Social Security Disability Income.

Interested persons may attend and present oral statements to the Commission. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may provide written comments for review by the Commission prior to the meeting, by e-mail to *veterans@vetscommission.intranets.com* or by mail to Mr. Ray Wilburn, Executive Director, Veterans' Disability Benefits Commission, 1101 Pennsylvania Avenue, NW., 5th Floor, Washington, DC 20004.

Dated: April 13, 2006.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–3753 Filed 4–19–05; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Thursday,
April 20, 2006

Part II

Environmental Protection Agency

40 CFR Parts 63 and 65

National Emission Standards for Hazardous Air Pollutants: General Provisions; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63 and 65

[EPA–HQ–OAR–2004–0094; FRL–8055–5]

RIN 2060–AM89

National Emission Standards for Hazardous Air Pollutants: General Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates amendments to certain aspects of startup, shutdown, and malfunction (SSM) requirements affecting sources subject to the national emission standards for hazardous air pollutants (NESHAP) in response to a July 29, 2003 petition to reconsider certain aspects of amendments to the NESHAP General Provisions published on May 30, 2003.

EFFECTIVE DATE: This final rule is effective on April 20, 2006.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2004–0094. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA Docket Center, Docket ID No. EPA–HQ–OAR–2004–0094, EPA West, Room B–102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Colyer, U.S. EPA Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Program Design Group (C504–05), Research Triangle Park, NC 27711; telephone number (919) 541–5262; fax number (919) 541–5600; e-mail address: *colyer.rick@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

Regulated Entities. Categories and entities potentially regulated by this action include sources in all source categories regulated under 40 CFR parts 63 and 65 that must develop a startup, shutdown, and malfunction plan.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's final rule amendments will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's policy and guidance page for newly promulgated rules at *http://www.epa.gov/ttn/oarpg*. The TTN provides information and technology exchange in various areas of air pollution control.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by June 19, 2006. Under section 307(d)(7)(B) of the CAA, only an objection to the final rule amendments that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the final rule amendments may not be challenged separately in any civil or criminal proceeding brought by EPA to enforce these requirements.

Outline. The information presented in this preamble is organized as follows:

I. General Information
II. Summary of Final Amendments
III. Responses to Comments
IV. Statutory and Executive Order Reviews
  A. Executive Order 12866: Regulatory Planning and Review
  B. Paperwork Reduction Act
  C. Regulatory Flexibility Act
  D. Unfunded Mandates Reform Act
  E. Executive Order 13132: Federalism
  F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  I. National Technology Transfer Advancement Act
  J. Congressional Review Act

II. Summary of Final Amendments

The NESHAP General Provisions were first promulgated on March 16, 1994 (59 FR 12408). We subsequently proposed a variety of amendments to the initial rule based in part on settlement negotiations with industrial trade organizations, which had sought judicial review of the rule, and in part on our practical experience in developing and implementing NESHAP, also known as maximum achievable control technology (MACT) standards, under the General Provisions (66 FR 16318; March 23, 2001). We then promulgated final amendments to the General Provisions pursuant to that proposal (67 FR 16582; April 5, 2002).

On April 25, 2002, Sierra Club filed a petition seeking judicial review of those final amendments, *Sierra Club* v. *U.S. Environmental Protection Agency*, No. 02–1135 (DC Circuit). The Sierra Club also filed a petition seeking administrative reconsideration of certain provisions in the final amendments, pursuant to Clean Air Act (CAA) section 307(d)(7)(B).

Shortly after the filing of the petition, EPA commenced discussions with the Sierra Club concerning a settlement agreement. We reached initial agreement with the Sierra Club on the terms of a settlement and lodged the tentative agreement with the court on August 15, 2002, under which we agreed to propose a rule to make specified amendments to the General Provisions.

Following execution of the final settlement agreement, we published proposed amendments effectuating its terms (67 FR 72875; December 9, 2002). Most of the General Provisions amendments dealt with clarifying the general duty to minimize emissions and its relationship to the startup, shutdown, and malfunction (SSM) plans required under 40 CFR 63.6(e)(3).

We issued final amendments (68 FR 32586; May 30, 2003) that require that a source must promptly submit a copy of its plan to its permitting authority if and when the permitting authority requests that the plan be submitted. The final amendments also require the permitting authority to obtain a copy of the plan from a facility if a member of the public makes a specific and reasonable request to examine or receive a copy. We noted that the permitting authority should work with the requester to clarify any request if it is overly broad or insufficiently specific.

After promulgation of the amendments, the NRDC petitioned EPA on July 29, 2003, under section 307(d)(7)(D) of the CAA, to reconsider the public access aspects of the SSM plan provisions. Specifically, NRDC opposed the criteria for the public to access SSM plans, i.e., that a plan may be obtained only if the request is ''specific and reasonable.'' The NRDC concluded that the final amendments

allow the Administrator to block a citizen's access to SSM plans just by declaring the request not ''specific and reasonable.''

On July 29, 2005 (70 FR 43992), we announced our reconsideration of these issues arising from the final amendments of May 30, 2003, regarding SSM plans, and proposed additional amendments to the General Provisions and conforming amendments to other parts 63 and 65 subparts. Today's notice responds to comments on the July 29, 2005 proposal and promulgates final rule amendments.

By removing the requirement that the SSM plan must be followed during periods of SSM, the final amendments allow sources flexibility to address emissions during periods of SSM. This in no way alters the obligation and requirement set out at 40 CFR 63.6(e)(1)(i) that source owners or operators ''minimize emissions'' at all times, including periods of SSM. Root cause analysis of excess emissions events may generally be the most effective means in many industry sectors to assist a source in meeting its regulatory obligation to minimize emissions at all times including during periods of SSM. Appropriately conducted root cause analysis should determine the fundamental cause of an excess emissions event, and identify the steps and corrective action necessary to ensure that the excess emission does not arise again. Through this process, we have determined that fewer and fewer excess emission events occur over time. Thus, performing a root cause or similar analysis and implementing corrective action may often be relevant in determining whether a source has met the good air pollution control measures standard. The final amendments do not change the current approach to minimizing emissions during periods of SSM, and we fully expect owners or operators to follow their SSM plans during periods of SSM. Owners or operators are also still required to keep records of and report actions taken during SSM periods to minimize emissions whenever there is an exceedance of an emissions limit (or a potential exceedance in the case of a malfunction). (See discussion of recordkeeping and recording requirements below.) We expect few owners or operators to deviate from their plans, and only when necessary due to unanticipated types of malfunctions, emergencies that are not amenable to strict adherence to the plan at the time, safety considerations that preclude following the plan as written, or when emissions can be better minimized by taking steps that are different from those set forth in the plan. Even then, the owner or operator must report such deviations and demonstrate how emissions were minimized when the plan was not followed. This is consistent with the prior provisions, except that deviation from the plan is no longer a violation of the SSM requirements of the General Provisions regulations. This change has been made in all the parts 63 and 65 subparts that had previously required the plan to be followed.

We are also removing the requirement that the Administrator obtain a copy of a source's SSM plan whenever requested by a member of the public. The public may obtain a copy of any plan obtained by the Administrator from a source. This includes any permitting authority (state or local agency) that has been delegated the authority to enforce standards under parts 63 and 65. Under the amendments, any permitting authority with delegation will still have the discretion to obtain plans requested by the public, but will not be required to do so. EPA's position is that SSM plans should not be viewed as compliance plans under section 502(b)(8) or 503(c) of the Clean Air Act or under EPA's Title V regulations at 40 CFR 70.5(c)(8). This is the most reasonable interpretation of those statutory and regulatory provisions and is consistent with EPA's position on implementation issues associated with SSM plan requirements discussed in more detail in the response to comment section below.[1]

The definition of ''compliance schedule'' in section 501(3) of the CAA equates ''schedule of compliance'' to ''schedule of remedial measures.'' Nothing in this definition or in any other provision of the CAA suggests that SSM plans must be considered ''compliance plans.'' In fact, the definition of compliance schedule suggests that the primary purpose of ''compliance schedules'' and ''compliance plans'' is to set out measures to be taken to remedy noncompliance. EPA's title V regulations at 40 CFR 70.5(c)(8), which describe what is to be included in a compliance plan, further support the reasonableness of EPA's view that SSM plans should not be considered compliance plans. Those regulations provide that a compliance plan must include a description of the compliance status of the source, a statement that the source will continue to comply with applicable requirements and, if the source is not in compliance with an applicable requirement, a narrative describing how compliance will be achieved. SSM plans serve a purpose different from that of compliance plans (see discussion below) and do not include the components described above that are required in compliance plans. Thus, EPA's position that SSM plans are not compliance plans is reasonable.

Plans available to the public will have confidential business information removed. Startup, shutdown, and malfunction plans are similar to the risk management plans prepared under section 112(r) to prevent accidental releases of HAP and may likely contain information that is protected as CBI or that may be sensitive from a security standpoint. For these reasons, many facilities are reluctant to provide the details of their plans and permitting authorities are reluctant to request them except when necessary. While these plans may be redacted prior to public release to remove CBI, this imposes additional burden on both the facilities and the permitting agencies. Thus we believe the limitation we are imposing in the final rule strikes a reasonable balance between the public's right to know, protection against acts of terrorism, and protection of a facility's CBI.

The amendments also make clarifying edits that reporting and recordkeeping is only required when a startup or shutdown causes the applicable emission standards to be exceeded, and for any occurrence of malfunction which also includes potential exceedances[2] and that such recordkeeping and reporting shall include information on actions taken during such periods of SSM to minimize emissions in conformance with § 63.6(e)(1)(i). When such actions are consistent with the plan the report can include a checklist, as is currently allowed for recordkeeping. Reports would allow a member of the public to review the actions taken and whether or not they conform to the general duty to minimize emissions. We are also revising the definitions for malfunction

[1] In the preamble to the proposal, we suggested that EPA does not have the authority to treat SSM plans as compliance plans or to require permitting authorities to make such plans available to the public. (70 FR 43994–95; July 29, 2005). Upon further consideration, we believe that the term ''compliance plan'' is somewhat ambiguous. However, for the reasons set forth below and in the response to comment section, we believe that an interpretation that SSM plans are not compliance plans is reasonable and appropriate.

[2] A malfunction is defined as any sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded.

throughout parts 63 and 65 in various subparts for consistency with the previously revised definition in the General Provisions.

III. Responses to Comments

General

Comment: One commenter thought EPA should not have considered petitions from parties who did not participate in previous rulemakings, and that EPA should have denied NRDC's petition for reconsideration.

Response: The EPA granted reconsideration on a narrow issue and has properly followed Section 307(d) of the CAA.

Enforcement

Comment: Several commenters were concerned that the amendments would render the SSM provisions essentially unenforceable. They felt that removal of the requirement to follow the plan would allow owners or operators to do anything they want during SSM periods with no accountability and will lead to increases in emissions if the plan is not followed. More specifically, Sierra Club asserts that section 304 of the CAA guarantees a citizen's right to enforce CAA requirements and that section 504(a) of the CAA requires that title V permits contain enforceable limits and standards and conditions necessary to assure compliance. Sierra Club alleges that if the requirement that a source implement its SSM plan is eliminated, there would be no means by which to measure a source's compliance with the general duty to minimize emissions. Sierra Club further argues that without the ability to measure a source's actions during an SSM event against that source's SSM plans, the public can't enforce the general duty requirement.

Sierra Club also asserts that proving a violation of the general duty standard would be virtually impossible given the vagueness of the standard. Sierra Club argues that EPA's proposed scheme renders the MACT standard unenforceable because if the SSM plan is not incorporated into the title V permit as a requirement, there will be no information in the title V permit indicating when the limit applies. Sierra Club believes that EPA's seeks to create a system in which adherence to plan can be used as a defense, but failure to follow a plan is not a violation.

Comments submitted by Tulane Environmental Law Clinic on behalf of St. Benard Citizens for Environmental Quality and Louisiana Bucket Brigade argue that the requirement to develop an SSM plan is (even under EPA's proposal) an applicable requirement and that the only way to assure compliance with this applicable requirement is to require that it be submitted to the regulatory agency and be available to the public.

Response: As summarized in the previous section, we do not believe the amendments will change anything with respect to how owners and operators will react during periods of SSM except that they will have the flexibility to depart from a SSM plan when doing so makes sense under the circumstances. They are still required to develop SSM plans, minimize emissions during periods of SSM, and keep records and report SSM events if there is an exceedance (or could have been, in the case of malfunctions) of an applicable MACT standard. We expect owners and operators to continue to follow the SSM plans with respect to most SSM events because those plans should generally set forth the best way to minimize emissions. Those who fail to follow their plan will undergo additional scrutiny, as they do now, to determine if emissions were minimized during SSM periods. The amendments should have no practical effects on a source's obligation to minimize emissions during periods of SSM.

EPA's intention is that the recordkeeping and reporting requirements will provide the permitting authority and the public with information to determine whether the general duty to minimize emissions has been satisfied any time there is an exceedance (or could have been, in the case of malfunctions). We have evaluated the recordkeeping and reporting requirements in light of comments on the availability of information necessary to evaluate compliance with the general duty requirement and have decided to amend the recordkeeping and reporting requirements to clarify that a source must keep records of and report actions taken during an SSM event any time there is an exceedance. Revisions to § 63.10(d)(5)(i) and (ii) require that a description of actions taken to minimize emissions be included in SSM reports whether or not the SSM plan was followed. In the case where the plan is followed, a checklist may suffice, and in the case of multiple events, only one checklist is necessary (*e.g.*, multiple startups of batch processes where the procedure to minimize emissions is always the same). With respect to recordkeeping, the rules currently require sources to keep a record of actions taken during SSM events (40 CFR 63.10(b)(2)(iv) and (v)). Where actions were consistent with an SSM plan, the rules require records of ''all information necessary to demonstrate conformance'' with the plan and provide that such information can be recorded in the form of a checklist. (§ 63.10(b)(2)(v)) We are amending these rules today to clarify that such records or checklist must include all actions taken during the SSM event to minimize emissions. We are also making conforming changes to 40 CFR 63.6(e)(3)(iii).

With these clarifications, any time there is an exceedance of an emission limit (or could have been in the case of malfunctions) and thus a possibility that the general duty requirement was violated, there will be a report filed that will describe what actions were taken to minimize emissions that will be available to the public.

Any member of the public could use the information in these reports to evaluate whether adequate steps were taken to meet the general duty requirement. This information is likely to be of as much if not more use in determining compliance with the general duty requirement than a facility's general SSM plan because the information will be specific to the particular SSM event that caused the exceedance. We note that the public can also request that the permitting authority obtain the SSM plan if information in the SSM report suggests that the contents of the SSM plan would help determine if there was a violation of the general duty requirement. However, even if the permitting authority is not willing to obtain the SSM plan, the required reports should provide adequate information to determine whether there is a violation of the general duty requirement and thus a basis for a citizen suit. In any such citizen suit, plaintiffs can seek to obtain the SSM plan through discovery.

The general duty to minimize emissions is not too vague to be enforced as suggested by Sierra Club. Though the general duty to minimize emissions may not provide absolute certainty in all cases, there will be many circumstances in which compliance or non-compliance will be clear. A regulation that does not reach constitutionally protected conduct is not facially vague unless it is impermissibly vague in all its applications. (*Village of Hoffman Estates* v. *Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 496(1982); *Sweet Home Chapter of Communities for a Greater Oregon* v. *Babbit*, 1.F.3d. 1, 4 (D.C. Cir. 1994).

Further, it is not impossible to know when the MACT applies without knowing how the facility defines startup, shutdown and malfunction in

its SSM plan. EPA regulations define the terms startup shutdown and malfunction and it is these definitions that apply when determining whether a facility is legitimately claiming to be experiencing a period of SSM.

With respect to the argument that the only way to assure compliance with the duty to develop a plan is to require that it be submitted to permitting authority and be available to the public, assuring compliance does not require that the Agency observe compliance first hand. It is perfectly appropriate for the Agency to rely on certifications (title V regulations require sources to certify compliance with all applicable requirements (40 CFR 70.5(c)(9))) or on inspection, record keeping and reporting authorities of section 114 of the CAA to decide on a case by case basis when to inspect or request copies of documents

Comment: Two commenters said that emissions during SSM events should be required to comply with the NESHAP standard. One commenter said EPA had failed to support a general assumption that sources cannot meet emission limitations during periods of SSM or that setting emission limitations during these periods is not feasible.

Response: These commenters raise issues that are outside of the scope of this rulemaking. The general duty provision has been in place since 1994. Moreover, comments concerning whether a particular source type can meet a particular emission standard during periods of startup, shutdown or malfunction could be raised when the emissions standards for that source are developed. As one commenter noted, ''EPA can, and in some instances has, included requirements for compliance during SSM in source-specific NESHAP standards.''

Though these comments raise issues that are outside the scope of this rulemaking, we note that in the May 8, 2004 **Federal Register** notice EPA stated ''EPA believes that it has discretion to make reasonable distinctions concerning those particular activities to which the emission limitations in a MACT standard apply'' (68 FR 32586, 32590; May 30, 2003). We also note that the EPA SIP guidance cited by one commenter is not relevant to the scope of EPA's authority to consider periods of SSM in promulgating NESHAP standards.

Comment: Several commenters stated that the sources should be required to provide the permitting authorities with copies of SSM plans even absent a request because the permitting authorities need to review SSM plans before problems arise. These commenters also felt that greater public access to the plans is beneficial because such scrutiny can help ensure that the plans are adequate and the general duty to minimize emissions can be met.

Response: We do not believe that it is necessary to have each owner or operator automatically submit its SSM plan. Our regulations make it clear that all a permitting authority has to do is request the SSM plan and the owner or operator is required to provide it. While the authority to request the plan is derived from section 114, there is no special order or document that needs to be issued to obtain the SSM plan. Thus, the permitting authority may review any plan and may also make it available to the public. We do not believe prior review and approval of plans are necessary; rather, in most cases, review of reports required to be submitted by a facility when emission limitations are exceeded (or could have been in the case of malfunctions) will allow the permitting authority and the public to determine whether emissions were minimized during periods of SSM. However, if it so chooses, a permitting authority is free to request SSM plans and review them prior to any SSM events occurring. Typically, permitting authorities will more often review and assess SSM plan of sources with numerous and frequent periods of SSM. It may not be necessary to review plans of sources with few or infrequent SSM events, allowing the permitting authority to direct its resources to more productive endeavors. The permitting authority has the discretion to review as many plans as it wants in order to ensure, that emissions are minimized during periods of SSM.

Comment: Several commenters thought it made no sense to require that plans be developed but not require them to be followed.

Response: We disagree. Development of SSM plans help sources to think through and document actions to take during SSM events. Plans will help sources more expeditiously address SSM events to minimize emissions during those periods. Once the plans are developed, sources will have every incentive to follow the plans if appropriate, or face additional scrutiny if the plans are not followed. In any event, sources are required to minimize emissions regardless of whether the plans are followed. By not requiring strict adherence to the SSM plan, we are allowing the source additional flexibility as to how it will minimize emissions. Plans also may help permitting authorities streamline determinations of whether emissions are minimized. If it is established that emissions are minimized by following the plan during a particular SSM event, making that determination when a subsequent similar SSM event occurs should be much less burdensome assuming the plan has not been revised.

Comment: Several commenters felt that if an SSM plan is developed in good faith and is not ''obviously deficient,'' it should be considered a ''safe harbor.'' Others felt that following the plan should not be a safe harbor.

Response: We believe that following the SSM plan should not be a safe harbor. Where the SSM plan is out of date or deficient or the circumstances clearly called for other steps to minimize emissions, blind adherence to the plan should not be sufficient. We leave to the discretion of the permitting authority the question of how much weight to give the SSM plan in a particular situation. However, assuming that the plan was made in good faith and not deficient, we believe that in most cases following the SSM plan should help establish that the source was minimizing emissions.

Comment: Several commenters thought there should be a requirement that sources periodically review and update their SSM plans. Two commenters stated that because implementation of SSM plans will no longer be required, sources will be less likely to periodically review and update SSM plans.

Response: Our regulations already require sources to keep their SSM plans current, *i.e.*, up to date, and to review and change the plans to ensure that emissions are minimized. ''The owner or operator must maintain at the affected source a current startup, shutdown, and malfunction plan and must make the plan available upon request for inspection and copying by the Administrator'' (§ 63.6(e)(3)(v)). Plans are required to address potential expected SSMs to minimize emissions. Plans should be updated whenever changes are necessary to address new or different types of SSM events as provided for in paragraphs 63.6(e)(3)(vii) and (viii). Moreover, the Administrator (or delegated authority) has the ability under § 63.6(e)(3)(vii) to require that SSM plans be revised if they are deficient or not current.

Applicable Requirements

Comment: Numerous commenters agreed with the EPA's position at proposal that the SSM plan details themselves are not the applicable requirements under the Act, but the general duty clause (§ 63.6(e)(1)) is. They further agreed that the plan

elements should not be incorporated into the title V permits.

One commenter believed that the SSM plan elements should be applicable requirements. Another commenter thought that the requirement to follow the plan should be an applicable requirement in the title V permit but the individual elements of the SSM plan should not be considered incorporated into the permit.

Response: As explained in our proposal (70 FR 43992; July 29, 2005), we believe that the general duty to minimize emissions is the applicable requirement, not the SSM plan itself. However, we note that the SSM plan is a useful tool for sources to demonstrate—and for permitting authorities to confirm—that the general duty to minimize emissions is met. We do not agree that requiring implementation of the SSM plan is necessary to assure compliance with general duty requirement. The SSM plan is a useful tool that may help the permitting authority determine compliance depending on the circumstances, but it is not ''necessary.'' As explained above, compliance with the general duty requirement can be achieved through different means such as examining SSM reports to determine whether general duty has been satisfied. The case law cited by Sierra Club is not on point. Both *Waterkeeper Alliance, Inc.* v *EPA*, 399 F.3d. 486 (2nd Cir. 2005) and *Environmental Defense Center, Inc.* v. *EPA*, 344 F.2d. 832 (9th Cir.2003) involved EPA regulatory schemes under which plans developed by the regulated entity, which were not reviewed or approved by the regulatory agency (nutrient development plans and stormwater management plans under the Clean Water Act, respectively), served to establish binding requirements, compliance with which would automatically satisfy an underlying statutory or regulatory requirement. SSM plans are not binding requirements and, as explained above, adherence with an SSM plan does not necessarily establish compliance with the general duty requirement.

Comment: One commenter wanted clarification on the relationship of the SSM plan requirements to title V, specifically what language should be included in the permit regarding the requirement to develop a plan. The commenter notes that § 63.6(e)(3)(ix) explicitly refers to a title V requirement whereas other provisions do not; the comment suggests an edit to the paragraph that would clarify the provision.

Response: The intent of § 63.6(e)(3)(ix) was to ensure that the only requirement with respect to the title V permit was that an SSM plan be developed, that the elements of the plan are not to be incorporated into the permit, and that changes to the plan would not trigger a permit modification. The commenter's suggested edits are helpful and have been incorporated into the paragraph.

Conforming Changes to Other Subparts

Comment: Several commenters supported the conforming changes to the other subparts with respect to the requirement to follow the plan. One commenter stated that EPA failed to explain its reason for changing specific part 63 subparts and how the changes would affect the specific source categories.

Response: Although there was no explicit statement explaining why the other subparts were being amended, these changes were made merely to conform to the changes being made in the General Provisions. Many of the part 63 subparts repeated requirements in the General Provisions about following the SSM plan and had to be revised to be consistent with the changes to the General Provisions. Because the changes in the individual subparts are necessary for conformance with the General Provisions, we felt that no explanation was required.

Impacts

Comment: One commenter stated that EPA failed to comply with Executive Order 12898 on Environmental Justice. The commenter asserts that the amendments will adversely affect minority and low income communities around the sources.

Response: Executive Order 12898 establishes a Federal policy for incorporating environmental justice into Federal agency actions by directing agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority and low-income populations. The EPA has considered the impact of the proposal on minority and low income populations. We do not believe that these amendments will have any adverse effects on emissions during periods of SSM. Therefore, there should not be any adverse impact on minority and low income populations as a result of these amendments. The amendments do not affect the underlying requirement to minimize emissions during SSM events. Owners or operators are still required to develop SSM plans to address emissions during these periods. They are required to report immediately when the plans are not followed and semiannually when the plans are followed and emission limitations are exceeded (or could have been in the case of malfunctions) and describe steps taken to minimize emissions. The only difference from current regulations is that the source is not required to follow the plan, especially when the situation may call for other action or when safety considerations override following the plan as written.

Comment: One commenter stated that EPA failed to comply with Executive Order 13045 on Protection of Children for Environmental Health and Safety Risk. The commenter disagrees with EPA's position that the Executive Order only applies to regulations that are based on health or safety risks.

Response: Executive Order 13045 does not apply to this proposal because, as is explained above, it does not change any emission standard, it is not economically significant and because it is not based on health and safety risks.

SSM Plan Availability

Comment: There were numerous comments on SSM plan availability to permitting authorities and the public. Some governmental commenters stated that it is difficult to obtain SSM plans using section 114 of the Act, and that permitting authorities should not be required to obtain the information through a request made under section 114 of the Act. One commenter stated that part 63 does not clearly state that permitting authorities can request and receive copies of the plans and that the provisions should be amended to make this clear and to require that the plan be provided within 30 days. The commenter stated that state laws allowing access to information vary from state to state and are sometimes vague. Several industry commenters stated that SSM plans should be available only through CAA section 114 requests.

Response: The existing part 63 regulations already require a source to (1) allow the permitting authority to inspect the SSM plan at the premises or (2) ''promptly'' submit the plan to the permitting authority if the permitting authority makes a written request for it. The regulations state that the ''Administrator may at any time request in writing that the owner or operator submit a copy of any startup, shutdown, and malfunction plan (or portion thereof) * * * [and] the owner or operator must promptly submit a copy of the requested plan (or a portion thereof) to the Administrator'' (§ 63.6(d)(3)(v)). The authority for this provision is section 114(a) of the Act.

However, there is no special procedure or order required; the Administrator or the permitting authority need only request the SSM plan in writing. The Administrator or permitting authority may also inspect and copy the SSM plan at the premises: ''The owner or operator must maintain at the affected source a current startup, shutdown, and malfunction plan and must make the plan available upon request for inspection and copying by the Administrator'' (§ 63.6(e)(3)(v)). The authority for this inspection provision is also section 114(a). Under section 114(b), states may develop and submit to the Administrator a procedure for carrying out section 114 in the state, and the Administrator may delegate his/her authority to the state. All permitting authorities that have obtained delegation of part 63 standards have already demonstrated that they have state authority equivalent to section 114 to monitor, to inspect, and to obtain records, including SSM plans. Accordingly, permitting authorities should have no difficulty in obtaining plans. The underlying authority for the part 63 provisions allowing permitting authorities to inspect or obtain copies of SSM plans is based on section 114(a) or its state equivalent. Because all SSM plans are obtained under section 114(a) or its state equivalent, any plans so obtained must be available to the public under section 114(c) of the Act, which provides that any records obtained under section 114(a) ''shall be available to the public,'' with the exception of portions considered confidential.

Comment: Several commenters agreed that permitting authorities should not be required to obtain SSM plans whenever a member of the public requests one. Other commenters disagreed and believed that any member of the public should be able to request an SSM plan. Several commenters thought the public should be able to review the plans to determine if emissions are minimized and argued that denying public access makes general duty unenforceable.

Response: As discussed above, we do not believe that the details of SSM plans are compliance plans or are required to be available under title V. As discussed above, recordkeeping and reporting requirements will provide regulators and the public with adequate information concerning actions taken during periods of SSM. Permitting authorities can obtain and review plans as necessary, and all plans that are obtained will be available to the public subject to limitation on availability of CBI.

Comment: Several commenters believed the proposal effectively cut off public access to plans.

Response: We disagree. Public access to SSM plans is still available, in the case where the permitting authority has obtained a plan. We believe that most permitting authorities will request a plan from a source when presented with a reasonable request for the plan. There is no federal requirement to do so, however, and unless otherwise specified under state statute or regulations, state and local authorities have the discretion to obtain the plan upon public request.

Comment: Several commenters argued that companies will not be responsive to requests for SSM plans from the public.

Response: We recognize that some companies might choose not to respond to requests from the public. However, we hope and expect that other companies would indeed respond to public requests. Moreover, as explained above, the public may ask the permitting authority to obtain the SSM plan. Where the public has made a reasonable request, we believe that the permitting authority would likely be responsive and obtain the plan from the source. Because the authority to obtain such plan is based on section 114 of the Act or its state equivalent, any plan obtained by the permitting authority will be available to the public.

Comment: Another commenter noted that the difficulty of ''untangling'' SSM plans from facility operating procedures and CBI are not good reasons for restricting public access.

Response: As stated earlier, all SSM plans obtained by the permitting authority are publicly accessible. We are sensitive to the effort involved by some sources to create a standalone SSM plan for submittal, but do not believe requiring all plans to be submitted automatically for review is justified. However, permitting authorities will obtain SSM plans as necessary, regardless of the burden imposed on the source to develop a standalone document.

Comment: The same commenter maintained that the paperwork burden on permitting authorities also should not be a reason for not requiring submittal of SSM plans.

Response: Permitting authorities may obtain any SSM plan that it wants. Thousands of sources are required to prepare SSM plans, and we believe the permitting authority should have the discretion to obtain those it feels are appropriate. For the reasons discussed above, we do not think it is necessary to impose a requirement that all plans be automatically submitted to the permitting authority, especially if this results in the permitting authority reallocating resources from enforcement and implementation to handling paper. We think it is best for the individual permitting authority to make that decision. If they so choose, they can routinely ask all sources to submit SSM plans.

Confidential Business Information (CBI)

Comment: Two commenters noted that plans can be sanitized of their CBI-sensitive information prior to submittal to the permitting authority, but other commenters insisted that SSM plans not be released because of sensitive information. One commenter additionally noted that SSM plans may contain security-sensitive information and provide a roadmap to terrorists seeking to disrupt a facility.

Response: Plans may be submitted with CBI identified; such submittals will be treated in accordance with requirements applicable to claims of CBI. We also agree that plans can be ''cleansed'' of CBI and other sensitive information and submitted. The public will have access to any non-CBI submittal and non-CBI portions of plans with CBI identified. This is what happens now.

Comment: Some commenters stated that limiting public access to plans and removing the requirement to implement the SSM plan makes it difficult for the public to determine when an emission exceedance constitutes a violation of a MACT standard. These commenters also stated that reducing public access to SSM plans hinders citizen enforcement efforts.

Response: These amendments do not change the ability of the public to determine when an emissions exceedance constitutes a violation of a MACT standard and shouldn't make enforcement of the general duty requirement more difficult. Plans previously available are still available for public review. Permitting authorities may obtain any SSM plan from any source and allow the public to examine it. Sources must report what procedures and actions it did take during periods of SSM if there was an exceedance of an emission limit (or could have been in the case of malfunctions). Such reports are also available to the public. As explained above, this information can be used by the public and the permitting authority to support enforcement efforts.

Reporting

Comment: One commenter stated that without a requirement to implement SSM plans, the regulation should require reporting of all SSM events so that the general duty can be evaluated

for each event. Another commenter added that only those SSM events that exceeded the emission standards be reported.

Response: We agree that all SSM events that exceed (or could have exceeded, in the case of malfunctions) the emission limitations be reported. We also agree that as long as the emission limitations are being met, SSM events need not be reported (except those malfunctions that could have exceeded the emission limitations), *i.e.*, as long as the relevant standards are being met, there is no benefit to a reporting requirement in terms of assuring compliance with the general duty standard. We have made clarifying edits in the regulatory language.

Comment: One commenter did not think that facilities should have to report whether or not they followed their SSM plan. Another commenter did not think sources should have to report immediately if the SSM plan was not followed.

Response: We disagree. Information on whether or not an SSM plan was followed gives the permitting authority and the public information that can help them determine if further scrutiny of a source is in order. If the permitting authority has reviewed a source's SSM plan and determined that it is adequate, information that the source followed that plan during an SSM event could be helpful to the regulator in determining whether to investigate the event. Not following the plan may or may not indicate a problem, but such information would be very helpful to the permitting authority and the public in order to determine if additional scrutiny or investigation of the event is necessary. Immediate reporting if the plan was not followed is appropriate to alert the permitting authority and the public of a potential problem.

Comment: One commenter questioned why SSM events still have to be reported as deviations if emission limitations do not apply.

Response: The general duty to minimize emissions is the applicable requirement during SSM events. In order to effectively enforce this requirement, it is important to have information about SSM events that involve exceedances (or potential exceedances in the case of malfunctions) in order to determine whether further scrutiny is appropriate. Deviations do not necessarily equate to violations.

Recordkeeping

Comment: Numerous commenters agreed with the elimination of certain recordkeeping requirements for startups and shutdowns when relevant emission standards are not exceeded. One commenter was not clear on how burden had been relieved; the commenter cites § 63.6(e)(3)(iii) and asked what documentation was necessary.

Response: The amendments and the clarifications we are promulgating today relieve the recordkeeping burden for startups and shutdowns that do not result in a exceedance of an emissions limitation.

Regulatory Language

Comment: Several commenters pointed out that some subparts have their own SSM provisions and do not cite subpart A as the applicable requirements. The proposal should have not referenced subpart A but instead continued to reference the applicable provisions within their subparts.

Response: We agree with the commenters and have made the suggested edits.

Comment: Several commenters noted that the reference to § 63.6(e) instead of the requirement to follow the SSM plan was overly broad, and in fact should have referred more narrowly to the general duty to minimize emissions since that is the applicable requirement.

Response: We agree with the commenters and have made the suggested edit to refer to § 63.6(e)(1).

Comment: One commenter suggested clarifying changes to ensure reporting and recordkeeping for startups and shutdowns is required only when the applicable emission limitation is exceeded.

Response: We agree and have made the suggested edits. As explained above, as long as the standards are being attained there is no need to report.

Comment: Several commenters recommended revising the definition for ''malfunction'' in other subparts where it occurs to be consistent with the definition in subpart A. One commenter also suggested revising the general duty provision where it occurs in other subparts to be consistent with subpart A.

Response: We agree this is appropriate for consistency and have revised the definitions and provisions accordingly.

Comment: A couple of commenters recommended incorporating paragraph § 63.6(e)(3)(ix) into the General Provisions applicability table in all of the applicable subparts.

Response: We agree that § 63.6(e)(3)(ix) should apply to all the applicable part 63 subparts. We have revised all of the applicable General Provisions applicability tables accordingly.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether this regulatory action is ''significant,'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines a ''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 entitlement, 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, OMB has notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order. The EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

As required by the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, the OMB must clear any reporting and recordkeeping requirements that qualify as an information collection request (ICR) under the PRA.

Approval of an ICR is not required in connection with these final amendments. This is because the General Provisions do not themselves require any reporting and recordkeeping activities, and no ICR was submitted in connection with their original promulgation or their subsequent amendment. Any recordkeeping and reporting requirements are imposed only through the incorporation of specific elements of the General Provisions in the individual MACT standards which are promulgated for

particular source categories which have their own ICRs. In any case, we believe that adoption of the amendments will not materially alter the burden imposed on affected sources through the incorporation of the General Provisions in individual MACT standards. We anticipate that any incremental changes in the recordkeeping and reporting burden estimate for individual MACT standards will be addressed in the context of the periodic renewal process required by the PRA.

However, OMB has previously approved the information collection requirements contained in the existing regulations of 40 CFR parts 63 and 65 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* A copy of the OMB approved Information Collection Request (ICR) for any of the existing regulations may be obtained from Susan Auby, Collection Strategies Division; U.S. EPA (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460, or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule.

For purposes of assessing the impacts of the final rule amendments on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201 for each applicable subpart; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and that is not dominant in its field.

After considering the economic impacts of today's final rule amendments on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives which minimize any significant economic impact on a substantial number of small entities (5 U.S.C. 603–604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

Small entities that are subject to MACT standards would not be required to take any action under the final rule amendments; the amendments simply remove the requirement that sources must follow their SSM plan. However, we do not expect sources will address periods of SSM any differently than they do now.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess 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 a rule for which a written statement is needed, section 205 of the UMRA generally requires us 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 the 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 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, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the final rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or to the private sector in any 1 year. Thus, today's final rule amendments are not subject to sections 202 and 205 of the UMRA. The EPA has also determined that the final rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's final rule amendments are not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

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

The final rule amendments do not have federalism implications and 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. None of the affected facilities are owned or operated by State governments. Thus, Executive Order 13132 does not apply to the final rule amendments.

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

Executive Order 13175 (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.'' The final rule amendments do not have tribal implications, as specified in Executive Order 13175. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to the final rule amendments.

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

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. The final rule amendments are not subject to Executive Order 13045 because they are not ''economically significant'' and are based on technology performance and not on health or safety risks.

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

The final rule amendments are not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because they do not have an economically significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113, 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 impractical. The VCS are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable VCS.

The final rule amendments do not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. The final rule amendments are not a ''major rule'' as defined by 5 U.S.C. 804(2). The final rule amendments are effective on April 20, 2006.

List of Subjects in 40 CFR Parts 63 and 65

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: March 31, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons cited in the preamble, title 40, chapter I, parts 63 and 65 of the Code of Federal Regulations are amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—[Amended]

■ 2. Section 63.6 is amended by:
■ a. Revising the first sentence in paragraph (e)(1)(ii);
■ b. Removing the first sentence in paragraph (e)(3)(i) introductory text and adding two new sentences in its place;
■ c. Removing and reserving paragraph (e)(3)(ii);
■ d. Revising the first through third sentences in paragraph (e)(3)(iii);
■ e. Removing the sixth sentence in paragraph (e)(3)(v); and
■ f. Revising the first and second sentences in paragraph (e)(3)(ix) to read as follows:

§ 63.6 Compliance with standards and maintenance requirements.

* * * * *

(e) * * *

(1) * * *

(ii) Malfunctions must be corrected as soon as practicable after their occurrence. * * *

* * * * *

(3) * * *

(i) The owner or operator of an affected source must develop a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the source during periods of startup, shutdown, and malfunction; and a program of corrective action for malfunctioning process, air pollution control, and monitoring equipment used to comply with the relevant standard. The startup, shutdown, and malfunction plan does not need to address any scenario that would not cause the source to exceed an applicable emission limitation in the relevant standard. * * *

* * * * *

(ii) [Reserved]

(iii) When actions taken by the owner or operator during a startup or shutdown (and the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), or malfunction (including actions taken to correct a malfunction) are consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, the owner or operator must keep records for that event which demonstrate that the procedures specified in the plan were followed. These records may take the form of a ''checklist,'' or other effective form of recordkeeping that confirms conformance with the startup, shutdown, and malfunction plan and describes the actions taken for that

event. In addition, the owner or operator must keep records of these events as specified in paragraph 63.10(b), including records of the occurrence and duration of each startup or shutdown (if the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), or malfunction of operation and each malfunction of the air pollution control and monitoring equipment. * * *

* * * * *

(ix) The title V permit for an affected source must require that the owner or operator develop a startup, shutdown, and malfunction plan which conforms to the provisions of this part, but may do so by citing to the relevant subpart or subparagraphs of paragraph (e) of this section. However, any revisions made to the startup, shutdown, and malfunction plan in accordance with the procedures established by this part shall not be deemed to constitute permit revisions under part 70 or part 71 of this chapter and the elements of the startup, shutdown, and malfunction plan shall not be considered an applicable requirement as defined in § 70.2 and § 71.2 of this chapter. * * *

* * * * *

■ 3. Section 63.8 is amended by revising paragraph (c)(1)(iii) to read as follows:

§ 63.8 Monitoring requirements.

* * * * *

(c) * * *

(1) * * *

(iii) The owner or operator of an affected source must develop a written startup, shutdown, and malfunction plan for CMS as specified in § 63.6(e)(3).

* * * * *

■ 4. Section 63.10 is amended by:

■ a. Revising paragraphs (b)(2)(i), (ii), and (iv), and the first sentence in paragraph (b)(2)(v); and

■ b. Revising the first four sentences in paragraph (d)(5)(i) and the first and second sentences in (d)(5)(ii) to read as follows:

§ 63.10 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(2) * * *

(i) The occurrence and duration of each startup or shutdown when the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards;

(ii) The occurrence and duration of each malfunction of operation (*i.e.*, process equipment) or the required air pollution control and monitoring equipment;

* * * * *

(iv)(A) Actions taken during periods of startup or shutdown when the source exceeded applicable emission limitations in a relevant standard and when the actions taken are different from the procedures specified in the affected source's startup, shutdown, and malfunction plan (see § 63.6(e)(3)); or

(B) Actions taken during periods of malfunction (including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation) when the actions taken are different from the procedures specified in the affected source's startup, shutdown, and malfunction plan (see § 63.6(e)(3));

(v) All information necessary, including actions taken, to demonstrate conformance with the affected source's startup, shutdown, and malfunction plan (see § 63.6(e)(3)) when all actions taken during periods of startup or shutdown (and the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), and malfunction (including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation) are consistent with the procedures specified in such plan. * * *

* * * * *

(d) * * *

(5)(i) * * * If actions taken by an owner or operator during a startup or shutdown (and the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), or malfunction of an affected source (including actions taken to correct a malfunction) are consistent with the procedures specified in the source's startup, shutdown, and malfunction plan (see § 63.6(e)(3)), the owner or operator shall state such information in a startup, shutdown, and malfunction report. Actions taken to minimize emissions during such startups, shutdowns, and malfunctions shall be summarized in the report and may be done in checklist form; if actions taken are the same for each event, only one checklist is necessary. Such a report shall also include the number, duration, and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. Reports shall only be required if a startup or shutdown caused the source to exceed any applicable emission limitation in the relevant emission standards, or if a malfunction occurred during the reporting period. * * *

(ii) * * * Notwithstanding the allowance to reduce the frequency of reporting for periodic startup, shutdown, and malfunction reports under paragraph (d)(5)(i) of this section, any time an action taken by an owner or operator during a startup or shutdown that caused the source to exceed any applicable emission limitation in the relevant emission standards, or malfunction (including actions taken to correct a malfunction) is not consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, the owner or operator shall report the actions taken for that event within 2 working days after commencing actions inconsistent with the plan followed by a letter within 7 working days after the end of the event. The immediate report required under this paragraph (d)(5)(ii) shall consist of a telephone call (or facsimile (FAX) transmission) to the Administrator within 2 working days after commencing actions inconsistent with the plan, and it shall be followed by a letter, delivered or postmarked within 7 working days after the end of the event, that contains the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy, explaining the circumstances of the event, the reasons for not following the startup, shutdown, and malfunction plan, describing all excess emissions and/or parameter monitoring exceedances which are believed to have occurred (or could have occurred in the case of malfunctions), and actions taken to minimize emissions in conformance with § 63.6(e)(1)(i). * * *

* * * * *

Subpart F—[Amended]

■ 5. Section 63.102 is amended by revising paragraph (a)(4) to read as follows:

§ 63.102 General standards.

(a) * * *

(4) During start-ups, shutdowns, and malfunctions when the requirements of this subpart F, subparts G and/or H of this part do not apply pursuant to paragraphs (a)(1) through (a)(3) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions to the extent practical. The general duty to minimize

emissions during a period of startup, shutdown, or malfunction does not require the owner or operator to achieve emission levels that would be required by the applicable standard at other times if this is not consistent with safety and good air pollution control practices, nor does it require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan required in § 63.6(e)(3)), review of operation and maintenance records, and inspection of the source. The measures to be taken may include, but are not limited to, air pollution control technologies, recovery technologies, work practices, pollution prevention, monitoring, and/or changes in the manner of operation of the source. Back-up control devices are not required, but may be used if available.

* * * * *

■ 6. Section 63.105 is amended by revising paragraph (d) to read as follows:

§ 63.105 Maintenance wastewater requirements.

* * * * *

(d) The owner or operator shall incorporate the procedures described in paragraphs (b) and (c) of this section as part of the startup, shutdown, and malfunction plan required under § 63.6(e)(3).

* * * * *

■ 7. Table 3 to Subpart F is amended by adding in numerical order a new entry for 63.6(e)(3)(ix) to read as follows:

Table 3 to Subpart F of Part 63—General Provisions Applicability to Subparts F, G, and H to Subpart F

Reference	Applies to subparts F, G, and H	Comment
* *	* * *	* *
63.6(e)(3)(ix)	Yes.	
* *	* * *	* *

* * * * *

Subpart G—[Amended]

■ 8. Section 63.152 is amended by revising paragraphs (c)(2)(ii)(C)(*1*) and (g)(2)(iv)(A) to read as follows:

§ 63.152 General reporting and continuous records.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(C) * * *

(*1*) *Periods of startup, shutdown, or malfunction.* During periods of startup, shutdown, or malfunction when the source is operated during such periods in accordance with § 63.102(a)(4).

* * * * *

(g) * * *

(2) * * *

(iv) * * *

(A) The daily average value during any startup, shutdown, or malfunction shall not be considered an excursion for purposes of this paragraph (g)(2), if the owner or operator operates the source during such periods in accordance with § 63.102(a)(4).

* * * * *

Subpart L—[Amended]

■ 9. Section 63.301 is amended by revising the first sentence in the definition of *malfunction* to read as follows:

§ 63.301 Definitions.

* * * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. * * *

* * * * *

■ 10. Section 63.310 is amended by revising paragraphs (b) and (c) to read as follows:

§ 63.310 Requirements for startups, shutdowns, and malfunctions.

* * * * *

(b) Each owner or operator of a coke oven battery shall develop, according to paragraph (c) of this section, a written startup, shutdown, and malfunction plan that describes procedures for operating the battery, including associated air pollution control equipment, during a period of a startup, shutdown, or malfunction in a manner consistent with good air pollution control practices for minimizing emissions, and procedures for correcting malfunctioning process and air pollution control equipment as quickly as practicable.

(c) Malfunctions shall be corrected as soon as practicable after their occurrence.

* * * * *

Subpart N—[Amended]

■ 11. Section 63.342 is amended by:

■ a. Revising paragraphs (f)(1)(i) and (ii); and

■ b. Revising the first sentence in paragraph (f)(3)(i) introductory text to read as follows:

§ 63.342 Standards.

* * * * *

(f) * * *

(1)(i) At all times, including periods of startup, shutdown, and malfunction, owners or operators shall operate and maintain any affected source, including associated air pollution control devices and monitoring equipment, in a manner consistent with good air pollution control practices.

(ii) Malfunctions shall be corrected as soon as practicable after their occurrence.

* * * * *

(3) *Operation and maintenance plan.* (i) The owner or operator of an affected source subject to paragraph (f) of this section shall prepare an operation and maintenance plan no later than the compliance date, except for hard chromium electroplaters and the chromium anodizing operations in California which have until January 25, 1998. * * *

* * * * *

Subpart U—[Amended]

§ 63.480 [Amended]

■ 12. Section 63.480 is amended by removing the third sentence in paragraph (j)(1).

■ 13. Section 63.506 is amended by:

■ a. Revising the first sentence in paragraph (b)(1) introductory text; and

■ b. Revising paragraph (h)(2)(iv)(A) to read as follows:

§ 63.506 General recordkeeping and reporting provisions.

* * * * *

(b) * * *

(1) * * * The owner or operator of an affected source shall develop a written startup, shutdown, and malfunction plan as specified in § 63.6(e)(3). * * *

* * * * *

(h) * * *

(2) * * *

(iv) * * *

(A) The daily average or batch cycle daily average value during any startup, shutdown, or malfunction shall not be considered an excursion for purposes of paragraph (h)(2) of this section, if the owner or operator operates the source during such periods in accordance with § 63.6(e)(1).

* * * * *

■ 14. Table 1 to Subpart U is amended by adding in numerical order a new entry for 63.6(e)(3)(ix) to read as follows:

Table 1 to Subpart U of Part 63—Applicability of General Provisions to Subpart U Affected Sources

Reference	Applies to subpart U	Explanation
* * *	* * *	* *
§ 63.6(e)(3)(ix)	Yes.	
* * *	* * *	* *

* * * * *

Subpart W—[Amended]

■ 15. Section 63.526 is amended by revising paragraph (c) to read as follows:

§ 63.526 Monitoring requirements.

* * * * *

(c) Periods of time when monitoring measurements exceed the parameter values do not constitute a violation if they occur during a startup, shutdown, or malfunction, and the facility is operated in accordance with § 63.6(e)(1).

* * * * *

Subpart Y—[Amended]

■ 16. Section 63.562 is amended by revising the first sentence of paragraph (e)(2) introductory text to read as follows:

§ 63.562 Standards.

* * * * *

(e) * * *

(2) The owner or operator of an affected source shall develop a written operation and maintenance plan that describes in detail a program of corrective action for varying (*i.e.*, exceeding baseline parameters) air pollution control equipment and monitoring equipment, based on monitoring requirements in § 63.564, used to comply with these emissions standards. * * *

* * * * *

Subpart AA—[Amended]

■ 17. Section 63.600 is amended by revising paragraph (e) to read as follows:

§ 63.600 Applicability.

* * * * *

(e) The emission limitations and operating parameter requirements of this subpart do not apply during periods of startup, shutdown, or malfunction, as those terms are defined in § 63.2, provided that the source is operated in accordance with § 63.6(e)(1)(i).

Subpart BB—[Amended]

■ 18. Section 63.620 is amended by revising paragraph (e) to read as follows:

§ 63.620 Applicability.

* * * * *

(e) The emission limitations and operating parameter requirements of this subpart do not apply during periods of startup, shutdown, or malfunction, as those terms are defined in § 63.2, provided that the source is operated in accordance with § 63.6(e)(1)(i).

Subpart DD—[Amended]

■ 19. Section 63.695 is amended by revising paragraph (e)(6)(i)(A) to read as follows:

§ 63.695 Inspection and monitoring requirements.

* * * * *

(e) * * *

(6) * * *

(i) * * *

(A) During a period of startup, shutdown, or malfunction when the affected facility is operated during such period in accordance with § 63.6(e)(1); or

* * * * *

Subpart GG—[Amended]

■ 20. Section 63.743 is amended by revising the first sentence in paragraph (b) introductory text as follows:

§ 63.743 Standards: General.

* * * * *

(b) * * * Each owner or operator that uses an air pollution control device or equipment to control HAP emissions shall prepare a startup, shutdown, and malfunction plan in accordance with § 63.6. * * *

* * * * *

Subpart HH—[Amended]

■ 21. Section 63.773 is amended by revising paragraph (d)(8)(i)(A) to read as follows:

§ 63.773 Inspection and monitoring requirements.

* * * * *

(d) * * *

(8) * * *

(i) * * *

(A) During a period of startup, shutdown, or malfunction when the affected facility is operated during such period in accordance with § 63.6(e)(1); or

* * * * *

■ 22. Table 2 to Subpart HH is amended by adding in numerical order a new entry for 63.6(e)(3)(ix) to read as follows:

Table 2 to Subpart HH of Part 63—Applicability of 40 CFR Part 63 General Provisions to Subpart HH

General provisions reference	Applies to subpart HH	Explanation
* *	* * *	* *
§ 63.6(e)(3)(ix)	Yes.	
* *	* * *	* *

Subpart LL—[Amended]

■ 23. Section 63.848 is amended by revising the first sentence in paragraph (h) to read as follows:

§ 63.848 Emission monitoring requirements.

* * * * *

(h) * * * If a monitoring device for a primary control device measures an operating parameter outside the limit(s) established pursuant to § 63.847(h), if visible emissions indicating abnormal operation are observed from the exhaust stack of a control device during a daily inspection, or if a problem is detected during the daily inspection of a wet roof scrubber for potline secondary emission control, the owner or operator shall initiate corrective action procedures within 1 hour. * * *

* * * * *

■ 24. Section 63.850 is amended by revising the first sentence in paragraph (c) introductory text to read as follows:

§ 63.850 Notification, reporting, and recordkeeping requirements.

* * * * *

(c) * * * The owner or operator shall develop a written plan as described in § 63.6(e)(3) that contains specific procedures to be followed for operating the source and maintaining the source during periods of startup, shutdown, and malfunction and a program of corrective action for malfunctioning process and control systems used to comply with the standards. * * *

* * * * *

Subpart MM—[Amended]

■ 25. Section 63.864 is amended by revising paragraphs (k)(1) introductory text and the first sentence in paragraph (k)(2)(v) to read as follows:

§ 63.864 Monitoring requirements.

* * * * *

(k) * * * (1) Following the compliance date, owners or operators of all affected sources or process units are required to implement corrective action if the monitoring exceedances in paragraphs (k)(1)(i) through (vi) of this section occur:

* * * * *

(2) * * *

(v) For the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14), when corrective action is not initiated within 1 hour of a bag leak detection system alarm and the alarm is engaged for more than 5 percent of the total operating time in a 6-month block reporting period. * * *

* * * * *

■ 26. Section 63.866 is amended by revising the first sentence in paragraph (a) introductory text to read as follows:

§ 63.866 Recordkeeping requirements.

(a) * * * The owner or operator must develop a written plan as described in § 63.6(e)(3) that contains specific procedures for operating the source and maintaining the source during periods of startup, shutdown, and malfunction, and a program of corrective action for malfunctioning process and control systems used to comply with the standards. * * *

* * * * *

Subpart SS—[Amended]

■ 27. Section 63.998 is amended by:
■ a. Revising paragraph (b)(2)(iii);
■ b. Revising paragraph (b)(6)(i)(A); and
■ c. Revising the second sentence in paragraph (b)(6)(ii) to read as follows:

§ 63.998 Recordkeeping requirements.

* * * * *

(b) * * *

(2) * * *

(iii) Startups, shutdowns, and malfunctions, if the owner or operator operates the source during such periods in accordance with § 63.1111(a) and maintains the records specified in paragraph (d)(3) of this section.

* * * * *

(6)(i) * * *

(A) The daily average value during any startup, shutdown, or malfunction shall not be considered an excursion if the owner or operator operates the source during such periods in accordance with § 63.1111(a) and maintains the records specified in paragraph (d)(3) of this section.

* * * * *

(ii) * * * If a source has developed a startup, shutdown and malfunction plan, and a monitored parameter is outside its established range or monitoring data are not collected during periods of start-up, shutdown, or malfunction (and the source is operated during such periods in accordance with § 63.1111(a)) or during periods of nonoperation of the process unit or portion thereof (resulting in cessation of the emissions to which monitoring applies), then the excursion is not a violation and, in cases where continuous monitoring is required, the excursion does not count as the excused excursion for determining compliance.

* * * * *

Subpart YY—[Amended]

■ 28. Section 63.1101 is amended by revising the first sentence in the definition of *malfunction* to read as follows:

§ 63.1101 Definitions.

* * * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. * * *

* * * * *

■ 29. Section 63.1108 is amended by:
■ a. Removing the second sentence in paragraph (a)(1) introductory text;
■ b. Revising paragraph (a)(6); and
■ c. Revising paragraph (b)(2)(i) to read as follows:

§ 63.1108 Compliance with standards and operation and maintenance requirements.

(a) * * *

(6) Malfunctions shall be corrected as soon as practical after their occurrence.

* * * * *

(b) * * *

(2) * * *

(i) During periods of startup, shutdown, or malfunction (and the source is operated during such periods in accordance with § 63.1111(a)), or

* * * * *

■ 30. Section 63.1111 is amended by revising the first and fifth sentences in paragraph (a)(1) introductory text and revising paragraph (a)(2) to read as follows:

§ 63.1111 Startup, shutdown, and malfunction.

(a) * * * (1) *Description and purpose of plan.* The owner or operator of an affected source shall develop a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the affected source during periods of startup, shutdown, and malfunction. * * * The requirement to develop this plan shall be incorporated into the source's title V permit. * * *

* * * * *

(2) *Operation of source.* During periods of startup, shutdown, and malfunction, the owner or operator of an affected source subject to this subpart YY shall operate and maintain such affected source (including associated air pollution control equipment and CPMS) in a manner consistent with safety and good air pollution control practices for minimizing emissions to the extent practical. The general duty to minimize emissions during a period of startup, shutdown, or malfunction does not require the owner or operator to achieve emission levels that would be required by the applicable standard at other times if this is not consistent with safety and good air pollution control practices, nor does it require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan required by this section), review of operation and maintenance records, and inspection of the source.

* * * * *

Subpart CCC—[Amended]

■ 31. Section 63.1164 is amended by revising the last sentence in paragraph (c) introductory text and revising paragraph (c)(1) to read as follows:

§ 63.1164 Reporting requirements.

* * * * *

(c) * * * Malfunctions must be corrected as soon as practicable after their occurrence.

(1) *Plan.* As required by § 63.6(e)(3) of subpart A of this part, the owner or operator shall develop a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the source during periods of startup, shutdown, or malfunction, and a program of corrective action for malfunctioning process and air pollution control equipment used to comply with the relevant standards.

* * * * *

Subpart EEE—[Amended]

■ 32. Section 63.1206 is amended by revising paragraphs (c)(2)(v)(A)(*2*) and (c)(2)(v)(B)(*4*) to read as follows:

§ 63.1206 When and how must you comply with the standards and operating requirements?

* * * * *

(c) * * *

(2) * * *

(v) * * *

(A) * * *

(*2*) Although the automatic waste feed cutoff requirements continue to apply during a malfunction, an exceedance of an emission standard monitored by a CEMS or COMS or operating limit specified under § 63.1209 is not a violation of this subpart EEE if you operate in accordance with § 63.6(e)(1).

* * * * *

(B) * * *

(*4*) Although the automatic waste feed cutoff requirements of this paragraph (c)(2)(v)(B)(*4*) apply during startup and shutdown, an exceedance of an emission standard or operating limit is not a violation of this subpart EEE if you operate in accordance with § 63.6(e)(1).

* * * * *

Subpart GGG—[Amended]

■ 33. Section 63.1251 is amended by revising the first sentence in the definition of *malfunction* to read as follows:

§ 63.1251 Definitions.

* * * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, emissions monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. * * *

* * * * *

■ 34. Section 63.1256 is amended by revising paragraph (a)(4)(iii) to read as follows:

§ 63.1256 Standards: wastewater.

(a) * * *

(4) * * *

(iii) The owner or operator shall incorporate the procedures described in paragraphs (a)(4)(i) and (ii) of this section as part of the startup, shutdown, and malfunction plan required under § 63.6(e)(3).

* * * * *

■ 35. Section 63.1258 is amended by revising paragraph (b)(8)(iv) to read as follows:

§ 63.1258 Monitoring requirements.

* * * * *

(b) * * *

(8) * * *

(iv) Periods of time when monitoring measurements exceed the parameter values as well as periods of inadequate monitoring data do not constitute a violation if they occur during a start-up, shutdown, or malfunction, and the facility operates in accordance with § 63.6(e)(1).

* * * * *

■ 36. Section 63.1259 is amended by revising the first sentence in paragraph (a)(3) introductory text to read as follows:

§ 63.1259 Recordkeeping requirements.

(a) * * *

(3) * * * The owner or operator of an affected source shall develop a written startup, shutdown, and malfunction plan as specified in § 63.6(e)(3). * * *

* * * * *

Subpart HHH—[Amended]

■ 37. Section 63.1283 is amended by revising paragraph (d)(8)(i)(A) to read as follows:

§ 63.1283 Inspection and monitoring requirements.

* * * * *

(d) * * *

(8) * * *

(i) * * *

(A) During a period of startup, shutdown, or malfunction when the affected facility is operated during such period in accordance with § 63.6(e)(1); or

* * * * *

■ 38. Table 2 to Subpart HHH is amended by adding in numerical order a new entry for 63.6(e)(3)(ix) to read as follows:

Appendix: Table 2 to Subpart HHH of Part 63—Applicability of 40 CFR Part 63 General Provisions to Subpart HHH

General provisions reference	Applies to subpart HHH	Explanation
* *	* * *	* *
§ 63.6(e)(3)(ix)	Yes.	
* *	* * *	* *

Subpart JJJ—[Amended]

§ 63.1310 [Amended]

■ 39. Section 63.1310 is amended by removing the third sentence in paragraph (j)(1).

■ 40. Section 63.1335 is amended by:

■ a. Revising the first sentence in paragraph (b)(1) introductory text; and

■ b. Revising paragraph (h)(2)(iv)(A) to read as follows:

§ 63.1335 General recordkeeping and reporting provisions.

* * * * *

(b) * * *

(1) * * * The owner or operator of an affected source shall develop a written startup, shutdown, and malfunction plan as specified in § 63.6(e)(3). * * *

* * * * *

(h) * * *

(2) * * *

(iv) * * *

(A) The daily average or (batch cycle daily average) value during any startup, shutdown, or malfunction shall not be considered an excursion for purposes of paragraph (h)(2) of this section, if the owner or operator follows the applicable provisions of § 63.6(e)(1).

* * * * *

■ 41. Table 1 to Subpart JJJ is amended by adding in numerical order a new entry for 63.6(e)(3)(ix) to read as follows:

Table 1 to Subpart JJJ of Part 63—Applicability of General Provisions to Subpart JJJ Affected Sources

Reference	Applies to subpart JJJ	Explanation
* *	* * *	* *
§ 63.6(e)(3)(ix)	Yes.	
* *	* * *	* *

Subpart MMM—[Amended]

■ 42. Section 63.1361 is amended by revising the first sentence in the definition of *malfunction* to read as follows:

§ 63.1361 Definitions.

* * * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, emissions monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. * * *

* * * * *

■ 43. Section 63.1366 is amended by revising paragraph (b)(8)(iv) to read as follows:

§ 63.1366 Monitoring and inspection requirements.

* * * * *

(b) * * *

(8) * * *

(iv) Periods of time when monitoring measurements exceed the parameter values as well as periods of inadequate monitoring data do not constitute a violation if they occur during a startup, shutdown, or malfunction, and the facility operates in accordance with § 63.6(e)(1).

* * * * *

■ 44. Section 63.1367 is amended by revising the first sentence in paragraph (a)(3) introductory text to read as follows:

§ 63.1367 Recordkeeping requirements.

(a) * * *

(3) * * * The owner or operator of an affected source shall develop a written startup, shutdown, and malfunction plan as specified in § 63.6(e)(3). * * *

* * * * *

Subpart NNN—[Amended]

■ 45. Section 63.1386 is amended by revising the first sentence in paragraph (c)(1) introductory text to read as follows:

§ 63.1386 Notification, recordkeeping, and reporting requirements.

* * * * *

(c) * * *

(1) The owner or operator shall develop a written plan as described in § 63.6(e)(3) that contains specific procedures to be followed for operating the source and maintaining the source during periods of startup, shutdown, and malfunction and a program of corrective action for malfunctioning process modifications and control systems used to comply with the standards. * * *

* * * * *

Subpart OOO—[Amended]

§ 63.1400 [Amended]

■ 46. Section 63.1400 is amended by removing the third sentence in paragraph (k)(1) and by removing the last sentence in paragraph (k)(2).

■ 47. Section 63.1402 is amended by revising the first sentence in the definition of *malfunction* in paragraph (b) to read as follows:

§ 63.1402 Definitions.

* * * * *

(b) * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment or process equipment, or failure of a process to operate in a normal or usual manner, or opening of a safety device which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. * * *

* * * * *

■ 48. Section 63.1413 is amended by revising the first sentence in paragraph (h)(4) introductory text and paragraph (h)(5) introductory text to read as follows:

§ 63.1413 Compliance demonstration procedures.

* * * * *

(h) * * *

(4) *Deviation from the emission standard.* If an affected source is not operated during periods of startup, shutdown, or malfunction in accordance with § 63.6(e)(1), there has been a deviation from the emission standard. * * *

* * * * *

(5) *Situations that are not deviations.* If an affected source is operated during periods of startup, shutdown, or malfunction in accordance with § 63.6(e)(1), and any of the situations listed in paragraphs (h)(5)(i) through (iv) of this section occur, such situations shall not be considered to be deviations.

* * * * *

■ 49. Section 63.1416 is amended by:

■ a. Revising the first sentence in paragraph (b) introductory text; and

■ b. Revising paragraph (h)(2)(iv) to read as follows:

§ 63.1416 Recordkeeping requirements.

* * * * *

(b) * * * The owner or operator of an affected source shall develop a startup, shutdown, and malfunction plan as specified in § 63.6(e)(3) and shall keep the plan on-site. * * *

* * * * *

(h) * * *

(2) * * *

(iv) For purposes of paragraph (h)(2) of this section, a deviation means that the daily average, batch cycle daily average, or block average value of monitoring data for a parameter is greater than the maximum, or less than the minimum established value, except that the daily average, batch cycle daily average, or block average value during any startup, shutdown, or malfunction shall not be considered a deviation, if the owner or operator operates the source during such periods in accordance with § 63.6(e)(1).

■ 50. Table 1 to Subpart OOO is amended by adding in numerical order a new entry for 63.6(e)(3)(ix) to read as follows:

Table 1 to Subpart OOO of Part 63—Applicability of General Provisions to Subpart OOO Affected Sources

Reference	Applies to subpart OOO	Explanation
* *	* * *	* *
63.6(e)(3)(ix)	Yes.	
* *	* * *	* *

* * * * *

Subpart PPP—[Amended]

§ 63.1420 [Amended]

■ 51. Section 63.1420 is amended by removing the third sentence in paragraph (h)(1).

■ 52. Section 63.1439 is amended by:

■ a. Revising the first sentence in paragraph (b)(1) introductory text; and

■ b. Revising paragraph (h)(2)(iv)(A) to read as follows:

§ 63.1439 General recordkeeping and reporting provisions.

* * * * *

(b) * * *

(1) * * * The owner or operator of an affected source shall develop a written startup, shutdown, and malfunction plan as specified in § 63.6(e)(3). * * *

* * * * *

(h) * * *

(2) * * *

(iv) * * *

(A) The daily average value during any startup, shutdown, or malfunction shall not be considered an excursion for purposes of paragraph (h)(2) of this section, if the owner or operator operates the source during such periods in accordance with § 63.6(e)(1).

* * * * *

■ 53. Table 1 to Subpart PPP is amended by adding in numerical order a new entry for 63.6(e)(3)(ix) to read as follows:

Table 1 to Subpart PPP of Part 63—Applicability of General Provisions to Subpart PPP Affected Sources

Reference	Applies to subpart PPP	Explanation
* *	* * *	* *
63.6(e)(3)(ix)	Yes.	
* *	* * *	* *

* * * * *

Subpart QQQ—[Amended]

■ 54. Section 63.1448 is amended by revising paragraph (c) to read as follows:

§ 63.1448 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

■ 55. Section 63.1453 is amended by revising paragraph (c)(1)(ii) to read as follows:

§ 63.1453 How do I demonstrate continuous compliance with the emission limitations, work practice standards, and operation and maintenance requirements that apply to me?

* * * * *

(c) * * *

(1) * * *

(ii) Alarms that occur during startup, shutdown, or malfunction are not included in the calculation if the condition is described in the startup, shutdown, and malfunction plan, and you operated the source during such periods in accordance with § 63.6(e)(1).

* * * * *

Subpart RRR—[Amended]

■ 56. Section 63.1516 is amended by revising the first sentence in paragraph (a) introductory text as follows:

§ 63.1516 Reports.

(a) * * * The owner or operator must develop a written plan as described in

§ 63.6(e)(3) that contains specific procedures to be followed for operating and maintaining the source during periods of startup, shutdown, and malfunction, and a program of corrective action for malfunctioning process and air pollution control equipment used to comply with the standard. * * *

* * * * *

Subpart TTT—[Amended]

57. Section 63.1542 is amended by revising the first sentence in the definition of malfunction to read as follows:

§ 63.1542 Definitions.

* * * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. * * *

* * * * *

■ 58. Section 63.1547 is amended by revising paragraph (g)(2) to read as follows:

§ 63.1547 Monitoring requirements.

* * * * *

(g) * * *

(2) Alarms that occur during startup, shutdown, or malfunction shall not be included in the calculation if the condition is described in the startup, shutdown, and malfunction plan and the owner or operator operates the source during such periods in accordance with § 63.6(e)(1).

* * * * *

Subpart UUU—[Amended]

■ 59. Section 63.1570 is amended by:

■ a. Revising paragraph (d);

■ b. Removing and reserving paragraph (e); and

■ c. Revising paragraph (g) to read as follows:

§ 63.1570 What are my general requirements for complying with this subpart?

* * * * *

(d) You must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

(e) [Reserved]

* * * * *

(g) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). The SSMP must include elements designed to minimize the frequency of such periods (i.e., root cause analysis). The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

■ 60. Table 44 to Subpart UUU is amended by adding in numerical order a new entry for 63.6(e)(3)(ix) to read as follows:

Table 44 to Subpart UUU of Part 63—Applicability of NESHAP General Provisions to Subpart UUU

* * * * *

Citation	Subject	Applies to subpart UUU	Explanation
*	*	*	*
§ 63.6(e)(3)(ix)		Yes.	
*	*	*	*

Subpart XXX—[Amended]

■ 61. Section 63.1651 is amended by revising the first sentence in the definition of malfunction to read as follows:

§ 63.1651 Definitions.

* * * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. * * *

* * * * *

■ 62. Section 63.1656 is amended by revising paragraph (e)(2)(ii) to read as follows:

§ 63.1656 Performance testing, test methods, and compliance demonstrations.

* * * * *

(e) * * *

(2) * * *

(ii) Do not include alarms that occur during startup, shutdown, and malfunction in the calculation if the condition is described in the startup, shutdown, and malfunction plan and the owner or operator operates the source during such periods in accordance with § 63.6(e)(1).

* * * * *

Subpart AAAA—[Amended]

■ 63. Section 63.1960 is amended by revising the fourth and sixth sentences to read as follows:

§ 63.1960 How is compliance determined?

* * * Finally, you must develop a written SSM plan according to the provisions in 40 CFR 63.6(e)(3). * * * Failure to write or maintain a copy of the SSM plan is a deviation from the requirements of this subpart.

* * * * *

■ 64. Section 63.1965 is amended by revising paragraph (c) to read as follows:

§ 63.1965 What is a deviation?

* * * * *

(c) A deviation occurs when a SSM plan is not developed or maintained on site.

Subpart CCCC—[Amended]

■ 65. Section 63.2150 is amended by revising the first sentence in paragraph (c) to read as follows:

§ 63.2150 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written malfunction plan. * * *

■ 66. Section 63.2164 is amended by revising paragraph (a) to read as follows:

§ 63.2164 If I monitor brew ethanol, what are my monitoring installation, operation, and maintenance requirements?

(a) Each CEMS must be installed, operated, and maintained according to manufacturer's specifications and in accordance with § 63.6(e)(1).

* * * * *

§ 63.2171 [Amended]

■ 67. Section 63.2171 is amended by removing paragraph (d).

Subpart DDDD—[Amended]

■ 68. Section 63.2250 is amended by revising paragraph (c) to read as follows:

§ 63.2250 What are the general requirements?

* * * * *

(c) You must develop a written SSMP according to the provisions in § 63.6(e)(3).

* * * * *

■ 69. Section 63.2271 is amended by removing and reserving paragraph (b)(1) and revising the first sentence in paragraph (b)(2) to read as follows:

§ 63.2271 How do I demonstrate continuous compliance with the compliance options, operating requirements, and work practice requirements?

* * * * *

(b) * * *

(1) [Reserved]

(2) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the EPA Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

* * * * *

Subpart EEEE—[Amended]

■ 70. Section 63.2350 is amended by revising paragraph (c) to read as follows:

§ 63.2350 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction (SSM) plan according to the provisions in § 63.6(e)(3).

§ 63.2378 [Amended]

■ 71. Section 63.2378 is amended by removing the third sentence of paragraph (b)(1).

■ 72. Table 12 to subpart EEEE is amended by revising the citation to § 63.8(c)(1)(i)–(iii) to read as follows:

Table 12 to Subpart EEEE of Part 63—Applicability of General Provisions to Subpart EEEE

* * * * *

Citation	Subject	Brief description	Applies to subpart EEEE
*	*	*	*
§ 63.8(c) (1)(i)—(iii)	Routine and Predictable SSM.	Keep parts for routine repairs readily available; reporting requirements for SSM when action is described in SSM plan..	Yes.
*	*	*	*

Subpart FFFF—[Amended]

■ 73. Table 12 to Subpart FFFF is amended by adding in numerical order a new entry for 63.6(e)(3)(ix) to read as follows:

Table 12 to Subpart FFFF of Part 63—Applicability of General Provisions to Subpart FFFF

* * * * *

Citation	Subject	Explanation
*	*	*
§ 63.6(e)(3)(ix)	SSMP incorporation into title V permit	Yes.
*	*	*

Subpart GGGG—[Amended]

■ 74. Table 1 to § 63.2850 is amended by revising the paragraph (a) entries to read as follows:

§ 63.2850 How do I comply with the hazardous air pollutant emission standards?

* * * * *

Table 1 to § 63.2850—Requirements for Compliance With HAP Emission Standards

Are you required to . . .	For periods of normal operation?	For initial startup periods subject to § 63.2850(c)(2) or (d)(2)?	For malfunction periods subject to § 63.2850(e)(2)?
(a) Operate and maintain your source in accordance with general duty provisions of § 63.6(e)?	Yes. Additionally, the HAP emission limits will apply.	Yes, you are required to minimize emissions to the extent practible throughout the initial startup period. Such measures should be described in the SSM plan.	Yes, you are required to minimizwe emissions to the extent practible throughout the initial startup period. Such measures should be described in the SSM plan.
*	*	*	*

* * * * *

■ 75. Section 63.2852 is amended by revising the first sentence to read as follows:

§ 63.2852 What is a startup, shutdown, and malfunction plan?

You must develop a written SSM plan in accordance with § 63.6(e)(3). * * *

■ 76. Table 1 to § 63.2870 is amended by revising the entry for ''§ 63.6(e)(1) through (e)(3)(ii) and § 63.6(e)(3)(v) through (vii)''; by removing the entry

''§ 63.6(e)(3)(v)(iii)'' and adding in it's place a new entry for ''§ 63.6(e)(3)(iii)''; and by adding in numerical order a new entry for ''§ 63.6(e)(3)(ix)'' to read as follows:

§ 63.2870 What parts of the General Provisions apply to me?

* * * * *

Table 1 to § 63.2870—Applicability of 40 CFR Part 63, Subpart A, to 40 CFR, Part 63, Subpart GGGG

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
*	*	*	*	*
§ 63.6(e)(1) through (e)(3)(ii) and § 63.6(e)(3)(v) through (vii).	Operation and maintenance requirements.	.....	Yes	Minimize emissions to the extent practical.
§ 63.6(e)(3)(iii)	Operation and maintenance requirements.	.....	No	Minimize emissions to the extent practical
*	*	*	*	*
§ 63.6(e)(3)(ix)	Title V permit	.....	Yes.	
*	*	*	*	*

■ 77. Section 63.2872(c) is amended by:

■ a. Revising the second sentence in the definition of *initial startup period;* and

■ b. Revising the third sentence in the definition of *malfunction period* to read as follows:

§ 63.2872 What definitions apply to this subpart?

* * * * *

(c) * * *

Initial startup period means * * * During an initial startup period, a source complies with the standards by minimizing HAP emissions to the extent practical. * * *

* * * * *

Malfunction period means * * * During a malfunction period, a source complies with the standards by minimizing HAP emissions to the extent practical. * * *

* * * * *

Subpart HHHH—[Amended]

■ 78. Section 63.2984 is amended by revising paragraph (b) to read as follows:

§ 63.2984 What operating limits must I meet?

* * * * *

(b) When during a period of normal operations you detect that an operating parameter deviates from the limit or range established in paragraph (a) of this section, you must initiate corrective actions within 1 hour according to the provisions of your OMM plan. The corrective actions must be completed in an expeditious manner as specified in the OMM plan.

* * * * *

■ 79. Section 63.2986 is amended by revising the first sentence in paragraph (g)(3) to read as follows:

§ 63.2986 How do I comply with the standards?

* * * * *

(g) * * *

(3) You must develop a written SSMP according to the provisions in § 63.6(e)(3). * * *

Subpart IIII—[Amended]

■ 80. Section 63.3100 is amended by revising the first sentence in paragraph (f) to read as follows:

§ 63.3100 What are my general requirements for complying with this subpart?

* * * * *

(f) If your affected source uses emission capture systems and add-on control devices, you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3). * * *

■ 81. Section 63.3163 is amended by:

■ a. Removing and reserving paragraph (g); and

■ b. Revising the first sentence in paragraph (h) to read as follows:

§ 63.3163 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(g) [Reserved]

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

* * * * *

Subpart KKKK—[Amended]

■ 82. Section 63.3500 is amended by revising the first sentence in paragraph (c) to read as follows:

§ 63.3500 What are my general requirements for complying with this subpart?

* * * * *

(c) If your affected source uses an emission capture system and add-on control device for purposes of complying with this subpart, you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3). * * *

■ 83. Section 63.3542 is amended by:

■ a. Removing and reserving paragraph (g); and

■ b. Revising the first sentence in paragraph (h) to read as follows:

§ 63.3542 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(g) [Reserved]

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

* * * * *

■ 84. Section 63.3552 is amended by:

■ a. Removing and reserving paragraph (f); and

■ b. Revising the first sentence in paragraph (g) to read as follows:

§ 63.3552 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(f) [Reserved]

(g) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

* * * * *

Subpart MMMM—[Amended]

■ 85. Section 63.3900 is amended by revising the first sentence in paragraph (c) to read as follows:

§ 63.3900 What are my general requirements for complying with this subpart?

* * * * *

(c) If your affected source uses an emission capture system and add-on control device, you must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). * * *

§ 63.3963 [Amended]

■ 86. Section 63.3963 is amended by removing and reserving paragraph (g).

Subpart NNNN—[Amended]

■ 87. Section 63.4100 is amended by revising the first sentence in paragraph (d) to read as follows:

§ 63.4100 What are my general requirements for complying with this subpart?

* * * * *

(d) If your affected source uses an emission capture system and add-on control device, you must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). * * *

■ 88. Section 63.4110 is amended by revising paragraph (b)(9)(v) to read as follows:

§ 63.4110 What notifications must I submit?

* * * * *

(b) * * *

(9) * * *

(v) A statement of whether or not you developed the startup, shutdown, and malfunction plan required by § 63.4100(d).

* * * * *

■ 89. Section 63.4163 is amended by:

■ a. Removing and reserving paragraph (g); and

■ b. Revising the first sentence in paragraph (h) to read as follows:

§ 63.4163 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(g) [Reserved]

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e). * * *

* * * * *

Subpart OOOO—[Amended]

■ 90. Section 63.4300 is amended by:

■ a. Revising paragraph (a)(3)(i); and

■ b. Revising the first sentence in paragraph (c) to read as follows:

§ 63.4300 What are my general requirements for complying with this subpart?

(a) * * *

(3) * * *

(i) The web coating/printing or dyeing/finishing operation(s) must be in compliance with the applicable emission limit in Table 1 to this subpart or minimize emissions at all times as required by § 63.6(e)(1).

* * * * *

(c) If your affected source uses an emission capture system and add-on control device, you must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). * * *

■ 91. Section 63.4310 is amended by revising paragraph (c)(9)(iv) to read as follows:

§ 63.4310 What notifications must I submit?

* * * * *

(c) * * *

(9) * * *

(iv) A statement of whether or not you developed and implemented the work practice plan required by § 63.4293 and developed the startup, shutdown, and malfunction plan required by § 63.4300.

■ 92. Section 63.4342 is amended by:

■ a. Removing and reserving paragraph (g); and

■ b. Revising the first sentence in paragraph (h) to read as follows:

§ 63.4342 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(g) [Reserved]

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or web coating/printing or dyeing/finishing operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

* * * * *

■ 93. Section 63.4352 is amended by:

■ a. Removing and reserving paragraph (g); and

■ b. Revising the first sentence in paragraph (h) to read as follows:

§ 63.4352 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(g) [Reserved]

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or web coating/printing operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

* * * * *

Subpart PPPP—[Amended]

■ 94. Section 63.4500 is amended by revising the first sentence in paragraph (c) to read as follows:

§ 63.4500 What are my general requirements for complying with this subpart?

* * * * *

(c) If your affected source uses an emission capture system and add-on control device, you must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). * * *

§ 63.4563 [Amended]

■ 95. Section 63.4563 is amended by removing and reserving paragraph (g).

Section QQQQ—[Amended]

■ 96. Section 63.4700 is amended by revising the first sentence in paragraph (d) to read as follows:

§ 63.4700 What are my general requirements for complying with this subpart?

* * * * *

(d) If your affected source uses an emission capture system and add-on control device, you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3). * * *

■ 97. Section 63.4763 is amended by:

■ a. Removing and reserving paragraph (g); and

■ b. Revising the first sentence in paragraph (h) to read as follows:

§ 63.4763 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(g) [Reserved]

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of SSM of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

* * * * *

Subpart RRRR—[Amended]

■ 98. Section 63.4900 is amended by revising the first sentence in paragraph (c) to read as follows:

§ 63.4900 What are my general requirements for complying with this subpart?

* * * * *

(c) If your affected source uses an emission capture system and add-on control device to comply with the emission limitations in § 63.4890, you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3). * * *

§ 63.4962 [Amended]

■ 99. Section 63.4962 is amended by removing and reserving paragraph (g).

Subpart UUUU—[Amended]

■ 100. Section 63.5515 is amended by revising paragraph (c) to read as follows:

§ 63.5515 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction (SSM) plan according to the provisions in § 63.6(e)(3).

* * * * *

■ 101. Section 63.5555 is amended by:

■ a. Removing and reserving paragraph (c); and

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

§ 63.5555 How do I demonstrate continuous compliance with the emission limits, operating limits, and work practice standards?

* * * * *

(c) [Reserved]

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). The Administrator will determine whether deviations that occur during a period you identify as a startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

■ 102. Table 10 to subpart UUUU of part 63 is amended by revising the citation to § 63.8(c)(1)(i) to read as follows:

Table 10 to Subpart UUUU of Part 63—Applicability of General Provisions to Subpart UUUU

* * * * *

Citation	Subject	Brief description	Applies to subpart UUUU
*	*	*	*
§ 63.8(c)(1)(i)	Routine and Predictable SSM	Keep parts for routine repairs readily available; reporting requirements for SSM when action is described in SSM plan.	Yes.
*	*	*	*

Subpart WWWW—[Amended]

■ 103. Section 63.5835 is amended by revising paragraph (d) to read as follows:

§ 63.5835 What are my general requirements for complying with this subpart?

* * * * *

(d) You must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3) for any organic HAP emissions limits you meet using an add-on control.

■ 104. Section 63.5900 is amended by:

■ a. Revising paragraph (d); and

■ b. Revising the first sentence in paragraph (e) to read as follows:

§ 63.5900 How do I demonstrate continuous compliance with the standards?

* * * * *

(d) When you use an add-on control device to meet standards in § 63.5805, you are not required to meet those standards during periods of startup, shutdown, or malfunction, but you must operate your affected source to minimize emissions in accordance with § 63.6(e)(1).

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of malfunction for those affected sources and standards specified in paragraph (d) of this section are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

Subpart XXXX—[Amended]

■ 105. Section 63.5990 is amended by revising paragraph (d) to read as follows:

§ 63.5990 What are my general requirements for complying with this subpart?

* * * * *

(d) For each affected source that complies with the emission limits in Tables 1 through 3 to this subpart using a control device, you must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

* * * * *

Subpart YYYY—[Amended]

■ 106. Section 63.6140 is amended by revising paragraph (c) to read as follows:

§ 63.6140 How do I demonstrate continuous compliance with the emission and operating limitations?

* * * * *

(c) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, and malfunction are not violations if you have operated your stationary combustion turbine in accordance with § 63.6(e)(1)(i).

■ 107. Section 63.6175 is amended by revising paragraph (4) under the definition of *deviation* to read as follows:

§ 63.6175 What definitions apply to this subpart?

* * * * *

Deviation * * *

* * * * *

(4) Fails to satisfy the general duty to minimize emissions established by § 63.6(e)(1)(i).

* * * * *

Subpart ZZZZ—[Amended]

■ 108. Section 63.6640 is amended by:

■ a. Removing and reserving paragraph (c); and

■ b. Revising the first sentence in paragraph (d) to read as follows:

§ 63.6640 How do I demonstrate continuous compliance with the emission limitations and operating limitations?

* * * * *

(c) [Reserved]

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations from the emission or operating limitations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

* * * * *

■ 109. Section 63.6675 is amended by revising paragraph (4) under the definition of *deviation* and by revising the first sentence in the definition of *malfunction* to read as follows:

§ 63.6675 What definitions apply to this subpart?

* * * * *

Deviation * * *

* * * * *

(4) Fails to satisfy the general duty to minimize emissions established by § 63.6(e)(1)(i).

* * * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. * * *

* * * * *

Subpart AAAAA—[Amended]

■ 110. Section 63.7100 is amended by revising paragraph (e) to read as follows:

§ 63.7100 What are my general requirements for complying with this subpart?

* * * * *

(e) You must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

■ 111. Section 63.7121 is amended by:

■ a. Removing and reserving paragraph (c); and

■ b. Revising the first sentence in paragraph (d) to read as follows:

§ 63.7121 How do I demonstrate continuous compliance with the emission limitations standard?

* * * * *

(c) [Reserved]

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

* * * * *

Subpart BBBBB—[Amended]

■ 112. Section 63.7185 is amended by revising the first sentence in paragraph (c) to read as follows:

§ 63.7185 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan (SSMP). * * *

* * * * *

§ 63.7187 [Amended]

■ 113. Section 63.7187 is amended by removing and reserving paragraph (d).

Subpart CCCCC—[Amended]

■ 114. Section 63.7310 is amended by revising paragraph (c) to read as follows:

§ 63.7310 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

■ 115. Section 63.7336 is amended by removing introductory text in paragraph (b) and revising paragraph (b)(1) to read as follows:

§ 63.7336 What other requirements must I meet to demonstrate continuous compliance?

* * * * *

(b) *Startup, shutdowns, and malfunctions.* (1) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1).

* * * * *

Subpart DDDDD—[Amended]

■ 116. Section 63.7505 is amended by revising paragraph (e) to read as follows:

§ 63.7505 What are my general requirements for complying with this subpart?

* * * * *

(e) If you have an applicable emission limit or work practice standard, you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

■ 117. Section 63.7540 is amended by:

■ a. Revising the first sentence in paragraph (a)(9);

■ b. Removing and reserving paragraph (c); and

■ c. Revising the first sentence in paragraph (d) to read as follows:

§ 63.7540 How do I demonstrate continuous compliance with the emission limits and work practice standards?

(a) * * *

(9) If your unit is controlled with a fabric filter, and you demonstrate continuous compliance using a bag leak detection system, you must initiate corrective action within 1 hour of a bag leak detection system alarm and complete corrective actions as soon as practical, and operate and maintain the fabric filter system such that the alarm does not sound more than 5 percent of the operating time during a 6-month period. * * *

* * * * *

(c) [Reserved]

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you

demonstrate to the EPA Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

■ 118. Table 10 to subpart DDDDD of part 63 is amended by revising the citation to § 63.8(c)(1)(iii) to read as follows:

Table 10 to Subpart DDDDD of Part 63—Applicability of General Provisions to Subpart DDDDD

* * * * *

Citation	Subject	Brief description	Applicable
*	*	*	*
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance.	Must develop an SSMP for CMS	Yes.
*	*	*	*

Subpart EEEEE—[Amended]

■ 119. Section 63.7720 is amended by revising the first sentence in paragraph (c) to read as follows:

§ 63.7720 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). * * *

■ 120. Section 63.7746 is amended by removing introductory text in paragraph (b) and revising paragraph (b)(1) to read as follows:

§ 63.7746 What other requirements must I meet to demonstrate continuous compliance?

* * * * *

(b) *Startups, shutdowns, and malfunctions.* (1) Consistent with the requirements of §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1).

* * * * *

Subpart FFFFF—[Amended]

■ 121. Section 63.7810 is amended by revising paragraph (c) to read as follows:

§ 63.7810 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

■ 122. Section 63.7835 is amended by removing introductory text to paragraph (b) and revising paragraph (b)(1) to read as follows:

§ 63.7835 What other requirements must I meet to demonstrate continuous compliance?

* * * * *

(b) *Startups, shutdowns, and malfunctions.* (1) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1).

* * * * *

Subpart GGGGG—[Amended]

■ 123. Section 63.7935 is amended by:

■ a. Revising paragraph (c);

■ b. Removing and reserving paragraph (d); and

■ c. Revising the first sentence in paragraph (f) to read as follows:

§ 63.7935 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

(d) [Reserved]

* * * * *

(f) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

* * * * *

■ 124. Table 3 to subpart GGGGG of part 63 is amended by revising the citation to § 63.8(c)(1)(i) to read as follows:

Table 3 to Subpart GGGGG of Part 63—Applicability of General Provisions to Subpart GGGGG

* * * * *

Citation	Subject	Brief description	Applies to subpart GGGGG
*	*	*	*
§ 63.8(c)(1)(i)	Routine and Predictable SSM	Keep parts for routine repairs readily available; reporting requirements for SSM when action is described in SSM plan.	Yes.
*	*	*	*

Subpart HHHHH—[Amended]

■ 125. Table 10 to Subpart HHHHH is amended by adding in numerical order a new entry for 63.6(e)(3)(ix) to read as follows:

Table 10 to Subpart HHHHH of Part 63—Applicability of General Provisions to Subpart HHHHH

* * * * *

Citation	Subject	Explanation
* *	* * *	* *
§ 63.6(e)(3)(ix)	Title V permit	Yes.
* *	* * *	* *

Subpart IIIII—[Amended]

■ 126. Section 63.8226 is amended by revising paragraph (b) to read as follows:

§ 63.8226 What are my general requirements for complying with this subpart?

* * * * *

(b) You must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

■ 127. Section 63.8248 is amended by removing introductory text in paragraph (b) and revising paragraph (b)(1) to read as follows:

§ 63.8248 What other requirements must I meet?

* * * * *

(b) *Startups, shutdowns, and malfunctions.* (1) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1).

* * * * *

Subpart JJJJJ—[Amended]

■ 128. Section 63.8420 is amended by revising paragraph (c) to read as follows:

§ 63.8420 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

* * * * *

■ 129. Section 63.8470 is amended by:

■ a. Removing and reserving paragraph (d); and

■ b. Revising the first sentence in paragraph (e) to read as follows:

§ 63.8470 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(d) [Reserved]

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1) and your OM&M plan. * * *

* * * * *

Subpart KKKKK—[Amended]

■ 130. Section 63.8570 is amended by revising paragraph (c) to read as follows:

§ 63.8570 What are my general requirements for complying with this subpart?

* * * * *

(c) For each kiln that is subject to the emission limits specified in Table 1 to this subpart, you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

* * * * *

■ 131. Section 63.8620 is amended by:

■ a. Removing and reserving paragraph (d); and

■ b. Revising the first sentence in paragraph (e) to read as follows:

§ 63.8620 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

* * * * *

(d) [Reserved]

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1) and your OM&M plan. * * *

* * * * *

Subpart LLLLL—[Amended]

■ 132. Section 63.8685 is amended by revising paragraph (c) to read as follows:

§ 63.8685 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

* * * * *

■ 133. Section 63.8691 is amended by:

■ a. Removing and reserving paragraph (c); and

■ b. Revising the first sentence in paragraph (d) to read as follows:

§ 63.8691 How do I demonstrate continuous compliance with the operating limits?

* * * * *

(c) [Reserved]

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

■ 134. Table 7 to subpart LLLLL of part 63 is amended by revising the citation to § 63.8(c)(1)(i) to read as follows:

Table 7 to Subpart LLLLL of Part 63—Applicability of General Provisions to Subpart LLLLL

Citation	Subject	Brief description	Applies to subpart LLLLL
* *	*	* * *	* *
§ 63.8(c)(1)(i)	Routine and predictable CMS malfunction.	1. Keep parts for routine repairs readily available. 2. Reporting requirements for CMS malfunction when action is described in SSM plan.	Yes.
* *	*	* * *	* *

Subpart MMMMM—[Amended]

■ 135. Section 63.8794 is amended by revising paragraph (e) to read as follows:

§ 63.8794 What are my general requirements for complying with this subpart?

* * * * *

(e) For each new or reconstructed flame lamination affected source, you must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

* * * * *

■ 136. Section 63.8812 is amended by:

■ a. Removing and reserving paragraph (c); and

■ b. Revising the first sentence in paragraph (d) to read as follows:

§ 63.8812 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(c) [Reserved]

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur at a new or reconstructed flame lamination affected source during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

* * * * *

Subpart NNNNN—[Amended]

■ 137. Section 63.9005 is amended by revising paragraph (c) to read as follows:

§ 63.9005 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

* * * * *

■ 138. Section 63.9040 is amended by:

■ a. Removing and reserving paragraph (d); and

■ b. Revising the first sentence in paragraph (e) to read as follows:

§ 63.9040 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

* * * * *

(d) [Reserved]

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

Subpart PPPPP—[Amended]

■ 139. Section 63.9305 is amended by revising the first sentence in paragraph (c) to read as follows:

§ 63.9305 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written SSM plan (SSMP) for emission control devices and associated monitoring equipment according to the provisions in § 63.6(e)(3). * * *

■ 140. Section 63.9340 is amended by removing introductory text in paragraph (c) and revising paragraph (c)(1) to read as follows:

§ 63.9340 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(c) *Startups, shutdowns, and malfunctions.* (1) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of SSM of control devices and associated monitoring equipment are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1).

* * * * *

■ 141. Section 63.9375 is amended by revising the first sentence in the definition of malfunction to read as follows:

§ 63.9375 What definitions apply to this subpart?

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. * * *

* * * * *

■ 142. Table 7 to subpart PPPPP of part 63 is amended by revising the citation to § 63.8(c)(1)(i) to read as follows:

Table 7 to Subpart PPPPP of Part 63—Applicability of General Provisions to Subpart PPPPP

* * * * *

Citation	Subject	Brief description	Applies to subpart PPPPP
*	*	*	*
§ 63.8(c)(1)(i)	Routine and predictable CMS malfunctions.	1. Keep parts for routine repairs of CMS readily available. 2. Reporting requirements for SSM when action is described in SSMP.	Yes.
*	*	*	*

Subpart QQQQQ—[Amended]

■ 143. Section 63.9505 is amended by revising paragraph (c) to read as follows:

§ 63.9505 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

■ 144. Section 63.9530 is amended by:

■ a. Removing and reserving paragraph (d); and

■ b. Revising the first sentence in paragraph (e) to read as follows:

§ 63.9530 How do I demonstrate continuous compliance with the emission limitation that applies to me?

* * * * *

(d) [Reserved]

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). * * *

Subpart RRRRR—[Amended]

■ 145. Section 63.9610 is amended by revising paragraph (c) to read as follows:

§ 63.9610 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

■ 146. Section 63.9637 is amended by removing introductory text in paragraph (b) and revising paragraph (b)(1) to read as follows:

§ 63.9637 What other requirements must I meet to demonstrate continuous compliance?

* * * * *

(b) *Startups, shutdowns, and malfunctions.* (1) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1).

* * * * *

Subpart SSSSS—[Amended]

■ 147. Section 63.9792 is amended by revising paragraph (c) to read as follows:

§ 63.9792 What are my general requirements for complying with this subpart?

* * * * *

(c) You must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

* * * * *

■ 148. Section 63.9810 is amended by removing and reserving paragraph (e)(1) and revising the first sentence in paragraph (e)(2) to read as follows:

§ 63.9810 How do I demonstrate continuous compliance with the emission limits, operating limits, and work practice standards?

* * * * *

(e) * * *

(1) [Reserved]

(2) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1) and your OM&M plan. * * *

Subpart TTTTT—[Amended]

■ 149. Section 63.9910 is amended by revising paragraph (b) to read as follows:

§ 63.9910 What are my general requirements for complying with this subpart?

* * * * *

(b) You must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

■ 150. Section 63.9925 is amended by removing introductory text in paragraph (b) and revising paragraph (b)(1) to read as follows:

§ 63.9925 What other requirements must I meet to demonstrate continuous compliance?

* * * * *

(b) *Startups, shutdowns, and malfunctions.* (1) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1).

* * * * *

PART 65—[AMENDED]

■ 151. The authority citation of part 65 continues to read as follows:

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

Subpart A—[Amended]

■ 152. Section 65.2 is amended by revising the first sentence in the definition of *malfunction* to read as follows:

§ 65.2 Definitions.

* * * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. * * *

* * * * *

■ 153. Section 65.3 is amended by
■ a. Revising the second sentence in paragraph (a)(3);
■ b. Revising the first sentence in paragraph (a)(4); and
■ c. Revising paragraph (b)(2)(i) to read as follows:

§ 65.3 Compliance with standards and operation and maintenance requirements.

(a) * * *

(3) * * * The measures to be taken may include, but are not limited to, air pollution control technologies, recovery technologies, work practices, pollution prevention, monitoring, and/or changes in the manner of operation of the regulated source. * * *

(4) Malfunctions shall be corrected as soon as practical after their occurrence. * * *

* * * * *

(b) * * *

(2) * * *

(i) During periods of startup, shutdown, or malfunction (and the source is operated during such periods in accordance with § 65.3(a)(3)), a monitoring parameter is outside its established range or monitoring data cannot be collected; or

* * * * *

■ 154. Section 65.6 is amended by:
■ a. Revising the first and fourth sentences in paragraph (b)(1) introductory text;
■ b. Revising paragraph (b)(2); and
■ c. Revising paragraph (c)(3) to read as follows:

§ 65.6 Startup, shutdown, and malfunction plan and procedures.

* * * * *

(b) *Startup, shutdown, and malfunction plan*—(1) *Description and purpose of plan.* The owner or operator of a regulated source shall develop a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the regulated source during periods of startup, shutdown, and malfunction and a program of corrective action for malfunctioning process and air pollution control equipment used to comply with the relevant standard. * * * The requirement to develop this plan shall be incorporated into the source's title V permit. * * *

* * * * *

(2) *Operation of source.* During periods of startup, shutdown, and malfunction, the owner or operator of a regulated source shall operate and maintain such source (including associated air pollution control equipment and CPMS) in accordance with § 65.3(a). The general duty to minimize emissions during a period of startup, shutdown, or malfunction does not require the owner or operator to achieve emission levels that would be required by the applicable standard at other times if this is not consistent with safety and good air pollution control practices, nor does it require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the

Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan required in paragraph (b)(1) of this section), review of operation and maintenance records, and inspection of the source.

* * * * *

(c) * * *

(3) If actions taken by an owner or operator during a startup, shutdown, and malfunction of a regulated source, or of a control device or monitoring system required for compliance (including actions taken to correct a malfunction) are consistent with the procedures specified in the source's startup, shutdown, and malfunction plan, then the owner or operator shall state such information in a startup, shutdown, and malfunction report, and describe the actions taken. Such description can take the form of a checklist; only one checklist is necessary if actions taken are the same for multiple events during the reporting period.

* * * * *

■ 155. Section 65.115 is amended by revising the last sentence in paragraph (b)(1) and the last sentence in paragraph (b)(2) to read as follows:

§ 65.115 Standards: Closed vent systems and control devices; or emissions routed to a fuel gas system or process.

* * * * *

(b) *Compliance standard.* (1) * * * Note that this includes the startup, shutdown, and malfunction provisions of § 65.6.

(2) * * * Note that this includes the startup, shutdown, and malfunction provisions of § 65.6.

■ 156. Section 65.156 is amended by revising paragraphs (d)(3)(i) and (ii) to read as follows:

§ 65.156 General monitoring requirements for control and recovery devices.

* * * * *

(d) * * *

(3) * * *

(i) Excursions which occur during periods of startup, shutdown, and malfunction, when the source is being operated during such periods to minimize emissions in accordance with § 65.3(a)(3).

(ii) Excursions which occur due to failure to collect a valid hour of data during periods of startup, shutdown, and malfunction, when the source is being operated during such periods in accordance with § 65.3(a)(3).

* * * * *

■ 157. Section 65.161 is amended by revising paragraph (e)(2)(iv)(A) to read as follows:

§ 65.161 Continuous records and monitoring data system handling.

* * * * *

(e) * * *

(2) * * *

(iv) * * *

(A) The daily average value during any startup, shutdown, or malfunction shall not be considered an excursion for purposes of this paragraph (e) if the owner or operator operates the source in accordance with § 65.3(a).

* * * * *

■ 158. Section 65.163 is amended by revising paragraph (c)(2) to read as follows:

§ 65.163 Other records.

* * * * *

(c) * * *

(2) For each startup, shutdown, and malfunction during which excess emissions occur, records whether the procedures specified in the source's startup, shutdown, and malfunction plan were followed, and a description of actions taken to minimize emissions. For example, if a startup, shutdown, and malfunction plan includes procedures for routing control device emissions to a backup control device (for example, the incinerator for a halogenated stream could be routed to a flare during periods when the primary control device is out of service), records must be kept of whether the plan was followed. These records may take the form of a checklist or other form of recordkeeping that confirms conformance with the startup, shutdown, and malfunction plan for the event.

* * * * *

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Federal Register

Thursday,
April 20, 2006

Part III

Department of Labor

Veterans' Employment and Training Service

Solicitations for Grant Applications; Non-Urban Homeless Veterans' Reintegration Program; Veterans' Workforce Investment Program; Urban Homeless Veterans' Reintegration Program; New Grantee Homeless Veterans' Reintegration Program; Grants for Program Year (PY) 2006, July 1, 2006 Through June 30, 2007; Notices

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

[SGA #06–02/PY 06]

Solicitation for Grant Applications (SGA); Non-Urban Homeless Veterans' Reintegration Program (HVRP) Grants for Program Year (PY) 2006, July 1, 2006 Through June 30, 2007

AGENCY: Veterans' Employment and Training Service (VETS), Labor.

ACTION: Posting of SGA.

SUMMARY: The Veterans' Employment and Training Service is posting availability of funds for the Non-Urban Homeless Veterans' Reintegration Program.

FOR FURTHER INFORMATION CONTACT: Cassandra Mitchell, Grants Management Specialist, Procurement Services Center, at (202) 693–4570.

Date Extension: N/A.

DATES: The closing date for receipt of the application is May 22, 2006 at 5 p.m. (eastern time) at the address listed.

Executive Summary (Applicants For Grant Funds Should Read This Notice In Its Entirety): The U.S. Department of Labor (USDOL), Veterans' Employment and Training Service (VETS), announces a grant competition under 38 U.S.C. 2021, as added by Section 5 of Public Law 107–95, the Homeless Veterans Comprehensive Assistance Act of 2001 (HVCAA). Section 2021 requires the Secretary of Labor to conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to expedite the reintegration of homeless veterans into the labor force.

The only jurisdictions that are eligible to be served through this non-urban competition for HVRPs are the geographical areas in the United States *other than* the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico (see Appendix G for a list of the jurisdictions that are *not* eligible to be served by the non-urban competition for HVRPs).

HVRP grants are intended to address two objectives: (1) To provide services to assist in reintegrating homeless veterans into meaningful employment within the labor force, and (2) to stimulate the development of effective service delivery systems that will address the complex problems facing homeless veterans. Successful applicants will design programs that assist eligible veterans by providing job placement services, job training, counseling, supportive services, and other assistance to expedite the reintegration of homeless veterans into the labor force. Successful programs will also be designed to be flexible in addressing the universal as well as the local or regional problems that have had a negative impact on homeless veterans reentering the workforce.

Under this solicitation covering Fiscal Year (FY) 2006, VETS anticipates that up to $1,400,000 will be available for grant awards up to a maximum of $200,000 for each grant award. VETS expects to award approximately seven (7) grants. This notice contains all of the necessary information and forms to apply for grant funding. The period of performance for these PY 2006 grants will be July 1, 2006 through June 30, 2007. Two (2) optional years of additional funding may be available, depending upon Congressional appropriations, the agency's decision to exercise the optional year(s) of funding, and satisfactory grantee and sub-awardee(s) performance.

I. Funding Opportunity Description

The U.S. Department of Labor (USDOL), Veterans' Employment and Training Service (VETS), announces a grant competition under 38 U.S.C. 2021, as added by Section 5 of Public Law 107–95, the Homeless Veterans Comprehensive Assistance Act of 2001 (HVCAA). Section 2021 requires the Secretary of Labor to conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to provide job training, counseling, and placement services (including job readiness, literacy training, and skills training) to expedite the reintegration of homeless veterans into the labor force.

1. Program Concept and Emphasis

HVRP grants are intended to address two objectives: (a) To provide services to assist in reintegrating homeless veterans into meaningful employment within the labor force, and (b) to stimulate the development of effective service delivery systems that will address the complex problems facing homeless veterans.

For this Fiscal Year (FY) 2006 grant solicitation, VETS seeks applicants that will provide services through a case management approach that networks with Federal, State, and local resources for veteran support programs. Successful applicants will have clear strategies and obtainable goals for employment and retention of employment for homeless veterans. Successful applicants will design programs that assist eligible veterans by providing job placement services, job training, counseling, mentoring, supportive services, and other assistance to expedite the reintegration of homeless veterans into the labor force. Successful applicants will also design programs that are flexible in addressing the universal as well as the local or regional problems that have had a negative impact on homeless veterans reentering the workforce. The HVRP in PY 2006 will seek to continue to strengthen development of effective service delivery systems, to provide comprehensive services through a case management approach that addresses complex problems facing eligible veterans trying to transition into gainful employment, and to improve strategies for employment and retention in employment.

The only jurisdictions that are eligible to be served through this non-urban competition for HVRPs are the geographical areas in the United States *other than* the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico (see Appendix G for a list of the jurisdictions that are *not* eligible to be served by the non-urban competition for HVRPs).

2. Project Awareness Program Information and Orientation Activities

In order to promote networking between the HVRP-funded program and local service providers (and thereby eliminate gaps or duplication in services and enhance the provision of assistance to participants), the grantee and sub-awardee(s) must provide project orientation workshops and program awareness activities that it determines are the most feasible for the types of providers listed below. Grantees and sub-awardee(s) are encouraged to propose strategies for incorporating small faith-based and community organizations (defined as organizations with social services budgets of $500,000 or less and ten (10) or fewer full-time employees) into their outreach plans. Project orientation workshops conducted by grantees and sub-awardee(s) have been an effective means of sharing information and informing the community of the availability of other services; they are encouraged but not mandatory. Rather, grantees and sub-awardee(s) will have the flexibility to attend service provider meetings, seminars, and conferences, to outstation staff, and to develop individual service contracts as well as to involve other agencies in program planning.

The grantee and sub-awardee(s) will be responsible for providing project

awareness, program information, and orientation activities to the following:

A. Direct providers of services to homeless veterans, including shelter and soup kitchen operators, to make them aware of the services available to homeless veterans to make them job-ready and to aid their placement into jobs.

B. Federal, State, and local agencies such as the Social Security Administration (SSA), Department of Veterans Affairs (DVA), State Workforce Agencies (SWAs) and local One-Stop Career Centers (which integrate Workforce Investment Act (WIA) and other employment and training services), mental health services, and healthcare detoxification facilities: to familiarize them with the nature and needs of homeless veterans.

C. Civic and private sector groups, in particular veterans' service organizations, support groups, job training and employment services, and community-based organizations (including faith-based organizations), to provide information on homeless veterans and their needs.

The grantee and sub-awardee(s) will also be responsible for participating in ''Stand Down'' events. A ''Stand Down'' is an event held in a locality, usually for one (1) to three (3) days, where services are provided to homeless veterans along with shelter, meals, clothing, employment services, and medical attention. This type of event is mostly a volunteer effort, which is organized within a community and brings service providers together such as the Department of Veterans Affairs, Disabled Veterans' Outreach Program Specialists (DVOP) and Local Veterans' Employment Representatives (LVER) staff from the State Workforce Agencies, Veteran Service Organizations, military personnel, civic leaders, and a variety of other interested persons, groups, and organizations. Many services are provided on-site with referrals also made for continued assistance after the Stand Down event. These events can often be the catalyst that enables homeless veterans to get back into mainstream society. The Department of Labor has supported replication of these events and many have been held throughout the nation.

In areas where an HVRP is operating, grantees and sub-awardee(s) are expected and encouraged to participate fully and offer their services for all locally planned Stand Down event(s). Toward this end, up to $8,000 of the requested HVRP grant funds may be used to supplement the Stand Down efforts, where funds are not otherwise available, and may be requested and explained in the budget narrative.

3. Scope of Program Design

In addition to the activities described above, the project design must include the following services:

A. Outreach, intake, assessment, peer counseling or mentoring to the degree practical, employment services, and follow-up support services to enhance retention in employment. Program staff providing outreach services should have experience in dealing with, and an understanding of the needs of, homeless veterans. Outreach activities must include and coordinate with the DVOP and LVER staff in the State Workforce Agencies or in the workforce investment systems' One-Stop Career Centers System, Veterans' Workforce Investment Program (VWIP), and the Department of Veterans Affairs.

B. Provision of or referral to employment services such as: Job search workshops, job counseling, assessment of skills, resume writing techniques, interviewing skills, subsidized trial employment (work experience), job development services, job placement into unsubsidized employment, and job placement follow-up services to enhance retention in employment.

C. Provision of or referral to training services such as: Basic skills instruction, remedial education activities, life skills and money management training, on-the-job training, classroom training, vocational training, specialized and/or licensing training programs, and other formal training programs as deemed appropriate to benefit the participant. At least 80% of the enrolled HVRP participants must participate in training activities.

D. Grantees and sub-awardee(s) must perform a preliminary assessment of each participant's eligibility for Department of Veterans Affairs (DVA) service-connected disability, compensation, and/or pension benefits. As appropriate, grantees and sub-awardee(s) will work with the veterans' service organizations or refer the participants to DVA in order to file a claim for compensation or pension. Grantees and sub-awardee(s) will track the progress of claims and report outcomes in individual participant case management records.

E. Coordination with veterans' services programs, including: DVOPs and LVERs in the workforce investment system's One-Stop Career Centers, as well as Veterans' Workforce Investment Programs (VWIPs), Department of Veterans Affairs (DVA) services, including its Health Care for Homeless Veterans, Domiciliary Care, Regional Benefits Assistance Program, and Transitional Housing under Homeless Provider Grant and Per Diem programs.

F. Networking, collaborating, and coordinating efforts with veterans' service organizations such as: The American Legion, Disabled American Veterans, Veterans of Foreign Wars, Vietnam Veterans of America, The American Veterans (AMVETS), or etc., to ensure participants apply for and/or receive other veterans' benefits that they may be eligible for.

G. Referral as necessary to health care, counseling, and rehabilitative services including, but not limited to: alcohol and drug rehabilitation, therapeutic services, Post Traumatic Stress Disorder (PTSD) services, and mental health services as well as coordination with McKinney-Vento Homeless Assistance Act (MVHAA) programs for health care for the homeless, and health care programs under the Homeless Veterans Comprehensive Assistance Act (HVCAA) of 2001.

H. Referral to housing assistance, as appropriate, provided by: local shelters, Federal Emergency Management Administration (FEMA) food and shelter programs, transitional housing programs and single room occupancy housing programs funded under MVHAA and HVCAA, and permanent housing programs for disabled homeless persons funded under MVHAA and HVCAA.

4. Results-Oriented Model

No specific model is mandatory, but successful applicants will design a program that is responsive to the needs of the local community and achieves the HVRP objectives. The HVRP objectives are to successfully reintegrate homeless veterans into the workforce and to stimulate the development of effective service delivery systems that will address the complex problems facing homeless veterans. Under the Government Performance and Results Act (GPRA), Congress and the public are looking for program results rather than program processes.

For purposes of assessing performance of grantees selected under this SGA, VETS will focus on two performance measures described below. However, grantees also will be required to report additional performance information, as required in DOL guidance on OMB Common Measures and as described below. All performance outcomes will be reported quarterly using an Internet-based reporting system for HVRP, with access provided to successful grantees after the award process has been completed.

There are two (2) outcome measures with established performance targets for

HVRP grants. The first outcome measure is the placement rate with a performance target for grantees and sub-awardee(s) to meet a minimum placement rate of 61.5%. This is determined by dividing the number of participants placed into employment by the total number of HVRP participants. While the percentage of HVRP participants placed into employment is an important outcome, it is also necessary to evaluate and measure the program's longer-term results, through the 90-day and 180-day follow-up periods. The second outcome measure is retention following placement with a performance target for grantees and sub-awardee(s) to meet a minimum rate of retention of 58.5% at 180 days following placement. This is determined by dividing the number of participants retained in employment at 180 days following placement divided by the total number of participants placed into employment. While there is no performance target established for retention at 90 days following placement, grantees are required to collect and report the rate of retention in employment at that point.

In applying the Common Measures, grantees will be required to collect additional information according to the Common Measures definitions but no performance targets for grantees will be established according to those definitions during this period of performance. That is because the baseline information required to establish performance targets does not yet exist. Upon award, grantees will be provided with detailed information regarding the specific information required to be collected and reported. At this point, it is sufficient for grantees to be aware of two requirements in addition to the requirements identified above. First, it will be necessary for grantees to collect and report on the rate of retention in employment at 270 days following placement into employment. Second, at the 180-day and 270-day points of retention in employment following placement, grantees will be required to collect and report the average weekly earnings of those retained in employment. This is calculated by multiplying each participant's hourly wage by the average number of hours per week that the participant was employed during the previous quarter.

The applicant's program should be based on a results-oriented model. The first phase of activity should consist of the level of outreach necessary to introduce the program to eligible homeless veterans. Outreach also includes establishing contact with other agencies that encounter homeless veterans. Once the eligible homeless veterans have been identified, an assessment must be made of each individual's abilities, interests, needs, and barriers to employment. In some cases, participants may require referrals to services such as rehabilitation, drug or alcohol treatment, or a temporary shelter before they can be enrolled into the HVRP program. Once the eligible homeless veteran is stabilized, the assessment must concentrate on the employability of the individual and whether the individual is to be enrolled into the HVRP program.

A determination should be made as to whether the HVRP participant would benefit from pre-employment preparation such as resume writing, job search workshops, related employment counseling, and case management, or possibly an initial entry into the job market through temporary jobs. Additionally, sheltered work environments such as the Department of Veterans Affairs Compensated Work Therapy Program, classroom training, and/or on-the-job training must be evaluated. Such services should be noted in an Individual Employment Plan to facilitate the staff's successful monitoring of the participant's progress. Entry into full-time employment or a specific job-training program should follow, in keeping with the overall objective of HVRP, to bring the participant closer to self-sufficiency. The grantee should provide or arrange for these supportive services that will enable the HVRP participant to successfully perform all the activities specified in the Individual Employment Plan.

Job development, a crucial part of the employability process, usually occurs when there are no competitive job openings that the HVRP participant is qualified to apply for; therefore, a job opportunity with an employer is created, developed, and customized specifically for that HVRP participant. HVRP participants who are ready to enter employment and are in need of intensive case management services for employment purposes are to be referred to the DVOP and LVER staff at a One-Stop Career Center. DVOP and LVER staff are able to provide HVRP participants the following services: job development, employment services, case management for employment purposes, and career counseling. Most DVOP and LVER staff received training in case management for employment purposes at the National Veterans' Training Institute. All DVOP and LVER staff provide employment-related services to veterans who are most at a disadvantage in the labor market. VETS recommends working hand-in-hand with DVOP/LVER and other One-Stop Career Center staff to achieve economies of resources and to avoid duplication of services. DVOP/LVER staff may also be able to provide grantees and sub-awardee(s) valuable assistance in tracking participants within their State wage record management information system for follow-up purposes at 90 and 180 days after a participant enters employment.

The applicant's program must include tracking of program participants. Participant tracking should begin with the referral to supportive services and training activities and continue at placement into employment and through the 90-day and 180-day follow-up periods after entering employment. It is important that the grantee and sub-awardee(s) maintain contact with veterans after placement to ensure that employment-related problems are addressed. The 90-day and 180-day follow-ups are fundamental to assessing program results. Grantees and sub-awardee(s) need to budget for 90-day and 180-day follow-up activity so that it can be performed for those participants placed at or near the end of the grant performance period. All grantees and sub-awardee(s), prior to the end of the grant performance period, must obligate sufficient funds to ensure that follow-up activities are completed. Such results will be reported in the final technical performance report.

II. Award Information

1. Type of Funding Instrument

One (1) year grant with optional funding for an additional two years.

Note: Selection of an organization as a grantee does not constitute final approval of the grant application as submitted. Before the actual grant is awarded, USDOL may enter into negotiations about such items as program components, staffing, and funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in a mutually acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application.

2. Funding Levels

The total funding available for this Non-Urban HVRP solicitation is up to $1,400,000. It is anticipated that approximately seven (7) awards will be made under this solicitation. Awards are expected to range from a minimum of $75,000 to a maximum of $200,000. The Department of Labor reserves the right to negotiate the amounts to be awarded under this competition. Please be advised that requests exceeding

$200,000 will be considered non-responsive and will not be evaluated. If there are any residual programmatic funds, the Department of Labor reserves the right to select for funding the next highest scoring applicant(s) on the competitive list developed for this SGA up to one (1) year after the initial performance period begins or June 30, 2007.

3. Period of Performance

The period of performance will be for the twelve (12) month period of July 1, 2006 to June 30, 2007, unless modified by the Grant Officer. It is expected that successful applicants will begin program operations under this solicitation on July 1, 2006. All program funds must be obligated by June 30, 2007; a limited amount of funds may be obligated and reserved for follow-up activities and closeout.

4. Optional Year Funding

Should Congress appropriate additional funds for this purpose, VETS may consider up to two (2) additional years of optional funding. The Government does *not*, however, guarantee optional year funding for any grantee or sub-awardee(s). In deciding whether to exercise any optional year(s) of funding, VETS will consider grantee and sub-awardee(s) performance during the previous period of operations as follows:

A. The grantee and sub-awardee(s) must meet, at minimum, 90% of planned cumulative goals for Federal expenditures, enrollments, placements into employment, and training by the end of the third quarter; and

B. The grantee and sub-awardee(s) must have complied with all terms identified in the Solicitation for Grant Application (SGA), grant award document, and General and Special Grant Provisions; and

C. All program and fiscal reports must have been submitted by the established due dates and the grantee and sub-awardee(s) must verify these reports for accuracy purposes.

III. Eligibility Information

1. Eligible Applicants

Applications for funds will be accepted from State and local Workforce Investment Boards, local public agencies, for-profit/commercial entities, and non-profit organizations, including faith-based and community organizations. Applicants must have a familiarity with the area and population to be served and the ability to administer an effective and timely program.

Eligible applicants will generally fall into one of the following categories:

- State and local Workforce Investment Boards (WIBs), established under Sections 111 and 117 of the Workforce Investment Act.
- Public agencies, meaning any public agency of a State or of a general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers. (This typically refers to cities and counties.) A State agency may propose in its application to serve one or more of the jurisdictions located in its State. This does not preclude a city or county agency from submitting an application to serve its own jurisdiction.
- For-profit/commercial entities.
- Non-profit organizations (including faith-based and community organizations). If claiming 501(c)(3) status, the Internal Revenue Service statement indicating 501(c)(3) status approval must be submitted.

Note that entities organized under Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this announcement. Section 18 of the Lobbying Disclosure Act of 1995, Public Law 104–65, 109 Stat. 691 (2 U.S.C. 1611) prohibits instituting an award, grant, or loan of federal funds to 501(c)(4) entities that engage in lobbying.

2. Cost Sharing

Cost sharing and matching funds are *not* required. However, we do encourage grantees and sub-awardee(s) to maximize the resources available to the HVRP program and it's participants.

3. Other Eligibility Criteria

A. The only jurisdictions that are eligible to be served through this non-urban competition for HVRPs are the geographical areas in the United States *other than* the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico (see Appendix G for a list of the jurisdictions that are *not* eligible to be served by the non-urban competition for HVRPs).

B. The proposal must include a participant outreach component that uses DVOP/LVER staff and/or trained outreach staff. Programs must be ''employment-focused.'' An ''employment-focused'' program is a program directed toward: (1) Increasing the employability of homeless veterans through training or arranging for the provision of services that will enable them to reintegrate into the labor force and (2) matching homeless veterans with potential employers and/or entrepreneurial opportunities.

C. Applicants are encouraged to utilize, through partnerships or sub-awards, experienced public agencies, private non-profit organizations, private businesses, faith-based and community organizations, and colleges and universities (especially those with traditionally high enrollments of minorities) that have an understanding of unemployment and the barriers to employment unique to homeless veterans, a familiarity with the area to be served, linkages with the One-Stop Career Center(s), and the capability to effectively provide the necessary services.

D. Legal rules pertaining to inherently religious activities by organization that receive Federal Financial Assistance. Neutral, non-religious criteria that neither favor nor disfavor religion will be employed in the selection of grant recipients and must be employed by grantees or in the selection of sub-awardee(s). The government is generally prohibited from providing direct financial assistance for inherently religious activities. These grants may not be used for religious instruction, worship, prayer, proselytizing or their inherently religious activities. In this context, the term direct financial assistance means financial assistance that is provided directly by a government entity or an intermediate organization, as opposed to financial assistance that an organization receives as the result of the genuine and independent private choice of a beneficiary. In other contexts, the term ''direct'' financial assistance may be used to refer to financial assistance that an organization receives directly from the Federal government (also known as ''discretionary'' assistance), as opposed to assistance that it receives from a State or local government (also known as ''indirect'' or ''block'' grant assistance). The term ''direct'' has the former meaning throughout this SGA.

E. To be eligible for enrollment as a participant under this HVRP grant an individual must be homeless *and* a veteran defined as follows:

- The term ''*homeless or homeless individual*'' includes persons who lack a fixed, regular, and adequate nighttime residence. It also includes persons whose primary nighttime residence is either a supervised public or private shelter designed to provide temporary living accommodations; an institution that provides a temporary residence for individuals intended to be institutionalized; or a public or private place not designed for, or ordinarily used as, a regular sleeping

accommodation for human beings. [42 U.S.C. 11302(a)].

• The term ''*veteran*'' means a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable. [38 U.S.C. 101(2)].

IV. Application and Submission Information

1. Address To Request an Application and Amendments

This SGA, together with its attachments, includes all the information needed to apply. Additional application packages and amendments to this SGA may be obtained from the VETS Web site address at *http://www.dol.gov/vets*, Federal Grant Opportunities Web site address at *http://www.grants.gov*, and from the **Federal Register** Web site address at *http://www.gpoaccess.gov/fr/index.html.* The **Federal Register** may also be obtained from your nearest government office or library. Additional copies of the standard forms can be downloaded from: *http://www.whitehouse.gov/omb/grants/grants_forms.html*.

All grant applications are to be mailed to: Department of Labor, Procurement Services Center, Attention: Cassandra Mitchell, Reference SGA #06–02, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210, Phone Number: (202) 693–4570 (this is not a toll-free number).

• Applicants may also apply online at *http://www.grants.gov*. Applicants submitting proposals online are requested to refrain from mailing a hard copy application as well. It is strongly recommended that applicants using *http://www.grants.gov* immediately initiate and complete the ''Get Started'' registration steps at *http://www.grants.gov/GetStarted.* These steps may take multiple days to complete, and this time should be factored into plans for electronic submission in order to avoid facing unexpected delays that could result in the rejection of an application. If submitting electronically through *http://www.grants.gov* it would be appreciated if the application submitted is saved as .doc, .pdf, or .txt files.

• Any application received after the deadline will be considered as non-responsive and will not be evaluated.

2. Content and Form of Application

The application must include the name, address, telephone number, fax number, and e-mail address (if applicable) of a key contact person at the applicant's organization in case questions should arise. To be considered *responsive* to this solicitation the application must consist of three (3) separate and distinct sections: The Executive Summary, the Technical Proposal, and the Cost Proposal. The information provided in these three (3) sections is essential to demonstrate an understanding of the programmatic and fiscal contents of the grant proposal.

A complete grant application package must not exceed 75 single-sided pages (8½″ x 11″), double-spaced, 12-point font, typed pages (all attachments are included in the 75 page maximum). Applications that contain more than 75 pages total will be considered non-responsive. Major sections and sub-sections of the application should be divided and clearly identified (*e.g.,* with tab dividers), and all pages shall be numbered. To be considered responsive grant applications are to include:

• An original, blue ink-signed, and two (2) copies of the cover letter.

• An original and two (2) copies of the Executive Summary (see below).

• An original and two (2) copies of the Technical Proposal (see below) that includes a completed Technical Performance Goals Form (Appendix D). Also include all attachments with the technical proposal, such as the applicant's information showing outcomes of employment and training programs that it has had in the past three (3) years in terms of enrollments and participants who have entered into employment.

• An original and two (2) copies of the Cost Proposal (see below) that includes an original, blue ink-signed, Application for Federal Assistance, SF–424 (Appendix A), a Budget Narrative, Budget Information Sheet SF–424A (Appendix B), an original, blue ink-signed, Assurances and Certifications Signature Page (Appendix C), a Direct Cost Description for Applicants and Sub-applicants (Appendix E), a completed Survey on Ensuring Equal Opportunity for Applicants (Appendix F), and the applicant's grant specific financial and/or audit statement dated within the last 18 months (does not count towards the 75 page limitation).

A. *Section 1—Executive Summary:* A one to two page ''Executive Summary'' reflecting the grantee's and sub-awardee(s) proposed overall strategy, timeline, and outcomes to be achieved in their grant proposal is required. The Executive Summary should include:

• The proposed area to be served through the activities of this grant application.

• The grantee's experience in serving the residents in the proposed service area.

• The proposed projects and activities that will expedite the reintegration of homeless veterans into the workforce.

• A summary of anticipated outcomes, benefits, and value added by the project.

B. *Section 2—Technical Proposal* consists of a narrative proposal that demonstrates the need for this particular grant program, the services and activities proposed to obtain successful outcomes for the homeless veterans to be served; and the applicant's ability to accomplish the expected outcomes of the proposed project design. All applications must respond to the requirements for the program concept, required activities, and results oriented model set forth in Section I of the SGA.

Required Content: There are program activities that all applications must contain to be found technically acceptable under this SGA. Programs must be ''employment-focused'' and must be responsive to the rating criteria in Section V(1). *The required program activities are:* Participant outreach and project awareness activities, pre-enrollment assessments, individual employment plans for each participant, case management, job placement, job retention follow-up (at 90 and 180 days) after individual enters employment, utilization and coordination of employment services through the One-Stop Career Center System, including the DVOP and LVER staff, and with community linkages with other programs that provide support to homeless veterans. All applicants must respond to the requirements for the program concept, required activities and results-oriented model are described in Section I.3. of the SGA.

The following format for the technical proposal is recommended:

Need for the program: The applicant must identify the geographical area to be served and provide an estimate of the number of homeless veterans in the designated geographical area. Include poverty and unemployment rates in the area and identify the disparities in the local community infrastructure that exacerbate the employment barriers faced by the targeted veterans. Include labor market information and job opportunities in the employment fields and industries that are in demand in the geographical area to be served. Applicants are to clearly describe the proposed program awareness and participant outreach strategies.

Approach or strategy to increase employment and job retention: Applicants must be responsive to the

Rating Criteria contained in Section V(1) and address all of the rating factors as thoroughly as possible in the narrative. *The applicant must:*

- Describe the specific employment and training services to be provided under this grant and the sequence or flow of such services;
- Indicate the type(s) of training that will be provided under the grant and how it relates to the jobs that are in demand, length of training, training curriculum, and how the training will improve the eligible veterans' employment opportunities within that geographical area;
- Provide a follow-up plan that addresses retention after 90 and 180 days with participants who have entered employment;
- Include the completed Planned Quarterly Technical Performance Goals (and planned expenditures) form listed in Appendix D. If the Planned Quarterly Technical Performance Goals form listed in Appendix D is not submitted, the grant application package will be considered as non-responsive.

Linkages with facilities that serve homeless veterans: Describe program and resource linkages with other facilities that will be involved in identifying potential clients for this program. Applicants are encouraged to submit a list of their local area network of service providers that offer and provide services to benefit HVRP participants. Describe any networks with other related resources and/or other programs that serve homeless veterans. Indicate how the program will be coordinated with any efforts that are conducted by public and private agencies in the community. Indicate how the applicant will coordinate with any continuum of care efforts for the homeless among agencies in the community. If a Memorandum of Understanding (MOU) or other service agreement with service providers exists, copies should be provided.

Linkages with other providers of employment and training services to homeless veterans: Describe the linkages, networks, and relationships the proposed program will have with other providers of services to homeless veterans; include a description of the relationship with other employment and training programs in the One-Stop Career Center System such as Disabled Veterans' Outreach Program (DVOP), the Local Veterans' Employment Representative (LVER) program, and programs under the Workforce Investment Act such as the Veterans' Workforce Investment Program (VWIP); list the type of services that will be provided by each. Note the type of agreement in place, if applicable. Linkages with the workforce investment system are required. Describe any networks with any other resources and/or other programs for homeless veterans. If a MOU or other service agreement with other service providers exists, copies should be provided.

Linkages with other Federal agencies: Describe program and resource linkages with the Department of Housing and Urban Development (HUD), Department of Health and Human Services (HHS), and Department of Veterans Affairs (DVA), to include the Compensated Work Therapy (CWT) and Grant and Per Diem programs. If a MOU or other service agreement with other service providers exists, copies should be provided.

Proposed supportive service strategy for veterans: Describe how supportive service resources for veterans will be obtained and used. If resources are provided by other sources or linkages, such as Federal, State, local, or faith-based and community programs, the applicant must fully explain the use of these resources and how they will be applied. If a MOU or other service agreement with other service providers exist, copies should be provided.

Organizational capability to provide required program activities: The applicant's relevant current and prior experience (within the last three year period) in operating employment and training programs is to be clearly described, if applicable. A summary narrative of program experience and employment and training performance outcomes is required. The applicant must provide information showing outcomes of employment and training programs that it has had in the past three (3) years in terms of enrollments and participants who have entered into employment. An applicant that has operated a HVRP, other homeless employment and training program, or VWIP program must also include the final or most recent cumulative quarterly technical performance report.

Please note that the Department of Labor grant review panel members, who will be reviewing all grant applications submitted as a result of this SGA, do *not* have access to any reporting information systems during the review process, therefore, if final or most recent cumulative quarterly technical performance reports are not submitted, the grant application may be considered non-responsive.

The applicant must also provide evidence of key staff capability to include resumes, staff biographies organizational charts, statements of work, and etc. It is preferred that the grantee and sub-awardee(s) be a well established service provider and not in the initial start-up phase or process.

Proposed housing strategy for homeless veterans: Describe how housing resources for eligible homeless veterans will be obtained or accessed. These resources must be from linkages or sources other than the HVRP grant such as HUD, HHS, community housing resources, DVA Grant and Per Diem Program, or other local housing programs.

C. Section 3—The Cost Proposal must contain the following: Applicants can expect that the cost proposal will be reviewed for allocability, allowability, and reasonableness.

(1) Standard Form SF–424, ''Application for Federal Assistance'' (with the original signed in blue-ink) (Appendix A) must be completed.

The Catalog of Federal Domestic Assistance number for this program is 17.805 and it must be entered on the SF–424, in Block 11.

The organizational unit section of Block 8 of the SF–424 must contain the Dun and Bradstreet Number (DUNS) of the applicant. Beginning October 1, 2003, all applicants for Federal grant funding opportunities are required to include a DUNS number with their application. *See* OMB Notice of Final Policy Issuance, 68 FR 38402 (June 27, 2003). Applicants' DUNS number is to be entered into Block 8 of SF–424. The DUNS number is a nine-digit identification number that uniquely identifies business entities. There is no charge for obtaining a DUNS number. To obtain a DUNS number call 1–866–705–5711 or access the following Web site: *http://www.dunandbradstreet.com/*. Requests for exemption from the DUNS number requirement must be made to the Office of Management and Budget. If no DUNS number is provided then the grant application will be considered non-responsive;

(2) Standard Form SF–424A ''Budget Information Sheet'' (Appendix B) must be included;

(3) As an attachment to SF–424A, the applicant must provide a detailed cost breakout of each line item on the Budget Information Sheet. Please label this page or pages the ''Budget Narrative'' and ensure that costs reported on the SF–424A correspond accurately with the Budget Narrative;

The Budget Narrative must include, at a minimum:

- Breakout of all personnel costs by position, title, annual salary rates, and percent of time of each position to be devoted to the proposed project (including sub-grantees) by completing the ''Direct Cost Descriptions for

Applicants and Sub-Applicants'' form (Appendix E);

• Explanation and breakout of extraordinary fringe benefit rates and associated charges (i.e., rates exceeding 35% of salaries and wages);

• Explanation of the purpose and composition of, and methodology used to derive the costs of each of the following: travel, equipment, supplies, sub-awards/contracts, and any other costs. The applicant must include costs of any required travel described in this Solicitation. Planned travel expenditures may not exceed 5% of the total HVRP funds requested. Mileage charges may not exceed 44.5 cents per mile or the current Federal rate;

• All associated costs for obtaining and retaining participant information pertinent to the follow-up survey, at 90 and 180 days after the program performance period ends;

• Description/specification of, and justification for, equipment purchases, if any. Tangible, non-expendable, personal property having a useful life of more than one year and a unit acquisition cost of $5,000 or more per unit must be specifically identified; and

• Matching funds, leveraged funds, and in-kind services are not required for HVRP grants. However, if matching funds, leverage funds, or in-kind services are to be used, an identification of all sources of leveraged or matching funds and an explanation of the derivation of the value of matching/in-kind services must be provided. When resources such as matching funds, leveraged funds, and/or the value of in-kind contributions are made available, please describe in Section B of the Budget Information Sheet.

(4) A completed Assurance and Certification signature page (Appendix C) (signed in blue ink) must be submitted;

(5) All applicants must submit evidence of satisfactory financial management capability, which must include recent (within the last 18 months) grant specific financial and/or audit statements (does not count towards the 75 page limitation). All successful grantees and sub-awardee(s) are required to utilize Generally Accepted Accounting Practices (GAAP), maintain a separate accounting for these grant funds, and have a checking account;

(6) All applicants must include, as a separate appendix, a list of all employment and training government grants and contracts that they have had in the past three (3) years, including grant/contract officer contact information. VETS reserves the right to have a DOL representative review and verify this data;

(7) A completed Survey on Ensuring Equal Opportunity for Applicants (Appendix F) must be provided.

3. Submission Dates and Times (Acceptable Methods of Submission)

The grant application package must be received at the designated place by the date and time specified or it will not be considered. Any application received at the Office of Procurement Services after 5 p.m. e.d.t., May 22, 2006, will not be considered unless it is received before the award is made and:

• It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated; or

• It was sent by registered or certified mail not later than the fifth calendar day before May 22, 2006; or

• It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5 p.m. at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to May 22, 2006.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped or otherwise placed impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper. Applications cannot be accepted by e-mail or facsimile machine.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence or receipt maintained by that office. Applications sent by other delivery services, such as Federal Express, UPS, etc., will also be accepted.

All applicants are advised that U.S. mail delivery in the Washington, DC area has been erratic due to security concerns. All applicants must take this into consideration when preparing to meet the application deadline, as you assume the risk for ensuring a timely submission, that is, if, because of these mail problems, the Department does not receive an application or receives it too late to give proper consideration, even if it was timely mailed, the Department is not required to consider the application.

4. Intergovernmental Review

Not Applicable.

5. Funding Restrictions

A. Proposals exceeding $200,000 will be considered non-responsive and will not be evaluated.

B. There is a limit of one (1) application per submitting organization and physical location serving the same HVRP participant population. If two (2) original applications from the same organization for the same physical location serving the same HVRP participant population are submitted, the application with the later date will be considered as non-responsive. Please do not submit duplicate original grant applications as only one (1) grant application will be considered for funding purposes.

C. Due to the limited availability of funding, if an organization was awarded Fiscal Year 2004 or Fiscal Year 2005 HVRP funds for a specific physical location serving the same HVRP participant population and will be applying for second and possible third year funding in PY 2006, then that organization at that specific physical location serving the same HVRP participant population will be considered ineligible to compete for these FY 2006 HVRP funds. Therefore, due to the limited funding availability, we are unable to award more than one (1) HVRP grant per organization at a specific physical location serving the same HVRP participant population. A separate Director's Memorandum Number 09–06 has been issued for grantees that are eligible to apply for second and third optional year funding

that includes detailed instructions on how to apply for these funds.

D. There will not be reimbursement of pre-award costs unless specifically agreed upon in writing by the Department of Labor.

E. Entities described in Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this announcement because Section 18 of the Lobbying Disclosure Act of 1995, Public Law No. 104–65, 109 Stat. 691, prohibits the award of Federal funds to these entities.

F. The only potential areas that will be served through this Non-Urban competition for HVRPs in FY 2006 are the geographic areas in the United States other than the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico (see Appendix G).

G. Limitations on Administrative and Indirect Costs:

- Administrative costs, which consist of all direct and indirect costs associated with the supervision and management of the program, are limited to and may not exceed 20% of the total grant award.
- Indirect costs claimed by the applicant must be based on a Federally approved rate. A copy of the current negotiated approved and signed indirect cost negotiation agreement must be submitted with the application. Furthermore, indirect costs are considered a part of administrative costs for HVRP purposes and, therefore, may not exceed 20% of the total grant award.
- If the applicant does not presently have an approved indirect cost rate, a proposed rate with justification may be submitted. Successful applicants will be required to negotiate an acceptable and allowable rate within 90 days of grant award with the appropriate DOL Regional Office of Cost Determination or with the applicant's cognizant agency for indirect cost rates (*See* Office of Management and Budget Web site at *http://www.whitehouse.gov/omb/grants/attach.html*).
- Indirect cost rates traceable and trackable through the State Workforce Agency's Cost Accounting System represent an acceptable means of allocating costs to DOL and, therefore, can be approved for use in grants to State Workforce Agencies.

V. Application Review Information

1. Application Evaluation Criteria

Applications may receive up to 110 total points based on the following criteria:

A. *Need for the project: 10 points.*

The applicant will document the need for this project, as demonstrated by: (i) The potential number or concentration of homeless individuals and homeless veterans in the proposed project area relative to other similar areas; (ii) the rates of poverty and unemployment in the proposed project area as determined by the census or other surveys; and (iii) the extent of the gaps in the local infrastructure to effectively address the employment barriers that characterize the target population.

B. *Overall strategy to increase employment and retention in employment: 35 points [and up to 10 additional points (for a total of 45 points) if overall strategy includes an approach for addressing barriers to employment faced by chronically homeless veterans as described below.]*

The application must include a description of the approach to providing comprehensive employment and training services, including outreach, pre-enrollment assessment, job training, job development, obtaining employer commitments to hire, placement, and post-placement follow-up services. Applicants must address how they will target occupations that are locally in demand with career growth potential and that will provide wages to ensure self-sufficiency for the participant. Supportive services provided as part of the strategy of promoting job readiness and job retention must be indicated. The applicant must identify the local services and sources of training to be used for participants. At least 80% of participants must participate in training activities. A description of the relationship with other employment and training programs delivered through the One-Stop Career Center System must be specified. Applicants must indicate how the activities will be tailored or responsive to the needs of homeless veterans. A participant flow chart may be used to show the sequence and mix of services.

Additional Points: Up to an additional 10 points under this section will be awarded to grant proposals that focus some of their effort on addressing the barriers to employment faced by chronically homeless veterans. A veteran who is ''chronically homeless'' is an unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more, OR who has had at least four (4) episodes of homelessness in the past three (3) years. In order to be considered chronically homeless, a person must have been sleeping in a place not meant for human habitation (e.g., living on the streets) and/or in an emergency homeless shelter. A disabling condition is defined as a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability including the co-occurrence of two or more of these conditions. A disabling condition limits an individual's ability to work or perform one or more activities of daily living.

Note: The applicant must complete Appendix D, the Recommended Format for Planned Quarterly Technical Performance Goals, with proposed programmatic outcomes, including participants served, placement/entered employments and job retention.

C. *Quality and extent of linkages with other providers of services to the homeless and to veterans: 20 points.*

The application must provide information on the quality and extent of the linkages this program will have with other providers of services to homeless veterans in the local community including faith-based and community organizations. For each service, the applicant must specify who the provider is, the source of funding (if known), and the type of linkages/referral system established or proposed. Describe, to the extent possible, how the project would be incorporated into the local community's continuum of care approach and the local community's ten (10) year plan to end homelessness, if applicable (see Interagency Council on Homelessness Web page at *http://www.ich.gov* for additional information). Describe how the proposed project links to the appropriate State Workforce Agency and One-Stop Career Center(s) including coordination and collaboration with DVOP/LVER and other One-Stop Career Center staff, HUD, HHS, DVA, and other local community-based programs and the services that will be provided as necessary on behalf of the homeless veteran participants to be served.

D. *Demonstrated capability in providing required program services, including programmatic reporting and participant tracking: 25 points.*

The applicant must describe its relevant prior experience in operating employment and training programs and providing services to participants similar to those that are proposed under this solicitation. Specific outcomes previously achieved by the applicant must be described, such as number of enrollments, number of participants that were placed into employment, cost per placement into employment, benefits secured, network coalitions, etc. The applicant must also address its capacity for timely startup of the program, programmatic reporting, and participant tracking. The applicant should describe

its staff experience and ability to manage the administrative, programmatic, and financial aspects of a grant program. Include a recent (within the last 18 months) grant specific financial statement and/or audit (does not count towards the 75 page limitation). Final or most recent financial and technical performance reports for other relevant programs must be submitted, if applicable. Because prior HVRP experience is not a requirement for this grant, some applicants may not have any HVRP financial and technical performance reports to submit but may have other similar type programmatic performance reports to submit as evidence of experience in operating other employment and training type programs.

E. *Quality of overall housing strategy: 10 points.*

The application must demonstrate how the applicant proposes to obtain or access housing resources for participants in the program and participants entering into the labor force. This discussion should specify the provisions made to access temporary, transitional, and permanent housing for participants through various community resources such as HUD, DVA Grant and Per Diem Program, and other locally funded housing programs. HVRP funds may not be used for housing purposes or purchasing or leasing of vehicles.

2. Review and Selection Process

Grant applications will be reviewed by a Department of Labor grant review panel using the point scoring system specified above in Section V(1). The grant review panel will assign a score after objectively and carefully evaluating each responsive grant application and all responsive grant applications will be ranked based on this score. The ranking will be the primary basis to identify applicants as potential grantees. The grant review panel will establish a competitive range, based upon the proposal evaluation, for the purpose of selecting qualified applicants. For this solicitation, the minimum acceptable score is 70.

The grant review panel, the Assistant Secretary for Veterans' Employment and Training (ASVET), and Grant Officer may further evaluate grant applications deemed within the competitive range in order to compare goals of other grant applications deemed within the competitive range. The grant review team, the ASVET, and the Grant Officer may consider any information that comes to their attention, including past performance of a previous grant, and will make a final selection determination based on what is most advantageous to the Government, considering factors such as grant review panel findings, geographical presence of the applicants, existing grants, or the areas to be served and the best value to the government, cost, and other factors considered. The grant review panel's conclusions are advisory in nature and not binding on the Grant Officer. However, if no application receives at least that minimum score, the Grant Officer may either designate no grantee or may designate an entity based on demonstrated capability to provide the best services to the client population. Further, the Grant Officer reserves the right to select applicants with scores lower than the minimum or lower than the competing applications, if such a selection would, in the Grant Officer's judgment, result in the most effective and appropriate combination of services to grant beneficiaries.

The grant review panel will screen all applicant cost proposals to ensure expenses are allocable, allowable, and reasonable. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, e.g., Non-Profit Organizations—OMB Circular A–122. Unallowable costs are those charges to a grant that a grantor agency or its representatives determined not to be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant. If the grant review panel, ASVET, and Grant Officer conclude that the cost proposal contains an expense(s) that is not allocable, allowable, and/or reasonable, the application may be considered ineligible for funding. Further, the grant review team, the ASVET, and the Grant Officer will consider applicant information concerning the proposed cost per placement, percentage of participants placed into unsubsidized employment, average wage at placement, and 90 and 180-day retention in employment percentages. The national average cost per placement for HVRP for last year was $2,200. The Government reserves the right to ask the applicant for clarification on any aspect of a grant application. The Grant Officer may consult with the Department of Labor staff on any potential grantee and/or sub-awardee(s) concerns. The Grant Officer's determination for award under SGA #06–02 is the final agency action. The submission of the same proposal from any prior year HVRP competition does not guarantee an award under this Solicitation.

3. Anticipated Announcement and Award Dates

Announcement of this award is expected to occur by June 20, 2006. The grant agreement will be awarded by no later than July 1, 2006.

VI. Award Administration Information

1. Award Notices

A. The Notice of Award signed by the Grant Officer is the authorizing document and will be provided through postal mail and/or by electronic means to the authorized representative listed on the SF–424 Grant Application. Notice that an organization has been selected as a grant recipient does not constitute final approval of the grant application as submitted. Before the actual grant award, the Grant Officer and/or the Grant Officer's Technical Representative may enter into negotiations concerning such items as program components, funding levels, and administrative systems. If the negotiations do not result in an acceptable submittal, the Grant Officer reserves the right to terminate the negotiation and decline to fund the proposal.

B. A post-award conference will be held for those grantees awarded FY 2006 HVRP funds through this competition. The post-award conference is expected to be held in August 2006 and up to two (2) grant recipient representatives must be present. The site of the post-award conference has not yet been determined, however, for planning and budgeting purposes, applicants should allot four (4) days and use Washington, DC as the conference site. The post-award conference will focus on providing information and assistance on reporting, recordkeeping, grant requirements, and also include networking opportunities to learn of best practices from more experienced and successful grantees and sub-awardee(s). Costs associated with attending this conference for up to two (2) grantee representatives will be allowed as long as they are incurred in accordance with Federal travel regulations. Such costs must be charged as administrative costs and reflected in the proposed budget.

2. Administrative and National Policy Requirements

All grantees and sub-awardees must comply with the provisions of Title 38 U.S.C. and its regulations, as applicable.

A. Administrative Program Requirements

All grantees and sub-awardees, including faith-based organizations, will

be subject to applicable Federal laws (including provisions of appropriations law), regulations, and the applicable Office of Management and Budget (OMB) Circulars. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

- 29 CFR part 2—General Participation in Department of Labor Programs by Faith-Based and Community Organizations; Equal Treatment of All Department of Labor Program Participants and Beneficiaries.
- 29 CFR part 30—Equal Employment Opportunity in Apprenticeship and Training.
- 29 CFR part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.
- 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance.
- 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.
- 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance from the Department of Labor.
- 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Assistance.
- 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998.
- 29 CFR part 93—New Restrictions on Lobbying.
- 29 CFR part 94—Government-wide Requirements for Drug-Free Workplace (Financial Assistance).
- 29 CFR part 95—Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations, and with Commercial Organizations.
- 29 CFR part 96—Audit Requirements for Grants, Contracts and Other Agreements.
- 29 CFR part 97—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- 29 CFR part 98—Government-wide Debarment and Suspension (Non procurement).
- 29 CFR part 99—Audit of States, Local Governments, and Non-Profit Organizations.
- Applicable cost principles and audit requirements under OMB Circulars A–21, A–87, A–110, A–122, A–133, and 48 CFR part 31.
- In accordance with Section 18 of the Lobbying Disclosure Act of 1995, Public Law 104–65 (2 U.S.C. 1611), non-profit entities incorporated under 501(c)(4) that engage in lobbying activities are not eligible to receive Federal funds and grants.
- 38 U.S.C. 4215—Requirements for priority of service for veterans in all Department of Labor training programs.

3. Electronic Reporting

All HVRP grantees will enter data and electronically attach their quarterly technical performance and financial status reports, success stories, etc. into the U.S. Department of Labor, Veterans' Employment and Training Service, Outcomes and Performance Accountability Reporting (VOPAR) System according to the reporting requirements and timetables described below.

A. Quarterly Financial Reports

No later than 30 days after the end of each Federal fiscal quarter, the grantee must report outlays, program income, and other financial information on a Federal fiscal quarterly basis using SF–269, Financial Status Report, Long Form, and submit a copy of the HHS/PMS 272 draw down report. These reports must cite the assigned grant number.

B. Quarterly Program Reports

No later than 30 days after the end of each Federal fiscal quarter, grantees also must submit a Quarterly Technical Narrative Performance Report that contains the following:

(1) A comparison of actual accomplishments to planned goals for the reporting period and any findings related to monitoring efforts;

(2) An explanation for variances of plus or minus 15% of planned program and/or expenditure goals, to include: identification of corrective action that will be taken to meet the planned goals, if required; and a timetable for accomplishment of the corrective action.

C. 90-Day Final Performance Report

No later than 120 days after the grant performance expiration date, the grantee must submit a final report showing results and performance as of the 90th day after the grant period, and containing the following:

(1) Final Financial Status Report SF–269 Long Form (that zeros out all unliquidated obligations); and

(2) Final Technical Performance Report comparing goals vs. actual performance levels.

D. 180-Day Follow-Up Report/Longitudinal Survey

No later than 210 days after the grant performance expiration date, the grantee must submit a Follow-Up Report/Longitudinal Survey showing results and performance as of the 180th day after the grant expiration date, and containing the following:

(1) Final Financial Status Report SF–269 Long Form (if not previously submitted); and

(2) 180-Day Follow-Up Report/Longitudinal Survey identifying:

(a) The total combined (directed/assisted) number of veterans placed into employment during the entire grant period;

(b) The number of veterans still employed after the 90 and 180 day follow-up period;

(c) If the veterans are still employed at the same or similar job, and if not, what are the reason(s);

(d) Whether training received was applicable to jobs held;

(e) Wages at placement and at the 90 and 180 day follow-up periods;

(f) An explanation of why those veterans placed during the grant, but not employed at the end of the follow-up period, are not so employed; and

(g) Any recommendations to improve the program.

Agency Contact

All questions regarding this SGA should be directed to Cassandra Mitchell, e-mail address: *mitchell.cassandra@dol.gov,* at tel: (202) 693–4570 (note this is not a toll-free number), or Eric Vogt, e-mail address *vogt.eric@dol.gov,* also at tel. (202) 693–4570. To obtain further information on the Homeless Veterans' Reintegration Program of the U.S. Department of Labor, visit the USDOL Web site of the Veterans' Employment and Training Service at *http://www.dol.gov/vets.*

VII. Other Information

A. Acknowledgement of USDOL Funding

1. *Printed Materials:* In all circumstances, the following shall be displayed on printed materials prepared by the grantee while in receipt of DOL grant funding: ''Preparation of this item was funded by the United States Department of Labor under Grant No. [insert the appropriate grant number].''

- All printed materials must also include the following notice: ''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

2. *Public references to grant:* When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds must clearly state:

- The percentage of the total costs of the program or project, which will be financed with Federal money;
- The dollar amount of Federal financial assistance for the project or program; and
- The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. Use of USDOL Logo

In consultation with USDOL, VETS, the grantee(s) must acknowledge USDOL's role as described below:

- The USDOL logo may be applied to USDOL-funded material prepared for distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The grantee(s) must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event shall the USDOL logo be placed on any item until USDOL has given the Grantee permission to use the logo on the item.
- All documents must include the following notice: ''This documentation does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

Resources for the Applicant: The Department of Labor maintains a number of Web-based resources that may be of assistance to applicants. The Web page for the USDOL VETS at *http://www.dol.gov/vets/programs/main.htm* is a valuable source of information including the program highlights and brochures, glossary of terms, frequently used acronyms, general and special grant provisions, power point presentations on how to apply for HVRP funding, On-Site Monitoring Visits, etc. The Interagency Council on Homeless at Web page *http://www.ich.gov* has information from various departments that assist homeless persons including updated information on local community ten (10) year plans to end homelessness and continuum of care plans. America's Service Locator Web page at *http://www.servicelocator.org* provides a directory of our nation's One-Stop Career Centers and *http://www.workforce3one.org* is another Department of Labor resource site. The National Association of Workforce Boards maintains a Web page at *http://www.nawb.org/asp/wibdir.asp* that contains contact information for the State and local Workforce Investment Boards. Applicants may also review ''VETS'' Guide to Competitive and Discretionary Grants'' located at Web page *http://www.dol.gov/vets/grants/Final_VETS_Guide-linked.pdf.* For a basic understanding of the grants process and basic responsibilities of receiving Federal grant support, please see ''Guidance for Faith-Based and Community Organizations on Partnering with the Federal Government'' at Web pages *http://www.whitehouse.gov/government/fbci* and *http://www.dol.gov/cfbci.* Also, the National Coalition for Homeless Veterans Web page at *http://www.nchv.org.*

Signed at Washington, DC, this 11th day of April, 2006.

Eric Vogt,

Grant Officer.

Appendices: (Located on U.S. Department of Labor, Veterans' Employment and Training Service Web page *http://www.dol.gov/vets,* follow link for the applicable SGA listed under announcements.)

Appendix A: Application for Federal Assistance SF–424.
Appendix B: Budget Information Sheet SF–424A.
Appendix C: Assurances and Certifications Signature Page.
Appendix D: Recommended Format for Planned Quarterly Technical Performance Goals.
Appendix E: Direct Cost Descriptions for Applicants and Sub-Applicants.
Appendix F: Survey on Ensuring Equal Opportunity for Applicants.
Appendix G: List of 75 Largest Cities Nationwide.

[FR Doc. 06–3628 Filed 4–19–06; 8:45 am]

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DEPARTMENT OF LABOR

Veterans' Employment and Training Service

[SGA #06–03/PY 06]

Solicitation for Grant Applications (SGA); Veterans' Workforce Investment Program (VWIP) Grants for Program Year (PY) 2006, July 1, 2006 Through June 30, 2007

AGENCY: Veterans' Employment and Training Service (VETS), Labor.

ACTION: Posting of SGA.

SUMMARY: The Veterans' Employment and Training Service is posting availability of funds for the Veterans' Workforce Investment Program.

FOR FURTHER INFORMATION CONTACT: Cassandra Mitchell, Grants Management Specialist, Procurement Services Center, at (202) 693–4570.

Date Extension: N/A.

DATES: The closing date for receipt of the application is May 22, 2006 at 5 p.m. (eastern time) at the address listed: U.S. Department of Labor, Procurement Services Center, Attn: Cassandra Mitchell, Re: SGA #06–03, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210.

Executive Summary

The U.S. Department of Labor (USDOL), Veterans' Employment and Training Service (VETS), announces a grant competition under the Veterans' Workforce Investment Program (VWIP) for Program Year (PY) 2006, as authorized under Section 168 of the Workforce Investment Act (WIA) of 1998. This Solicitation for Grant Applications (SGA) notice contains all of the necessary information and forms needed to apply for grant funding. Selected programs will assist eligible veterans by providing employment, training, support services, credentialing, networking information, and/or other assistance.

Under this Program Year (PY) 2006 SGA, VETS anticipates that up to $6,900,000 will be available for grant awards up to a maximum of $750,000 for each grant award. VETS expects to award approximately nine (9) grants. The period of performance for these PY 2006 grants will be July 1, 2006 through June 30, 2007. Two (2) optional years of additional funding may be available, depending upon Congressional appropriations, the agency's decision to exercise the optional year(s) of funding, and satisfactory grantee and sub-awardee(s) performance.

I. Funding Opportunity Description

WIA section 168 amended the training programs made available to veterans (see 29 U.S.C. 2913). WIA section 168 authorizes the Department of Labor to make grants to meet the needs for workforce investment activities of veterans with service-connected disabilities, veterans who have significant barriers to employment, veterans who served on active duty in the armed forces during a war or in a campaign or expedition for which a campaign badge has been authorized, and recently separated veterans within 48 months of discharge (under

conditions other than dishonorable). Veterans who received a ''dishonorable'' discharge are ineligible for VWIP services. Priority of service for veterans in the Department of Labor training programs is established in 38 U.S.C. 4215.

The Department of Labor is authorized to competitively award VWIP grants to public agencies and private non-profit organizations (including faith-based and community organizations) that the Secretary determines to have an understanding of the unemployment problems of veterans, familiarity with the area to be served, linkages with the One-Stop Career Centers, and the capability to administer a program of workforce investment activities for such veterans effectively.

1. Program Concept and Emphasis

VWIP grants are intended to address two objectives: (a) To provide services to assist in reintegrating eligible veterans into meaningful employment within the labor force; and (b) to stimulate the development of effective service delivery systems that will address the complex employability problems facing eligible veterans.

For this Program Year (PY) 2006 grant solicitation, VETS seeks applicants that will provide services through a case management approach that networks with Federal, State, and local resources for veteran support programs. Successful applicants will propose clear strategies and obtainable goals for employment and retention of employment for eligible veterans.

Successful applicants will design programs that assist eligible veterans by providing outreach, intake, pre-enrollment assessment, job placement services, job training, counseling, mentoring, supportive services, and other assistance to expedite the reintegration of eligible veterans into the labor force. Grantees and sub-awardee(s) are to coordinate efforts on behalf of participants with local One-Stop Career Centers that provide employment and training services such as basic skills instruction, training necessary to fill gaps in academic or experiential requirements necessary for a license or professional certification, remedial education activities, job search activities including job search workshops, job counseling, job preparatory training including resume writing and interviewing skills, subsidized trial employment, on-the-job training, classroom training, and various other employment related services. Some examples of employment opportunities might include health care professions, information technology, biotechnology, advanced manufacturing, financial services, or other occupations where a license or certification is either required or desirable. Successful applicants will also design programs that are flexible in addressing the universal as well as the local or regional problems that have had a negative impact on eligible veterans reentering the 21st century workforce.

The VWIP in PY 2006 will seek to continue to strengthen development of effective service delivery systems, to provide comprehensive services through a case management approach that addresses complex problems facing eligible veterans trying to transition into gainful employment, and to improve strategies for employment and retention in employment.

2. Project Awareness Program Information and Orientation Activities

In order to promote networking between the VWIP-funded program and local service providers (and thereby eliminate gaps or duplication in services and enhance the provision of assistance to participants), the grantee and sub-awardee(s) must provide project orientation workshops and program awareness activities that it determines are the most feasible for providing information about the VWIP program to other service providers. Grantees and sub-awardee(s) are encouraged to propose strategies for incorporating small faith-based and community organizations (defined as organizations with social services budgets of $500,000 or less and ten (10) or fewer full-time employees) into their outreach plans. Project orientation workshops conducted by grantees and sub-awardee(s) have been an effective means of sharing information and informing the community of the availability of other services; they are encouraged, but not mandatory. Rather, grantees and sub-awardee(s) will have the flexibility to attend service provider meetings, seminars, and conferences, to outstation staff, and to develop individual service contracts as well as to involve other agencies in program planning.

3. Coordination and Collaboration With the Disabled Veterans' Outreach Program (DVOP) and Local Veterans' Employment Representative (LVER) Staff at the One-Stop Career Center Office in Their Jurisdiction Is Required

DVOP and LVER staff members are an integral part of the One-Stop Career Centers. Additionally, wherever possible, DVOP and LVER staff should be utilized for job development and placement activities for veterans who are ready to enter employment and/or who are in need of intensive case management services for employment purposes. Many of these DVOP and LVER staff members have received training in case management for employment purposes at the National Veterans Training Institute and have a priority focus on assisting those veterans most at a disadvantage in the labor market. VETS requires successful applicants to collaborate and coordinate with DVOP and LVER staff to avoid duplication of efforts and to achieve economies of resources.

4. Scope of Program Design

In addition to the activities described above, the project design must include the following services:

A. Outreach, intake, assessment, peer counseling and mentoring to the degree practical, employment services, and follow-up support services to enhance retention in employment. Program staff providing outreach services should have experience in dealing with, and an understanding of the needs of, veterans. Outreach activities must include and coordinate with the local Homeless Veterans' Reintegration Program (HVRP), if applicable, and the Department of Veterans Affairs.

B. Provision of or referral to employment services such as: Job search workshops, job counseling, assessment of skills, resume writing techniques, interviewing skills, subsidized trial employment (work experience), job development services, job placement into unsubsidized employment, and job placement follow-up services to enhance retention in employment.

C. Provision of or referral to training services such as: Basic skills instruction, remedial education activities, life skills and money management training, on-the-job training, classroom training, vocational training, specialized and/or licensing training programs, and other formal training programs as deemed appropriate to benefit the participant. At least 80% of the enrolled VWIP participants must participate in training activities.

D. Grantees and sub-awardee(s) must perform a preliminary assessment of each participant's eligibility for Department of Veterans Affairs (DVA) service-connected disability, compensation, and/or pension benefits. As appropriate, grantees and sub-awardee(s) will work with the veterans' service organizations or refer the participants to DVA in order to file a claim for compensation or pension. Grantees and sub-awardee(s) will track the progress of claims and report outcomes in individual participant case management records.

E. Networking, collaborating, and coordinating efforts with veterans' service organizations such as: The American Legion, Disabled American Veterans, Veterans of Foreign Wars, Vietnam Veterans of America, The American Veterans (AMVETS), or etc., to ensure participants apply for and/or receive other veterans' benefits that they may be eligible for.

F. Referral as necessary to health care, counseling, and rehabilitative services including, but not limited to: Alcohol and drug rehabilitation, therapeutic services, Post Traumatic Stress Disorder (PTSD) services, and mental health services.

5. Results-Oriented Model

No specific model is mandatory, but successful applicants will design a program that is responsive to the needs of the local community and achieves the VWIP objectives. The VWIP objectives are to successfully reintegrate veterans into the workforce and to stimulate the development of effective service delivery systems that will address the complex problems facing veterans. Under the Government Performance and Results Act (GPRA), Congress and the public are looking for program results rather than program processes. Priority of service for veterans in the Department of Labor training programs is established in 38 U.S.C. 4215.

For purposes of assessing performance of grantees selected under this SGA, VETS will focus on two performance measures described below. However, grantees also will be required to report additional performance information, as required in DOL guidance on OMB Common Measures and as described below. All performance outcomes will be reported quarterly using an Internet-based reporting system for VWIP, with access provided to successful grantees after the award process has been completed.

There are two (2) outcome measures with established performance targets for VWIP grants. The first outcome measure is the placement rate with a performance target for grantees and sub-awardee(s) to meet a minimum placement rate of 61.5%. This is determined by dividing the number of participants placed into employment by the total number of VWIP participants. While the percentage of VWIP participants placed into employment is an important outcome, it is also necessary to evaluate and measure the program's longer-term results, through the 90-day and 180-day follow-up periods. The second outcome measure is retention following placement with a performance target for grantees and sub-awardee(s) to meet a minimum rate of retention of 58.5% at 180 days following placement. This is determined by dividing the number of participants retained in employment at 180 days following placement divided by the total number of participants placed into employment. While there is no performance target established for retention at 90 days following placement, grantees are required to collect and report the rate of retention in employment at that point.

In applying the Common Measures, grantees will be required to collect additional information according to the Common Measures definitions but no performance targets for grantees will be established according to those definitions during this period of performance. That is because the baseline information required to establish performance targets does not yet exist. Upon award, grantees will be provided with detailed information regarding the specific information required to be collected and reported. At this point, it is sufficient for grantees to be aware of two requirements in addition to the requirements identified above. First, it will be necessary for grantees to collect and report on the rate of retention in employment at 270 days following placement into employment. Second, at the 180 day and 270 day points of retention in employment following placement, grantees will be required to collect and report the average weekly earnings of those retained in employment. This is calculated by multiplying each participant's hourly wage by the average number of hours per week that the participant was employed during the previous quarter.

The applicant's program should be based on a results-oriented model. The first phase of activity should consist of the level of outreach necessary to introduce the program to eligible veterans. Outreach also includes establishing contact with other agencies that encounter eligible veterans. Once the eligible veterans have been identified, an assessment must be made of each individual's abilities, interests, needs, and barriers to employment.

A determination should be made as to whether the VWIP enrolled participant would benefit from pre-employment preparation such as resume writing, job search workshops, related employment counseling, and case management, or possibly an initial entry into the job market through temporary jobs. Additionally, sheltered work environments such as the Department of Veterans' Affairs Compensated Work Therapy Program, classroom training, and/or on-the-job training must be evaluated. Such services should be noted in an Individual Employment Plan (IEP) to facilitate the staff's successful monitoring of the participant's progress. Entry into full-time employment or a specific job-training program should follow, in keeping with the overall objective of VWIP, to assist the eligible veteran in finding and obtaining meaningful employment. The grantee should provide or arrange for these supportive services that will enable the VWIP enrolled participant to successfully perform all the activities specified in the IEP.

Job development, a crucial part of the employability process, usually occurs when there are no competitive job openings that the VWIP-enrolled participant is qualified to apply for; therefore, a job opportunity with an employer is created, developed, and customized specifically for that VWIP enrolled participant. VWIP-enrolled participants who are ready to enter employment and/or who are in need of intensive case management services or employment purposes are to be referred to the DVOP and LVER staff at a One-Stop Career Center. DVOP and LVER staff are able to provide VWIP participants the following services: job development, employment services, case management for employment purposes and career counseling. All DVOP and LVER staff provides employment-related services to veterans who are most at a disadvantage in the labor market. DVOP/LVER staff may also be able to provide valuable assistance to grantees and sub-awardees in tracking participants in their State wage record management information system for follow-up purposes at 90 and 180 days after a participant enters employment.

The applicant's program must include tracking of program participants. Tracking should begin with the referral to supportive services and training, continue through placement into employment and through the 90-day and 180-day follow-up periods after entering employment. It is important that the grantee and sub-awardee(s) maintain contact with veterans after placement to ensure that employment-related problems are addressed. The 90-day and 180-day follow-ups are fundamental to assessing program results. Grantees and sub-awardee(s) need to budget for 90-day and 180-day follow-up activity so that it can be performed for those participants placed at or near the end of the grant performance period. All grantees and sub-awardee(s), prior to the end of the

grant performance period, must obligate sufficient funds to ensure that follow-up activities are completed. Such results will be reported in the final technical performance report.

II. Award Information

1. Type of Funding Instrument

One (1) year grant with optional funding for an additional two years.

Note: Selection of an organization as a Grantee does not constitute final approval of the grant application as submitted. Before the actual grant is awarded, USDOL may enter into negotiations about such items as program components, staffing, and funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in a mutually acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application.

2. Funding Levels

The total funding available for this VWIP solicitation is up to $6,900,000. It is anticipated that approximately nine (9) awards will be made under this solicitation. Awards are expected to range from a minimum of $100,000 to a maximum of $750,000. Please be advised that requests exceeding $750,000 will be considered non-responsive and will not be evaluated. If there are any residual program funds the Grant Officer may select the application(s) to award a grant up to one (1) year after the initial performance period begins or June 30, 2007.

3. Period of Performance

The period of performance will be for the twelve (12) month period of July 1, 2006 to June 30, 2007, unless modified by the Grant Officer. It is expected that successful applicants will begin program operations under this solicitation on July 1, 2006. All program funds must be obligated by June 30, 2007; a limited amount of funds may be obligated and reserved for follow-up activities and closeout.

4. Optional Year Funding

Should Congress appropriate additional funds for this purpose, VETS may consider up to two (2) additional years of optional funding. The Government does *not,* however, guarantee optional year funding for any grantee or sub-awardee(s). In deciding whether to exercise any optional year(s) of funding, VETS will consider grantee and sub-awardee(s) performance during the previous period of operations as follows:

A. The grantee and sub-awardee(s) must meet, at minimum, 90% of planned cumulative goals for Federal expenditures, enrollments, placements into employment, and training by the end of the third quarter; and

B. The grantee and sub-awardee(s) must have complied with all terms identified in the Solicitation for Grant Application (SGA), General and Special Grant Provisions, and grant award document; and

C. All program and fiscal reports must have been submitted by the established due dates and must be verified for accuracy.

III. Eligibility Information

1. Eligible Applicants

Applications for funds will be accepted from public agencies and non-profit organizations, including faith-based and community organizations, that are determined to have familiarity with the area and population to be served and can administer an effective program, under WIA section 168(a)(2).

Eligible applicants generally fall into one of the following categories:

- State and local Workforce Investment Boards (WIBs), established under Sections 111 and 117 of the Workforce Investment Act.
- Public agencies, meaning any public agency of a State or of a general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers. (This typically refers to cities and counties.) A State agency may propose in its application to serve one or more of the jurisdictions located in its State. This does not preclude a city or county agency from submitting an application to serve its own jurisdiction.
- Non-profit organizations (including faith-based and community organizations). If claiming 501(c)(3) status, the Internal Revenue Service statement indicating 501(c)(3) status approval must be submitted.
- Applicants for VWIP must satisfy a ''responsibility review'' that demonstrates an ability to administer Federal funds. *See* 20 CFR 667.170.
- Note that entities organized under Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this announcement. Section 18 of the Lobbying Disclosure Act of 1995, Pub. L. 104–65, 109 Stat. 691 (2 U.S.C. 1611) prohibits instituting an award, grant, or loan of Federal funds to 501(c) (4) entities that engage in lobbying.
- In accordance with 29 CFR part 98, entities that are debarred or suspended shall be excluded from Federal financial assistance and are ineligible to receive a VWIP grant.

2. Cost Sharing

Although VETS encourages applicants to use cost sharing and matching funds, Veterans Workforce Investment Grants do *not* require grantees or sub-awardee(s) to share costs or provide matching funds. However, we do encourage grantees and sub-awardee(s) to maximize the resources available to the VWIP program and its participants.

3. Other Eligibility Criteria

A. Programs must be ''employment-focused.'' An ''employment-focused'' program is a program directed toward: (1) Increasing the employability of eligible veterans through training or arranging for the provision of services that will enable them reintegrate into the labor force and (2) matching eligible veterans with potential employers and/or entrepreneurial opportunities.

B. Applicants are encouraged to utilize, through partnerships and/or sub-award(s), experienced public agencies, private non-profit organizations, private businesses, faith-based and community organizations, and colleges and universities (especially those with traditionally high enrollments of minorities) that have an understanding of unemployment and the barriers to employment unique to eligible veterans, a familiarity with the area to be served, and the capability to effectively provide the necessary services.

C. Legal rules pertaining to inherently religious activities by organization that receive Federal Financial Assistance. Neutral, non-religious criteria that neither favor nor disfavor religion will be employed in the selection of grant recipients and must be employed by grantees or in the selection of sub-awardees. The government is generally prohibited from providing direct financial assistance for inherently religious activities. These grants may not be used for religious instruction, worship, prayer, proselytizing or their inherently religious activities. In this context, the term direct financial assistance means financial assistance that is provided directly by a government entity or an intermediate organization, as opposed to financial assistance that an organization receives as the result of the genuine and independent private choice of a beneficiary. In other contexts, the term ''direct'' financial assistance may be used to refer to financial assistance that an organization receives directly from the Federal government (also known as ''discretionary'' assistance), as opposed to assistance that it receives from a State or local government (also known as

''indirect'' or ''block'' grant assistance). The term ''direct'' has the former meaning in this paragraph.

4. Participant Eligibility Criteria

To be eligible for participation in a training program administered under VWIP, an individual must be a veteran who falls within one of the following categories: ''* * * veterans with service-connected disabilities, veterans who have significant barriers to employment, veterans who served on active duty in the armed forces during a war or in a campaign or expedition for which a campaign badge has been authorized, and recently separated veterans [those within 48 months of discharge].'' See Section 168 (a)(1) of the Workforce Investment Act.

IV. Application and Submission Information

1.Address To Request an Application and Amendments

This SGA, together with its attachments, includes all the information needed to apply. Additional application packages and amendments to this SGA may be obtained from the VETS Web site address at *http://www.dol.gov/vets,* or Federal Grant Opportunities Web site address at *http://www.grants.gov,* and from the **Federal Register** Web site address at *http://www.gpoaccess.gov/fr/index.html.* The **Federal Register** may also be obtained from your nearest government office or library. Additional copies of the standard forms can be downloaded from: *http://www.whitehouse.gov/omb/grants/grants_forms.html.*

All grant applications are to be mailed to: Department of Labor, Procurement Services Center, Attention: Cassandra Mitchell, Reference SGA #*06–03,* 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210, Phone Number: (202) 693–4570 (this is not a toll-free number).

• Applicants may also apply online at *http://www.grants.gov.* Applicants submitting proposals online are requested to refrain from mailing an application as well. It is strongly recommended that applicants using *http://www.grants.gov* immediately initiate and complete the ''Get Started'' registration steps at *http://www.grants.gov/GetStarted.* These steps may take multiple days to complete, and this time should be factored into plans for electronic submission in order to avoid facing unexpected delays that could result in the rejection of an application. If submitting electronically through *http://www.grants.gov* it would be appreciated if the application submitted is saved as .doc, .pdf, or .txt files.

• Except as provided in Section IV.3., any application received after the deadline will be considered as non-responsive and will not be evaluated.

2. Content and Form of Application

The application must include the name, address, telephone number and fax numbers, and e-mail address (if applicable) of a key contact person at the applicant's organization in case questions should arise. To be considered *responsive* to this solicitation the application must consist of three (3) separate and distinct sections: The Executive Summary, the Technical Proposal, and the Cost Proposal. The information provided in these three (3) sections is essential to demonstrate an understanding of the programmatic and fiscal contents of the grant proposal.

A complete grant application package must not exceed 75 single-sided pages (8½″ x 11″), double-spaced, 12-point font, typed pages (all attachments are included in the 75 page maximum). Applications that contain more than 75 pages total will be considered non-responsive. Major sections and sub-sections of the application should be divided and clearly identified (*e.g.* with tab dividers), and all pages shall be numbered. To be considered responsive grant applications are to include:

• An original, blue ink-signed, and two (2) copies of the cover letter.

• An original and two (2) copies of the Executive Summary (see below).

• An original and two (2) copies of the Technical Proposal (see below) that includes a completed Technical Performance Goals Form (Appendix D). Also include all attachments with the technical proposal, such as the applicant's information showing outcomes of employment and training programs that it has had in the past three (3) years in terms of enrollments and participants who have entered into employment.

• An original and two (2) copies of the Cost Proposal (see below) that includes an original, blue ink-signed, Application for Federal Assistance, SF–424 (Appendix A), a Budget Narrative, Budget Information Sheet SF–424A (Appendix B), an original, blue ink-signed, Assurances and Certifications Signature Page (Appendix C), a Direct Cost Description for Applicants and Sub-applicants (Appendix E), a completed Survey on Ensuring Equal Opportunity for Applicants (Appendix F), and the applicant's grant specific financial audit and/or audit statement dated within the last 18 months (does not count towards the 75 page limitation).

A. *Section 1—Executive Summary:* A one to two page ''Executive Summary'' reflecting the grantees' and sub-awardee(s) proposed overall strategy, timeline, and outcomes to be achieved in their grant proposal is required. The Executive Summary should include:

• The proposed area to be served through the activities of this grant.

• The grantee's experience in serving the residents in the proposed service area.

• The proposed projects and activities that will expedite the reintegration of eligible veterans into the workforce.

• A summary of anticipated outcomes, benefits, and value added by the project.

B. *Section 2—Technical Proposal* consists of a narrative proposal that demonstrates the need for this particular grant program, the services and activities proposed to obtain successful outcomes for eligible veterans to be served; and the applicant's ability to accomplish the expected outcomes of the proposed project design.

Required Content: There are program activities that all applications must contain to be found technically acceptable under this SGA. Programs must be ''employment-focused'' and must be responsive to the rating criteria in Section V(1). *The required program activities are:* Participant outreach and project awareness activities, pre-enrollment assessments, individual employment plans for each enrolled participant, case management, job placement, job retention follow-up at 90 and 180 days after individual enters employment, utilization and coordination of employment services through the One-Stop Career Center System, including the DVOP and LVER staff, and with community linkages with other programs that provide support to eligible veterans. These activities are described in section I. of this SGA.

The following format for the technical proposal is recommended:

Need for the program: The applicant must identify the geographical area to be served and provide an estimate of the number of eligible veterans in the designated geographical area. Include poverty and unemployment rates in the area and identify the disparities in the local community infrastructure that exacerbate the employment barriers faced by the targeted veterans, including regulations or other restrictions on the recognition of relevant military training by civilian licensing or certification authorities. Include labor market information on the outlook for job

opportunities in the employment fields and industries that are in demand in the geographical area to be served. Applicants are to clearly describe the proposed program awareness and participant outreach strategies.

Approach or strategy to increase employment and job retention: Applicants must be responsive to the Rating Criteria contained in Section V(1) and address all of the rating factors as thoroughly as possible in the narrative. *The applicant must:*

- Describe the specific employment and training services to be provided under this grant and the sequence or flow of such services;
- Indicate the type(s) of training that will be provided under the grant and how it relates to the jobs that are in demand, length of training, training curriculum, and how the training will improve the eligible veterans' employment opportunities within that geographical area;
- Provide a follow-up plan that addresses retention after 90 and 180 days with participants who have entered employment;
- Include the completed Planned Quarterly Technical Performance Goals (and planned expenditures) form listed in Appendix D. If the Planned Quarterly Technical Performance Goals form listed in Appendix D is not completed and submitted, the grant application package will be considered as non-responsive.

Linkages with facilities that serve eligible veterans: Describe program and resource linkages with other facilities that will be involved in identifying potential clients for this program. Applicants are encouraged to submit a list of their local area network of service providers that offer and provide services to benefit VWIP participants. Describe any networks with other related resources and/or other programs that serve eligible veterans. Indicate how the program will be coordinated with any efforts that are conducted by public and private agencies in the community. If an MOU or other service agreement with service providers exists, copies should be provided.

Linkages with other providers of employment and training services to eligible veterans: Describe the linkages, networks, and relationships the proposed program will have with other providers of services to eligible veterans; include a description of the relationship with other employment and training programs in the One-Stop Career Centers such as Disabled Veterans' Outreach Program (DVOP), the Local Veterans' Employment Representative (LVER) program, and local Homeless Veterans' Reintegration Programs (HVRP); list the type of services that will be provided by each. Note the type of agreement in place, if applicable. Linkages with the workforce investment system are required. Describe any networks with any other resources and/or other programs for eligible veterans. If an MOU or other service agreement with other service providers exists, copies should be provided.

Linkages with other Federal agencies: Describe program and resource linkages with the Department of Housing and Urban Development (HUD), Department of Health and Human Services (HHS), and Department of Veterans Affairs (DVA), to include the Compensated Work Therapy (CWT) and Grant and Per Diem Programs. If an MOU or other service agreement with other service providers exists, copies should be provided.

Proposed supportive service strategy for veterans: Describe how supportive service resources for veterans will be obtained and used. If resources are provided by other sources or linkages, such as Federal, State, local, or faith-based and community programs, the applicant must fully explain the use of these resources and how they will be applied. If an MOU or other service agreement with other service providers exist, copies should be provided.

Organizational capability to provide required program activities: The applicant's relevant current and prior experience (within the last three year period) in operating employment and training programs is to be clearly described, if applicable. A summary narrative of program experience and employment and training performance outcomes is required. The applicant must provide information showing outcomes of employment and training programs that it has had in the past three (3) years in terms of enrollments and participants who have entered into employment. An applicant that has operated a VWIP or other employment and training program must also include the final or most recent technical performance report.

Please note that the Department of Labor grant review panel members, who will be reviewing all grant applications submitted as a result of this SGA, do *not* have access to any reporting information systems during the review process, therefore, if final or most recent technical performance reports are not submitted, the grant application may be considered non-responsive.

The applicant must also provide evidence of key staff capability to include resume, staff biographies, organizational charts, statements of work, and etc. It is preferred that the grantee and sub-awardee(s) be a well established service provider and not in the initial start-up phase or process.

C. *Section 3—The Cost Proposal must contain the following:* Applicants can expect that the cost proposal will be reviewed for allocability, allowability, and reasonableness.

(1) Standard Form SF–424, ''Application for Federal Assistance'' (with the original signed in blue-ink) (Appendix A) must be completed;

The Catalog of Federal Domestic Assistance number for this program is 17.802 and it must be entered on the SF–424, in Block 11.

The organizational unit section of Block 8 of the SF–424 must contain the Dun and Bradstreet Number (DUNS) of the applicant. Beginning October 1, 2003, all applicants for Federal grant funding opportunities are required to include a DUNS number with their application. *See* OMB Notice of Final Policy Issuance, 68 **Federal Register** 38402 (June 27, 2003). Applicants' DUNS number is to be entered into Block 8 of SF–424. The DUNS number is a nine-digit identification number that uniquely identifies business entities. There is no charge for obtaining a DUNS number. To obtain a DUNS number call 1–866–705–5711 or access the following Web site: *http://www.dunandbradstreet.com/.* Requests for exemption from the DUNS number requirement must be made to the Office of Management and Budget.

(2) Standard Form SF–424A ''Budget Information Sheet'' (Appendix B) must be included;

(3) As an attachment to SF–424A, the applicant must provide a detailed cost breakout of each line item on the Budget Information Sheet. Please label this page or pages the ''Budget Narrative'' and ensure that costs reported on the SF–424A correspond accurately with the Budget Narrative;

The Budget Narrative must include, at a minimum:

- Breakout of all personnel costs by position, title, annual salary rates, and percent of time of each position to be devoted to the proposed project (including sub-grantees) by completing the ''Direct Cost Descriptions for Applicants and Sub-Applicants'' form (Appendix E);
- Explanation and breakout of extraordinary fringe benefit rates and associated charges (*i.e.*, rates exceeding 35% of salaries and wages);
- Explanation of the purpose and composition of, and methodology used to derive the costs of each of the following: Travel, equipment, supplies,

sub-awards/contracts, and any other costs. The applicant must include costs of any required travel described in this Solicitation. Planned travel expenditures may not exceed 5% of the total VWIP funds requested. Mileage charges may not exceed 44.5 cents per mile or the current Federal rate;

• All associated costs for obtaining and retaining participant information pertinent to the follow-up survey, at 90 and 180 days after the program performance period ends;

• Description/specification of, and justification for, equipment purchases, if any. Tangible, non-expendable, personal property having a useful life of more than one year and a unit acquisition cost of $5,000 or more per unit must be specifically identified; and

• Matching funds, leveraged funds, and in-kind services are not required for VWIP grants. However, if matching funds, leverage funds, or in-kind services are to be used, an identification of all sources of leveraged or matching funds and an explanation of the derivation of the value of matching/in-kind services must be provided. When resources such as matching funds, leveraged funds, and/or the value of in-kind contributions are made available, please describe in Section B of the Budget Information Sheet.

(4) A completed Assurance and Certification signature page (Appendix C) (signed in blue ink) must be submitted;

(5) All applicants must submit evidence of satisfactory financial management capability, which must include recent (within the last 18 months) grant specific financial and/or audit statements (does not count towards the 75 page limitation). All successful grantees and sub-awardee(s) are required to utilize Generally Accepted Accounting Practices (GAAP), maintain a separate accounting for these grant funds, and have a checking account;

(6) All applicants must include, as a separate appendix, a list of all employment and training government grants and contracts that they have had in the past three (3) years, including grant/contract officer contact information. VETS reserves the right to have a DOL representative review and verify this data;

(7) A completed Survey on Ensuring Equal Opportunity for Applicants (Appendix F) must be provided.

3. Submission Dates and Times (Acceptable Methods of Submission)

The grant application package must be received at the designated place by the date and time specified or it will not be considered. Any application received at the Office of Procurement Services after 5 p.m. e.d.t. May 22, 2006, will not be considered unless it is received before the award is made and:

• It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated; or

• It was sent by registered or certified mail not later than the fifth calendar day before May 22, 2006; or

• It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5 p.m. at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to May 22, 2006.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped or otherwise placed impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper. Applications cannot be accepted by e-mail or facsimile machine.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence or receipt maintained by that office. Applications sent by express delivery services, such as Federal Express, UPS, etc., will be accepted.

All applicants are advised that U.S. mail delivery in the Washington, DC area has been erratic due to security concerns. All applicants must take this into consideration when preparing to meet the application deadline, as you assume the risk for ensuring a timely submission, that is, if, because of these mail problems, the Department does not receive an application or receives it too late to give proper consideration, even if it was timely mailed, the Department is not required to consider the application.

4. Intergovernmental Review

This funding opportunity is not subject to Executive Order 12372, Intergovernmental Review of Federal Programs' [see SF 424, Block #16].

5. Funding Restrictions

A. Rules relating to allowable costs are addressed in 20 CFR 667.200 through 667.220. Under 20 CFR 667.210(b), limits on administrative costs will be negotiated with the grantee and identified in the grant award documents. Construction costs (as opposed to maintenance and/or repair costs) are generally not allowed under WIA.

B. There will not be reimbursement of pre-award costs unless specifically agreed upon in writing by the Grant Officer.

C. Entities described in Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this announcement because Section 18 of the Lobbying Disclosure Act of 1995, Public Law No. 104–65, 109 Stat. 691, prohibits the award of Federal funds to these entities.

D. Limitations on Administrative and Indirect Costs;

• Administrative costs, which consist of all direct and indirect costs associated with the supervision and management of the program, are limited to and may not exceed 10% of the total grant award.

• Indirect costs claimed by the applicant must be based on a federally approved rate. A copy of the current negotiated approved and signed indirect cost negotiation agreement must be submitted with the application. Furthermore, indirect costs are considered a part of administrative costs for VWIP purposes and, therefore, may not exceed 10% of the total grant award.

• If the applicant does not presently have an approved indirect cost rate, a proposed rate with justification may be submitted. Successful applicants will be required to negotiate an acceptable and allowable rate within 90 days of grant

award with the appropriate DOL Regional Office of Cost Determination or with the applicant's cognizant agency for indirect cost rates (See Office of Management and Budget Web site at *http://www.whitehouse.gov/omb/grants/attach.html).*

- Indirect cost rates traceable and trackable through the State Workforce Agency's Cost Accounting System represent an acceptable means of allocating costs to DOL and, therefore, can be approved for use in grants to State Workforce Agencies.

V. Application Review Information

1. Application Evaluation Criteria

Applications will receive up to 110 total points based on the following criteria:

A. *Need for the project: 20 points.*

The applicant will document the need for this project, as demonstrated by: (i) The potential number or concentration of eligible veterans in the proposed project area relative to other similar areas; (ii) the rates of poverty and unemployment in the proposed project area as determined by the census or other surveys; and (iii) the extent of the gaps in the local infrastructure to effectively address the employment barriers that characterize the target veteran population.

B. *Overall strategy to develop and promote maximum employment and training opportunities and retention in employment of eligible veterans: 40 points [and up to 10 additional points (for a total of 50 points) if overall strategy focuses on providing services to transitioning service members, especially those with a service connected disability].*

The application must include a description of the approach to providing comprehensive employment and training services, including outreach, pre-enrollment assessment, job training, job development, obtaining employer commitments to hire, placement, and post-placement follow-up services. Applicants must address how they will target occupations that are locally in demand with career growth potential and that will provide wages to ensure self-sufficiency for the participant. Supportive services provided as part of the strategy of promoting job readiness and job retention must be indicated. The applicant must identify the local services and sources of training to be used for participants. At least 80% of enrolled participants must participate in training activities. A description of the relationship with other employment and training programs delivered through the One-Stop Career Center System must be specified. Applicants must indicate how the activities will be tailored or responsive to the needs of eligible veterans. A participant flow chart may be used to show the sequence and mix of services.

Additional Points: Up to an additional 10 points under this section will be added to the grant proposal total score that targets services to transitioning service members who are veterans that were recently separated (within 48 months of discharge from the military), especially those with a service connected disability.

Note: The applicant must complete Appendix D, the Recommended Format for Planned Quarterly Technical Performance Goals, with proposed programmatic outcomes, including participants served, placement/entered employments and job retention.

C. *Quality and extent of linkages with other providers of services to eligible veterans: 20 points.*

The application must provide information on the quality and extent of the linkages this program will have with other providers of services to eligible veterans in the local community including faith-based and community organizations. For each service, the applicant must specify who the provider is, the source of funding (if known), and the type of linkages/referral system established or proposed. Describe how the proposed project links to the appropriate State Workforce Agency and One-Stop Career Center(s) including coordination and collaboration with DVOP/LVER and other One-Stop Career Center staff, DVA, and/or other local community-based programs and the services that will be provided as necessary on behalf of the eligible veteran participants to be served.

D. *Demonstrated capability in providing required program services, including programmatic reporting and participant tracking: 20 points.*

The applicant must describe its relevant prior experience in operating employment and training programs and providing services to participants similar to those that are proposed under this solicitation. Specific outcomes previously achieved by the applicant must be described, including percentage of enrolled participants placed into employment and cost per entered employment. The applicant must also address its capacity for timely startup of the program, programmatic reporting, and participant tracking. The applicant should describe its staff experience and ability to manage the administrative, programmatic, and financial aspects of a grant program. Include a recent (within the last 18 months) grant specific financial statement and/or audit (does not count towards the 75 page limitation). Final or most recent technical reports for other relevant programs must be submitted, if applicable. Because prior VWIP experience is not a requirement for this grant, some applicants may not have any VWIP technical performance reports to submit but may have other similar type programmatic performance reports to submit as evidence of experience in operating other employment and training type programs.

2. Review and Selection Process

Applications will initially be screened by the Grant Officer to ensure timeliness, completeness, and compliance with the SGA requirements. Applications that satisfy this initial screening will receive further review as explained below.

Grant applications will be reviewed by a Department of Labor grant review panel using the point scoring system specified above in Section V(1). The grant review panel will assign a score after objectively and carefully evaluating each complete grant application and all complete grant applications will be ranked based on this score. The ranking will be the primary basis to identify applicants as potential grantees. The grant review panel will establish a competitive range, based upon the proposal evaluation, for the purpose of selecting qualified applicants. For this solicitation, the minimum acceptable score is 70.

The grant review panel, the Assistant Secretary for Veterans' Employment and Training (ASVET), and Grant Officer may further evaluate grant applications deemed within the competitive range in order to compare goals of other grant applications deemed within the competitive range. The grant review team, the ASVET, and the Grant Officer may consider any information that comes to their attention, including past performance of a previous grant, and will make a final selection determination based on what is most advantageous to the Government, considering factors such as grant review panel findings, geographical presence of the applicants, existing grants, or the areas to be served and the best value to the government, cost, and other factors considered. The grant review panel's conclusions are advisory in nature and not binding on the Grant Officer. However, if no application receives at least that minimum score, the Grant Officer may either designate no grantee or may designate an entity based on demonstrated capability to provide the

best services to the client population. Further, the Grant Officer reserves the right to select applicants with scores lower than the minimum or lower than the competing applications, if such a selection would, in the Grant Officer's judgment, result in the most effective and appropriate combination of services to grant beneficiaries.

The grant review panel will screen all applicant cost proposals to ensure expenses are allocable, allowable, and reasonable. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, e.g. Non-Profit Organizations—OMB Circular A–122. Unallowable costs are those charges to a grant that a grantor agency or its representatives determines to not be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant. If the grant review panel, ASVET, and Grant Officer conclude that the cost proposal contains an expense(s) that is not allocable, allowable, and/or reasonable, the application may be considered ineligible for funding. Further, the grant review panel, ASVET, and the Grant Officer will consider applicant information concerning the proposed cost per placement, percentage of participants placed into unsubsidized employment, average wage at placement, and 90 and 180-day retention in employment percentages. The national average cost per placement for VWIP for last year was $2,200.

The Government reserves the right to ask for clarification on any aspect of a grant application. The Government also reserves the right to discuss any potential grantee and sub-awardee(s) concerns amongst Department of Labor staff. The Grant Officer's determination for award under SGA#*06–03* is the final agency action. The submission of the same proposal from any prior year VWIP competition does not guarantee an award under this Solicitation.

3. Anticipated Announcement and Award Dates

Announcement of this award is expected to occur by June 20, 2006. The grant agreement will be awarded by no later than July 1, 2006.

VI. Award Administration Information

1. Award Notices

A. The Notice of Award signed by the Grant Officer is the authorizing document and will be provided through postal mail and/or by electronic means to the authorized representative listed on the SF–424 Grant Application. Notice that an organization has been selected as a grant recipient does not constitute final approval of the grant application as submitted. Before the actual grant award, the Grant Officer and/or the Grant Officer Technical Representative may enter into negotiations concerning such items as program components, funding levels, and administrative systems. If the negotiations do not result in an acceptable submittal, the Grant Officer reserves the right to terminate the negotiation and decline to fund the proposal.

B. A post-award conference will be held for all grantees awarded PY 2006 VWIP funds through this competition. The post-award conference is expected to be held in early August 2006 and up to two (2) grant recipients' representatives must be present. The site of the post-award conference has not yet been determined, however, for planning and budgeting purposes, applicants should allot four (4) days and use Washington, DC as the conference site. The post-award conference will focus on providing information and assistance on reporting, record keeping, grant requirements, and also include networking opportunities to learn of best practices from more experienced and successful grantees and sub-awardee(s). Costs associated with attending this conference for up to two (2) grantee representatives will be allowed as long as they are incurred in accordance with Federal travel regulations. Such costs must be charged as travel expenditures and reflected in the proposed budget.

2. Administrative and National Policy Requirements

All grantees and sub-awardees must comply with the provisions of WIA and its regulations, as applicable.

A. Administrative Program Requirements

All grantees and sub-awardees, including faith-based organizations, will be subject to applicable Federal laws (including provisions of appropriations law), regulations, and the applicable Office of Management and Budget (OMB) Circulars. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

- 20 CFR part 667—Administrative provisions for programs, including VWIP, under Title I of WIA.
- 29 CFR part 2—General Participation in Department of Labor Programs by Faith-Based and Community Organizations; Equal Treatment of All Department of Labor Program Participants and Beneficiaries.
- 29 CFR part 30—Equal Employment Opportunity in Apprenticeship and Training.
- 29 CFR part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.
- 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance.
- 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.
- 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance from the Department of Labor.
- 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Assistance.
- 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998.
- 29 CFR part 93—New Restrictions on Lobbying.
- 29 CFR part 94—Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- 29 CFR part 95—Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations, and with Commercial Organizations.
- 29 CFR part 96—Audit Requirements for Grants, Contracts and Other Agreements.
- 29 CFR part 97—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- 29 CFR part 98 —Governmentwide Debarment and Suspension (Non procurement).
- 29 CFR part 99—Audit of States, Local Governments, and Non-Profit Organizations.
- Applicable cost principles and audit requirements under OMB Circulars A–21, A–87, A–122, A–110, A–133, and 48 CFR part 31.
- In accordance with WIA section 195(6), programs funded under this SGA may not involve political activities. Additionally, in accordance with Section 18 of the Lobbying Disclosure Act of 1995, Public Law 104–65 (2 U.S.C. 1611), non-profit entities incorporated under 501(c)(4) that engage in lobbying activities are not eligible to received Federal funds and grants.
- Requirements for priority of service for veterans in Department of Labor training programs are identified in 38 U.S.C. 4215.

3. Electronic Reporting

All VWIP grantees will data enter and electronically attach their quarterly technical performance and financial status reports, success stories, etc. into the USDOL, VETS Outcomes and Performance Accountability Reporting (VOPAR) System according to the reporting requirements and timetables described below.

A. Quarterly Financial Reports

No later than 30 days after the end of each Federal fiscal quarter, the grantee must report outlays, program income, and other financial information on a Federal fiscal quarterly basis using SF–269, Financial Status Report, Long Form, and submit a copy of the HHS/PMS 272 draw down report. These reports must cite the assigned grant number.

B. Quarterly Program Reports

No later than 30 days after the end of each Federal fiscal quarter, grantees must submit a Quarterly Technical Narrative Performance Report that contains the following:

(1) A comparison of actual accomplishments to planned goals for the reporting period and any findings related to monitoring efforts;

(2) An explanation for variances of plus or minus 15% of planned program and/or expenditure goals, to include: identification of corrective action that will be taken to meet the planned goals, if required; and a timetable for accomplishment of the corrective action.

C. 90-Day Final Performance Report

No later than 120 days after the grant performance expiration date, the grantee must submit a final report showing results and performance as of the 90th day after the grant period, and containing the following:

(1) Final Financial Status Report SF–269 Long Form (that zeros out all unliquidated obligations); and

(2) Final Technical Performance Report comparing goals vs. actual performance levels.

D. 180-Day Follow-Up Report/Longitudinal Survey

No later than 210 days after the grant performance expiration date, the grantee must submit a Follow-Up Report/Longitudinal Survey showing results and performance as of the 180th day after the grant expiration date, and containing the following:

(1) Final Financial Status Report SF–269 Long Form (if not previously submitted); and

(2) 180-Day Follow-Up Report/Longitudinal Survey identifying:

(a) The total combined (directed/assisted) number of veterans placed into employment during the entire grant period;

(b) The number of veterans still employed after the 90 and 180 day follow-up period;

(c) If the veterans are still employed at the same or similar job, and if not, what are the reason(s);

(d) Whether training received was applicable to jobs held;

(e) Wages at placement and at the 90 and 180 day follow-up periods;

(f) An explanation of why those veterans placed during the grant, but not employed at the end of the follow-up period, are not so employed; and

(g) Any recommendations to improve the program.

VII. Agency Contact

All questions regarding this SGA should be directed to Cassandra Mitchell, e-mail address: *mitchell.cassandra@dol.gov*, at tel: (202) 693–4570 (note this is not a toll-free number), or Eric Vogt, e-mail address *vogt.eric@dol.gov*, also at tel. (202) 693–4570. To obtain further information on the Veterans' Workforce Investment Program of the U.S. Department of Labor, visit the USDOL Web site of the Veterans' Employment and Training Service at *http://www.dol.gov/vets*.

VIII. Other Information

Acknowledgement of USDOL Funding

Printed Materials: In all circumstances, the following shall be displayed on printed materials prepared by the grantee while in receipt of DOL grant funding: ''Preparation of this item was funded by the United States Department of Labor under Grant No. [insert the appropriate grant number].''

- All printed materials must also include the following notice: ''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

Public references to grant: When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all Grantees receiving Federal funds must clearly state:

- The percentage of the total costs of the program or project, which will be financed with Federal money;
- The dollar amount of Federal financial assistance for the project or program; and
- The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Use of USDOL Logo: In consultation with USDOL, VETS, the Grantee(s) must acknowledge USDOL's role as described below:

- The USDOL logo may be applied to USDOL-funded material prepared for world-wide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The Grantee(s) must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event shall the USDOL logo be placed on any item until USDOL has given the Grantee permission to use the logo on the item.

Resources for the Applicant: The Department of Labor maintains a number of Web-based resources that may be of assistance to applicants. The Web page for the USDOL VETS at *http://www.dol.gov/vets/programs/main.htm* is a valuable source of information including the program highlights and brochures, glossary of terms, frequently used acronyms, general and special grant provisions, power point presentations on how to apply for HVRP funding, On-Site Monitoring Visits, etc. America's Service Locator at Web page *http://www.servicelocator.org* provides a directory of our nation's One-Stop Career Centers and *http://www.workforce3one.org* is another Department of Labor resource site. The National Association of Workforce Boards maintains a Web page at *http://www.nawb.org/asp/wibdir.asp* that contains contact information for the State and local Workforce Investment Boards. Applicants may also review ''VETS'' Guide to Competitive and Discretionary Grants'' located at Web page *http://www.dol.gov/vets/grants/Final_VETS_Guide-linked.pdf*. For a basic understanding of the grants process and basic responsibilities of receiving Federal grant support, please see ''Guidance for Faith-Based and Community Organizations on Partnering with the Federal Government'' at Web pages *http://www.whitehouse.gov/government/fbci* and *http://www.dol.gov/cfbci*. Also see the National Coalition for Homeless Veterans Web page at *http://www.nchv.org*.

Signed at Washington, DC, this 11th day of April, 2006.

Eric Vogt,

Grant Officer.

Appendices: (Located on U.S. Department pf Labor, Veterans' Employment and Training Service Web page *http://www.dol.gov/vets*, follow link for the applicable SGA listed under announcements.)

Appendix A: Application for Federal Assistance SF–424

Appendix B: Budget Information Sheet SF–424A

Appendix C: Assurances and Certifications Signature Page

Appendix D: Recommended Format for Planned Quarterly Technical Performance Goals

Appendix E: Direct Cost Descriptions for Applicants and Sub-Applicants

Appendix F: Survey on Ensuring Equal Opportunity for Applicants

[FR Doc. 06–3627 Filed 4–19–06; 8:45 am]

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DEPARTMENT OF LABOR

Veterans' Employment and Training Service

[SGA #06–04/PY 06]

Solicitation for Grant Applications (SGA); Urban Homeless Veterans' Reintegration Program (HVRP) Grants for Program Year (PY) 2006, July 1, 2006 Through June 30, 2007

AGENCY: Veterans' Employment and Training Service (VETS), Labor.

ACTION: Posting of SGA.

SUMMARY: The Veterans' Employment and Training Service is posting availability of funds for the Urban Homeless Veterans' Reintegration Program.

FOR FURTHER INFORMATION CONTACT: Cassandra Mitchell, Grants Management Specialist, Procurement Services Center, at (202) 693–4570.

Date Extension: N/A.

DATES: The closing date for receipt of the application is May 22, 2006 at 5 p.m. (Eastern Time) at the address listed.

Executive Summary (Applicants For Grant Funds Should Read This Notice In Its Entirety): The U.S. Department of Labor (USDOL), Veterans' Employment and Training Service (VETS), announces a grant competition under 38 U.S.C. 2021, as added by section 5 of Public Law 107–95, the Homeless Veterans Comprehensive Assistance Act of 2001 (HVCAA). Section 2021 requires the Secretary of Labor to conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to expedite the reintegration of homeless veterans into the labor force.

Due to limited available funding and the high concentration of homeless veterans in the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico, the only jurisdictions eligible to be served through this urban competition for HVRPs are those areas listed in Appendix G.

HVRP grants are intended to address two objectives: (1) To provide services to assist in reintegrating homeless veterans into meaningful employment within the labor force, and (2) to stimulate the development of effective service delivery systems that will address the complex problems facing homeless veterans. Successful applicants will design programs that assist eligible veterans by providing job placement services, job training, counseling, supportive services, and other assistance to expedite the reintegration of homeless veterans into the labor force. Successful programs will also be designed to be flexible in addressing the universal as well as the local or regional problems that have had a negative impact on homeless veterans reentering the workforce.

Under this solicitation covering Fiscal Year (FY) 2006, VETS anticipates that up to $7,300,000 will be available for grant awards up to a maximum of $300,000 for each grant award. VETS expects to award approximately twenty-five (25) grants. This notice contains all of the necessary information and forms to apply for grant funding. The period of performance for these PY 2006 grants will be July 1, 2006 through June 30, 2007. Two (2) optional years of additional funding may be available, depending upon Congressional appropriations, the agency's decision to exercise the optional year(s) of funding, and satisfactory grantee and sub-awardee(s) performance.

I. Funding Opportunity Description

The U.S. Department of Labor (USDOL), Veterans' Employment and Training Service (VETS), announces a grant competition under 38 U.S.C. 2021, as added by section 5 of Public Law 107–95, the Homeless Veterans Comprehensive Assistance Act of 2001 (HVCAA). Section 2021 requires the Secretary of Labor to conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to provide job training, counseling, and placement services (including job readiness, literacy training, and skills training) to expedite the reintegration of homeless veterans into the labor force.

1. Program Concept and Emphasis

HVRP grants are intended to address two objectives: (a) To provide services to assist in reintegrating homeless veterans into meaningful employment within the labor force, and (b) to stimulate the development of effective service delivery systems that will address the complex problems facing homeless veterans.

For this Fiscal Year (FY) 2006 grant solicitation, VETS seeks applicants that will provide services through a case management approach that networks with Federal, State, and local resources for veteran support programs. Successful applicants will have clear strategies and obtainable goals for employment and retention of employment for homeless veterans. Successful applicants will design programs that assist eligible veterans by providing job placement services, job training, counseling, mentoring, supportive services, and other assistance to expedite the reintegration of homeless veterans into the labor force. Successful applicants will also design programs that are flexible in addressing the universal as well as the local or regional problems that have had a negative impact on homeless veterans reentering the workforce. The HVRP in PY 2006 will seek to continue to strengthen development of effective service delivery systems, to provide comprehensive services through a case management approach that addresses complex problems facing eligible veterans trying to transition into gainful employment, and to improve strategies for employment and retention in employment.

Due to the limited amount of funding and the high concentration of homeless veterans in the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico, the only jurisdictions eligible to be served through this urban competition for HVRP are those areas listed in Appendix G.

2. Project Awareness Program Information and Orientation Activities

In order to promote networking between the HVRP-funded program and local service providers (and thereby eliminate gaps or duplication in services and enhance the provision of assistance to participants), the grantee and sub-awardee(s) must provide project orientation workshops and program awareness activities that it determines are the most feasible for the types of providers listed below. Grantees and

sub-awardee(s) are encouraged to propose strategies for incorporating small faith-based and community organizations (defined as organizations with social services budgets of $500,000 or less and ten (10) or fewer full-time employees) into their outreach plans. Project orientation workshops conducted by grantees and sub-awardee(s) have been an effective means of sharing information and informing the community of the availability of other services; they are encouraged but not mandatory. Rather, grantees and sub-awardee(s) will have the flexibility to attend service provider meetings, seminars, and conferences, to outstation staff, and to develop individual service contracts as well as to involve other agencies in program planning.

The grantee and sub-awardee(s) will be responsible for providing project awareness, program information, and orientation activities to the following:

A. Direct providers of services to homeless veterans, including shelter and soup kitchen operators, to make them aware of the services available to homeless veterans to make them job-ready and to aid their placement into jobs.

B. Federal, State, and local agencies such as the Social Security Administration (SSA), Department of Veterans Affairs (DVA), State Workforce Agencies (SWAs) and local One-Stop Career Centers (which integrate Workforce Investment Act (WIA) and other employment and training services), mental health services, and healthcare detoxification facilities: To familiarize them with the nature and needs of homeless veterans.

C. Civic and private sector groups, in particular veterans' service organizations, support groups, job training and employment services, and community-based organizations (including faith-based organizations), to provide information on homeless veterans and their needs.

The grantee and sub-awardee(s) will also be responsible for participating in ''Stand Down'' events. A ''Stand Down'' is an event held in a locality, usually for one (1) to three (3) days, where services are provided to homeless veterans along with shelter, meals, clothing, employment services, and medical attention. This type of event is mostly a volunteer effort, which is organized within a community and brings service providers together such as the Department of Veterans Affairs, Disabled Veterans' Outreach Program Specialists (DVOP) and Local Veterans' Employment Representatives (LVER) staff from the State Workforce Agencies, Veteran Service Organizations, military personnel, civic leaders, and a variety of other interested persons, groups, and organizations. Many services are provided on-site with referrals also made for continued assistance after the Stand Down event. These events can often be the catalyst that enables homeless veterans to get back into mainstream society. The Department of Labor has supported replication of these events and many have been held throughout the nation.

In areas where an HVRP is operating, grantees and sub-awardee(s) are expected and encouraged to participate fully and offer their services for all locally planned Stand Down event(s). Toward this end, up to $8,000 of the requested HVRP grant funds may be used to supplement the Stand Down efforts, where funds are not otherwise available, and may be requested and explained in the budget narrative.

3. Scope of Program Design

In addition to the activities described above, the project design must include the following services:

A. Outreach, intake, assessment, peer counseling or mentoring to the degree practical, employment services, and follow-up support services to enhance retention in employment. Program staff providing outreach services should have experience in dealing with, and an understanding of the needs of, homeless veterans. Outreach activities must include and coordinate with the DVOP and LVER staff in the State Workforce Agencies or in the workforce investment systems' One-Stop Career Centers System, Veterans' Workforce Investment Program (VWIP), and the Department of Veterans Affairs.

B. Provision of or referral to employment services such as: Job search workshops, job counseling, assessment of skills, resume writing techniques, interviewing skills, subsidized trial employment (work experience), job development services, job placement into unsubsidized employment, and job placement follow-up services to enhance retention in employment.

C. Provision of or referral to training services such as: Basic skills instruction, remedial education activities, life skills and money management training, on-the-job training, classroom training, vocational training, specialized and/or licensing training programs, and other formal training programs as deemed appropriate to benefit the participant. At least 80% of the enrolled HVRP participants must participate in training activities.

D. Grantees and sub-awardee(s) must perform a preliminary assessment of each participant's eligibility for Department of Veterans Affairs (DVA) service-connected disability, compensation, and/or pension benefits. As appropriate, grantees and sub-awardee(s) will work with the veterans' service organizations or refer the participants to DVA in order to file a claim for compensation or pension. Grantees and sub-awardee(s) will track the progress of claims and report outcomes in individual participant case management records.

E. Coordination with veterans' services programs, including: DVOPs and LVERs in the workforce investment system's One-Stop Career Centers, as well as Veterans' Workforce Investment Programs (VWIPs), Department of Veterans Affairs (DVA) services, including its Health Care for Homeless Veterans, Domiciliary Care, Regional Benefits Assistance Program, and Transitional Housing under Homeless Provider Grant and Per Diem programs.

F. Networking, collaborating, and coordinating efforts with veterans' service organizations such as: The American Legion, Disabled American Veterans, Veterans of Foreign Wars, Vietnam Veterans of America, The American Veterans (AMVETS), or etc. to ensure participants apply for and/or receive other veterans' benefits that they may be eligible for.

G. Referral as necessary to health care, counseling, and rehabilitative services including, but not limited to: Alcohol and drug rehabilitation, therapeutic services, Post Traumatic Stress Disorder (PTSD) services, and mental health services as well as coordination with McKinney-Vento Homeless Assistance Act (MVHAA) programs for health care for the homeless, and health care programs under the Homeless Veterans Comprehensive Assistance Act (HVCAA) of 2001.

H. Referral to housing assistance, as appropriate, provided by: Local shelters, Federal Emergency Management Administration (FEMA) food and shelter programs, transitional housing programs and single room occupancy housing programs funded under MVHAA and HVCAA, and permanent housing programs for disabled homeless persons funded under MVHAA and HVCAA.

4. Results-Oriented Model

No specific model is mandatory, but successful applicants will design a program that is responsive to the needs of the local community and achieves the HVRP objectives. The HVRP objectives are to successfully reintegrate homeless veterans into the workforce and to stimulate the development of effective service delivery systems that will address the complex problems facing

homeless veterans. Under the Government Performance and Results Act (GPRA), Congress and the public are looking for program results rather than program processes.

For purposes of assessing performance of grantees selected under this SGA, VETS will focus on two performance measures described below. However, grantees also will be required to report additional performance information, as required in DOL guidance on OMB Common Measures and as described below. All performance outcomes will be reported quarterly using an Internet-based reporting system for HVRP, with access provided to successful grantees after the award process has been completed.

There are two (2) outcome measures with established performance targets for HVRP grants. The first outcome measure is the placement rate with a performance target for grantees and sub-awardee(s) to meet a minimum placement rate of 61.5%. This is determined by dividing the number of participants placed into employment by the total number of HVRP participants. While the percentage of HVRP participants placed into employment is an important outcome, it is also necessary to evaluate and measure the program's longer-term results, through the 90-day and 180-day follow-up periods. The second outcome measure is retention following placement with a performance target for grantees and sub-awardee(s) to meet a minimum rate of retention of 58.5% at 180 days following placement. This is determined by dividing the number of participants retained in employment at 180 days following placement divided by the total number of participants placed into employment. While there is no performance target established for retention at 90 days following placement, grantees are required to collect and report the rate of retention in employment at that point.

In applying the Common Measures, grantees will be required to collect additional information according to the Common Measures definitions but no performance targets for grantees will be established according to those definitions during this period of performance. That is because the baseline information required to establish performance targets does not yet exist. Upon award, grantees will be provided with detailed information regarding the specific information required to be collected and reported. At this point, it is sufficient for grantees to be aware of two requirements in addition to the requirements identified above. First, it will be necessary for grantees to collect and report on the rate of retention in employment at 270 days following placement into employment. Second, at the 180 day and 270 day points of retention in employment following placement, grantees will be required to collect and report the average weekly earnings of those retained in employment. This is calculated by multiplying each participant's hourly wage by the average number of hours per week that the participant was employed during the previous quarter.

The applicant's program should be based on a results-oriented model. The first phase of activity should consist of the level of outreach necessary to introduce the program to eligible homeless veterans. Outreach also includes establishing contact with other agencies that encounter homeless veterans. Once the eligible homeless veterans have been identified, an assessment must be made of each individual's abilities, interests, needs, and barriers to employment. In some cases, participants may require referrals to services such as rehabilitation, drug or alcohol treatment, or a temporary shelter before they can be enrolled into the HVRP program. Once the eligible homeless veteran is stabilized, the assessment must concentrate on the employability of the individual and whether the individual is to be enrolled into the HVRP program.

A determination should be made as to whether the HVRP participant would benefit from pre-employment preparation such as resume writing, job search workshops, related employment counseling, and case management, or possibly an initial entry into the job market through temporary jobs. Additionally, sheltered work environments such as the Department of Veterans Affairs Compensated Work Therapy Program, classroom training, and/or on-the-job training must be evaluated. Such services should be noted in an Individual Employment Plan to facilitate the staff's successful monitoring of the participant's progress. Entry into full-time employment or a specific job-training program should follow, in keeping with the overall objective of HVRP, to bring the participant closer to self-sufficiency. The grantee should provide or arrange for these supportive services that will enable the HVRP participant to successfully perform all the activities specified in the Individual Employment Plan.

Job development, a crucial part of the employability process, usually occurs when there are no competitive job openings that the HVRP participant is qualified to apply for; therefore, a job opportunity with an employer is created, developed, and customized specifically for that HVRP participant. HVRP participants who are ready to enter employment and are in need of intensive case management services for employment purposes are to be referred to the DVOP and LVER staff at a One-Stop Career Center. DVOP and LVER staff are able to provide HVRP participants the following services: Job development, employment services, case management for employment purposes, and career counseling. Most DVOP and LVER staff received training in case management for employment purposes at the National Veterans' Training Institute. All DVOP and LVER staff provide employment-related services to veterans who are most at a disadvantage in the labor market. VETS recommends working hand-in-hand with DVOP/LVER and other One-Stop Career Center staff to achieve economies of resources and to avoid duplication of services. DVOP/LVER staff may also be able to provide grantees and sub-awardee(s) valuable assistance in tracking participants within their State wage record management information system for follow-up purposes at 90 and 180 days after a participant enters employment.

The applicant's program must include tracking of program participants. Participant tracking should begin with the referral to supportive services and training activities and continue at placement into employment and through the 90-day and 180-day follow-up periods after entering employment. It is important that the grantee and sub-awardee(s) maintain contact with veterans after placement to ensure that employment-related problems are addressed. The 90-day and 180-day follow-ups are fundamental to assessing program results. Grantees and sub-awardee(s) need to budget for 90-day and 180-day follow-up activity so that it can be performed for those participants placed at or near the end of the grant performance period. All grantees and sub-awardee(s), prior to the end of the grant performance period, must obligate sufficient funds to ensure that follow-up activities are completed. Such results will be reported in the final technical performance report.

II. Award Information

1. Type of Funding Instrument

One (1) year grant with optional funding for an additional two years.

Note: Selection of an organization as a grantee does not constitute final approval of the grant application as submitted. Before the

actual grant is awarded, USDOL may enter into negotiations about such items as program components, staffing, and funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in a mutually acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application.

2. Funding Levels

The total funding available for this Urban HVRP solicitation is up to $7,300,000. It is anticipated that approximately twenty-five (25) awards will be made under this solicitation. Awards are expected to range from a minimum of $75,000 to a maximum of $300,000. The Department of Labor reserves the right to negotiate the amounts to be awarded under this competition. Please be advised that requests exceeding $300,000 will be considered non-responsive and will not be evaluated. If there are any residual programmatic funds, the Department of Labor reserves the right to select for funding the next highest scoring applicant(s) on the competitive list developed for this SGA up to one (1) year after the initial performance period begins or June 30, 2007.

3. Period of Performance

The period of performance will be for the twelve (12) month period of July 1, 2006 to June 30, 2007, unless modified by the Grant Officer. It is expected that successful applicants will begin program operations under this solicitation on July 1, 2006. All program funds must be obligated by June 30, 2007; a limited amount of funds may be obligated and reserved for follow-up activities and closeout.

4. Optional Year Funding

Should Congress appropriate additional funds for this purpose, VETS may consider up to two (2) additional years of optional funding. The Government does not, however, guarantee optional year funding for any grantee or sub-awardee(s). In deciding whether to exercise any optional year(s) of funding, VETS will consider grantee and sub-awardee(s) performance during the previous period of operations as follows:

A. The grantee and sub-awardee(s) must meet, at minimum, 90% of planned cumulative goals for Federal expenditures, enrollments, placements into employment, and training by the end of the third quarter; and

B. The grantee and sub-awardee(s) must have complied with all terms identified in the Solicitation for Grant Application (SGA), grant award document, and General and Special Grant Provisions; and

C. All program and fiscal reports must have been submitted by the established due dates and the grantee and sub-awardee(s) must verify these reports for accuracy purposes.

III. Eligibility Information

1. Eligible Applicants

Applications for funds will be accepted from State and local Workforce Investment Boards, local public agencies, for-profit/commercial entities, and non-profit organizations, including faith-based and community organizations. Applicants must have a familiarity with the area and population to be served and the ability to administer an effective and timely program.

Eligible applicants will generally fall into one of the following categories:

- State and local Workforce Investment Boards (WIBs), established under sections 111 and 117 of the Workforce Investment Act.
- Public agencies, meaning any public agency of a State or of a general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers. (This typically refers to cities and counties.) A State agency may propose in its application to serve one or more of the jurisdictions located in its State. This does not preclude a city or county agency from submitting an application to serve its own jurisdiction.
- For-profit/commercial entities.
- Non-profit organizations (including faith-based and community organizations). If claiming 501(c)(3) status, the Internal Revenue Service statement indicating 501(c)(3) status approval must be submitted.
- Note that entities organized under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this announcement. Section 18 of the Lobbying Disclosure Act of 1995, Public Law 104–65, 109 Stat. 691 (2 U.S.C. 1611) prohibits instituting an award, grant, or loan of federal funds to 501(c)(4) entities that engage in lobbying.

2. Cost Sharing

Cost sharing and matching funds are *not* required. However, we do encourage grantees and sub-awardee(s) to maximize the resources available to the HVRP program and its participants.

3. Other Eligibility Criteria

A. Due to limited available funding and the high concentration of homeless veterans in the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico, the only jurisdictions eligible to be served through this urban competition for HVRPs are those areas listed in Appendix G.

B. The proposal must include a participant outreach component that uses DVOP/LVER staff and/or trained outreach staff. Programs must be ''employment-focused.'' An ''employment-focused'' program is a program directed toward: (1) Increasing the employability of homeless veterans through training or arranging for the provision of services that will enable them to reintegrate into the labor force and (2) matching homeless veterans with potential employers and/or entrepreneurial opportunities.

C. Applicants are encouraged to utilize, through partnerships or sub-awards, experienced public agencies, private non-profit organizations, private businesses, faith-based and community organizations, and colleges and universities (especially those with traditionally high enrollments of minorities) that have an understanding of unemployment and the barriers to employment unique to homeless veterans, a familiarity with the area to be served, linkages with the One-Stop Career Center(s), and the capability to effectively provide the necessary services.

D. Legal rules pertaining to inherently religious activities by organization that receive Federal Financial Assistance. Neutral, non-religious criteria that neither favor nor disfavor religion will be employed in the selection of grant recipients and must be employed by grantees or in the selection of sub-awardee(s). The government is generally prohibited from providing direct financial assistance for inherently religious activities. These grants may not be used for religious instruction, worship, prayer, proselytizing or their inherently religious activities. In this context, the term direct financial assistance means financial assistance that is provided directly by a government entity or an intermediate organization, as opposed to financial assistance that an organization receives as the result of the genuine and independent private choice of a beneficiary. In other contexts, the term ''direct'' financial assistance may be used to refer to financial assistance that an organization receives directly from the Federal government (also known as ''discretionary'' assistance), as opposed to assistance that it receives from a State or local government (also known as ''indirect'' or ''block'' grant assistance).

The term ''direct'' has the former meaning throughout this paragraph.

E. To be eligible for enrollment as a participant under this HVRP grant an individual must be homeless *and* a veteran defined as follows:

• The term ''*homeless or homeless individual*'' includes persons who lack a fixed, regular, and adequate nighttime residence. It also includes persons whose primary nighttime residence is either a supervised public or private shelter designed to provide temporary living accommodations; an institution that provides a temporary residence for individuals intended to be institutionalized; or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. [42 U.S.C. 11302 (a)].

• The term ''*veteran*'' means a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable. [38 U.S.C. 101(2)].

IV. Application and Submission Information

1. Address To Request an Application and Amendments

This SGA, together with its attachments, includes all the information needed to apply. Additional application packages and amendments to this SGA may be obtained from the VETS Web site address at *http://www.dol.gov/vets*, the Federal Grant Opportunities Web site address at *http://www.grants.gov*, and from the **Federal Register** Web site address at *http://www.gpoaccess.gov/fr/index.html.* The **Federal Register** may also be obtained from your nearest government office or library. Additional copies of the standard forms can be downloaded from: *http://www.whitehouse.gov/omb/grants/grants_forms.html.*

All grant applications are to be mailed to: Department of Labor, Procurement Services Center, Attention: Cassandra Mitchell, Reference SGA #06–04, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210. Phone Number: (202) 693–4570 (this is not a toll-free number).

• Applicants may also apply online at *http://www.grants.gov.* Applicants submitting proposals online are requested to refrain from mailing a hard copy application as well. It is strongly recommended that applicants using *http://www.grants.gov* immediately initiate and complete the ''Get Started'' registration steps at *http://www.grants.gov/GetStarted.* These steps may take multiple days to complete, and this time should be factored into plans for electronic submission in order to avoid facing unexpected delays that could result in the rejection of an application. If submitting electronically through *http://www.grants.gov* it would be appreciated if the application submitted is saved as .doc, .pdf, or .txt files.

• Except as provided in section IV.3., any application received after the deadline will be considered as non-responsive and will not be evaluated.

2. Content and Form of Application

The application must include the name, address, telephone number, fax number, and e-mail address (if applicable) of a key contact person at the applicant's organization in case questions should arise. To be considered *responsive* to this solicitation the application must consist of three (3) separate and distinct sections: The Executive Summary, the Technical Proposal, and the Cost Proposal. The information provided in these three (3) sections is essential to demonstrate an understanding of the programmatic and fiscal contents of the grant proposal.

A complete grant application package must not exceed 75 single-sided pages (8½″ x 11″), double-spaced, 12-point font, typed pages (all attachments are included in the 75 page maximum). Applications that contain more than 75 pages total will be considered non-responsive. Major sections and sub-sections of the application should be divided and clearly identified (e.g. with tab dividers), and all pages shall be numbered. To be considered responsive grant applications are to include:

• An original, blue ink-signed, and two (2) copies of the cover letter.

• An original and two (2) copies of the Executive Summary (see below).

• An original and two (2) copies of the Technical Proposal (see below) that includes a completed Technical Performance Goals Form (Appendix D). Also include all attachments with the technical proposal, such as the applicant's information showing outcomes of employment and training programs that it has had in the past three (3) years in terms of enrollments and participants who have entered into employment.

• An original and two (2) copies of the Cost Proposal (see below) that includes an original, blue ink-signed, Application for Federal Assistance, SF–424 (Appendix A), a Budget Narrative, Budget Information Sheet SF–424A (Appendix B), an original, blue ink-signed, Assurances and Certifications Signature Page (Appendix C), a Direct Cost Description for Applicants and Sub-applicants (Appendix E), a completed Survey on Ensuring Equal Opportunity for Applicants (Appendix F), and the applicant's grant specific financial and/or audit statement dated within the last 18 months (does not count towards the 75 page limitation).

A. *Section 1—Executive Summary:* A one to two page ''Executive Summary'' reflecting the grantee's and sub-awardee(s) proposed overall strategy, timeline, and outcomes to be achieved in their grant proposal is required. The Executive Summary should include:

• The proposed area to be served through the activities of this grant application.

• The grantee's experience in serving the residents in the proposed service area.

• The proposed projects and activities that will expedite the reintegration of homeless veterans into the workforce.

• A summary of anticipated outcomes, benefits, and value added by the project.

B. *Section 2—Technical Proposal* consists of a narrative proposal that demonstrates the need for this particular grant program, the services and activities proposed to obtain successful outcomes for the homeless veterans to be served; and the applicant's ability to accomplish the expected outcomes of the proposed project design. All applications must respond to the requirements for the program concept, required activities, and results oriented model set forth in section I of the SGA.

Required Content: There are program activities that all applications must contain to be found technically acceptable under this SGA. Programs must be ''employment-focused'' and must be responsive to the rating criteria in section V(1). *The required program activities are:* Participant outreach and project awareness activities, pre-enrollment assessments, individual employment plans for each participant, case management, job placement, job retention follow-up (at 90 and 180 days) after individual enters employment, utilization and coordination of employment services through the One-Stop Career Center System, including the DVOP and LVER staff, and with community linkages with other programs that provide support to homeless veterans. All applicants must respond to the requirements for the program concept, required activities and results-oriented model described in section I. of the SGA.

The following format for the technical proposal is recommended: Need for the program: The applicant must identify the geographical area to be served and

provide an estimate of the number of homeless veterans in the designated geographical area. Include poverty and unemployment rates in the area and identify the disparities in the local community infrastructure that exacerbate the employment barriers faced by the targeted veterans. Include labor market information and job opportunities in the employment fields and industries that are in demand in the geographical area to be served. Applicants are to clearly describe the proposed program awareness and participant outreach strategies.

Approach or strategy to increase employment and job retention: Applicants must be responsive to the Rating Criteria contained in section V(1) and address all of the rating factors as thoroughly as possible in the narrative. *The applicant must:*

- Describe the specific employment and training services to be provided under this grant and the sequence or flow of such services;
- Indicate the type(s) of training that will be provided under the grant and how it relates to the jobs that are in demand, length of training, training curriculum, and how the training will improve the eligible veterans' employment opportunities within that geographical area;
- Provide a follow-up plan that addresses retention after 90 and 180 days with participants who have entered employment;
- Include the completed Planned Quarterly Technical Performance Goals (and planned expenditures) form listed in Appendix D. If the Planned Quarterly Technical Performance Goals form listed in Appendix D is not submitted, the grant application package will be considered as non-responsive.

Linkages with facilities that serve homeless veterans: Describe program and resource linkages with other facilities that will be involved in identifying potential clients for this program. Applicants are encouraged to submit a list of their local area network of service providers that offer and provide services to benefit HVRP participants. Describe any networks with other related resources and/or other programs that serve homeless veterans. Indicate how the program will be coordinated with any efforts that are conducted by public and private agencies in the community. Indicate how the applicant will coordinate with any continuum of care efforts for the homeless among agencies in the community. If a Memorandum of Understanding (MOU) or other service agreement with service providers exists, copies should be provided.

Linkages with other providers of employment and training services to homeless veterans: Describe the linkages, networks, and relationships the proposed program will have with other providers of services to homeless veterans; include a description of the relationship with other employment and training programs in the One-Stop Career Center System such as Disabled Veterans' Outreach Program (DVOP), the Local Veterans' Employment Representative (LVER) program, and programs under the Workforce Investment Act such as the Veterans' Workforce Investment Program (VWIP); list the type of services that will be provided by each. Note the type of agreement in place, if applicable. Linkages with the workforce investment system are required. Describe any networks with any other resources and/or other programs for homeless veterans. If an MOU or other service agreement with other service providers exists, copies should be provided.

Linkages with other Federal agencies: Describe program and resource linkages with the Department of Housing and Urban Development (HUD), Department of Health and Human Services (HHS), and Department of Veterans Affairs (DVA), to include the Compensated Work Therapy (CWT) and Grant and Per Diem programs. If an MOU or other service agreement with other service providers exists, copies should be provided.

Proposed supportive service strategy for veterans: Describe how supportive service resources for veterans will be obtained and used. If resources are provided by other sources or linkages, such as Federal, State, local, or faith-based and community programs, the applicant must fully explain the use of these resources and how they will be applied. If an MOU or other service agreement with other service providers exist, copies should be provided.

Organizational capability to provide required program activities: The applicant's relevant current and prior experience (within the last three year period) in operating employment and training programs is to be clearly described, if applicable. A summary narrative of program experience and employment and training performance outcomes is required. The applicant must provide information showing outcomes of employment and training programs that it has had in the past three (3) years in terms of enrollments and participants who have entered into employment. An applicant that has operated a HVRP, other homeless employment and training program, or VWIP program must also include the final or most recent cumulative quarterly technical performance report.

Please note that the Department of Labor grant review panel members, who will be reviewing all grant applications submitted as a result of this SGA, do *not* have access to any reporting information systems during the review process, therefore, if final or most recent cumulative quarterly technical performance reports are not submitted, the grant application may be considered non-responsive.

The applicant must also provide evidence of key staff capability to include resumes, staff biographies, organizational charts, statements of work, and etc. It is preferred that the grantee and sub-awardee(s) be a well established service provider and not in the initial start-up phase or process.

Proposed housing strategy for homeless veterans: Describe how housing resources for eligible homeless veterans will be obtained or accessed. These resources must be from linkages or sources other than the HVRP grant such as HUD, HHS, community housing resources, DVA Grant and Per Diem Program, or other local housing programs.

C. *Section 3—The Cost Proposal must contain the following:* Applicants can expect that the cost proposal will be reviewed for allocability, allowability, and reasonableness.

(1) Standard Form SF–424, ''Application for Federal Assistance'' (with the original signed in blue-ink) (Appendix A) must be completed;

The Catalog of Federal Domestic Assistance number for this program is 17.805 and it must be entered on the SF–424, in Block 11.

The organizational unit section of Block 8 of the SF–424 must contain the Dun and Bradstreet Number (DUNS) of the applicant. Beginning October 1, 2003, all applicants for Federal grant funding opportunities are required to include a DUNS number with their application. *See* OMB Notice of Final Policy Issuance, 68 FR 38402 (June 27, 2003).

Applicants' DUNS number is to be entered into Block 8 of SF–424. The DUNS number is a nine-digit identification number that uniquely identifies business entities. There is no charge for obtaining a DUNS number. To obtain a DUNS number call 1–866–705–5711 or access the following Web site: *http://www.dunandbradstreet.com/* Requests for exemption from the DUNS number requirement must be made to the Office of Management and Budget. If no DUNS number is provided then the grant application will be considered non-responsive.

(2) Standard Form SF–424A ''Budget Information Sheet'' (Appendix B) must be included;

(3) As an attachment to SF–424A, the applicant must provide a detailed cost breakout of each line item on the Budget Information Sheet. Please label this page or pages the ''Budget Narrative'' and ensure that costs reported on the SF–424A correspond accurately with the Budget Narrative;

The Budget Narrative must include, at a minimum:

• Breakout of all personnel costs by position, title, annual salary rates, and percent of time of each position to be devoted to the proposed project (including sub-grantees) by completing the ''Direct Cost Descriptions for Applicants and Sub-Applicants'' form (Appendix E);

• Explanation and breakout of extraordinary fringe benefit rates and associated charges (i.e., rates exceeding 35% of salaries and wages);

• Explanation of the purpose and composition of, and methodology used to derive the costs of each of the following: Travel, equipment, supplies, sub-awards/contracts, and any other costs. The applicant must include costs of any required travel described in this Solicitation. Planned travel expenditures may not exceed 5% of the total HVRP funds requested. Mileage charges may not exceed 44.5 cents per mile or the current Federal rate;

• All associated costs for obtaining and retaining participant information pertinent to the follow-up survey, at 90 and 180 days after the program performance period ends;

• Description/specification of, and justification for, equipment purchases, if any. Tangible, non-expendable, personal property having a useful life of more than one year and a unit acquisition cost of $5,000 or more per unit must be specifically identified; and

• Matching funds, leveraged funds, and in-kind services are not required for HVRP grants. However, if matching funds, leverage funds, or in-kind services are to be used, an identification of all sources of leveraged or matching funds and an explanation of the derivation of the value of matching/in-kind services must be provided. When resources such as matching funds, leveraged funds, and/or the value of in-kind contributions are made available, please describe in Section B of the Budget Information Sheet.

(4) A completed Assurance and Certification signature page (Appendix C) (signed in blue ink) must be submitted;

(5) All applicants must submit evidence of satisfactory financial management capability, which must include recent (within the last 18 months) grant specific financial and/or audit statements (does not count towards the 75 page limitation). All successful grantees and sub-awardee(s) are required to utilize Generally Accepted Accounting Practices (GAAP), maintain a separate accounting for these grant funds, and have a checking account;

(6) All applicants must include, as a separate appendix, a list of all employment and training government grants and contracts that they have had in the past three (3) years, including grant/contract officer contact information. VETS reserves the right to have a DOL representative review and verify this data;

(7) A completed Survey on Ensuring Equal Opportunity for Applicants (Appendix F) must be provided.

3. Submission Dates and Times (Acceptable Methods of Submission)

The grant application package must be received at the designated place by the date and time specified or it will not be considered. Any application received at the Office of Procurement Services after 5 p.m. EDT, May 22, 2006, will not be considered unless it is received before the award is made and:

• It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated; or

• It was sent by registered or certified mail not later than the fifth calendar day before May 22, 2006; or

• It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5 p.m. at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to May 22, 2006.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped or otherwise placed impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper. Applications cannot be accepted by e-mail or facsimile machine.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence or receipt maintained by that office. Applications sent by other delivery services, such as Federal Express, UPS, etc., will also be accepted.

All applicants are advised that U.S. mail delivery in the Washington, DC area has been erratic due to security concerns. All applicants must take this into consideration when preparing to meet the application deadline, as you assume the risk for ensuring a timely submission, that is, if, because of these mail problems, the Department does not receive an application or receives it too late to give proper consideration, even if it was timely mailed, the Department is not required to consider the application.

4. Intergovernmental Review

Not applicable.

5. Funding Restrictions

A. Proposals exceeding $300,000 will be considered non-responsive and will not be evaluated.

B. There is a limit of one (1) application per submitting organization and physical location serving the same HVRP participant population. If two (2) original applications from the same organization for the same physical location serving the same HVRP participant population are submitted, the application with the later date will be considered as non-responsive. Please do not submit duplicate original grant applications as only one (1) grant application will be considered for funding purposes.

C. Due to the limited availability of funding, if an organization was awarded Fiscal Year 2004 or Fiscal Year 2005 HVRP funds for a specific physical location serving the same HVRP

participant population and will be applying for second and possible third year funding in PY 2006, then that organization at that specific physical location serving the same HVRP participant population will be considered ineligible to compete for these FY 2006 HVRP funds. Therefore, due to the limited funding availability, we are unable to award more than one (1) HVRP grant per organization at a specific physical location serving the same HVRP participant population. A separate Director's Memorandum Number 09–06 has been issued for grantees that are eligible to apply for second and third optional year funding that includes detailed instructions on how to apply for these funds.

D. There will not be reimbursement of pre-award costs unless specifically agreed upon in writing by the Department of Labor.

E. Entities described in section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this announcement because section 18 of the Lobbying Disclosure Act of 1995, Public Law No. 104–65, 109 Stat. 691, prohibits the award of Federal funds to these entities.

F. The only potential areas that will be served through this urban competition for HVRPs in FY 2006 are the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico (see Appendix G).

G. *Limitations on Administrative and Indirect Costs*

- Administrative costs, which consist of all direct and indirect costs associated with the supervision and management of the program, are limited to and may not exceed 20% of the total grant award.
- Indirect costs claimed by the applicant must be based on a Federally approved rate. A copy of the current negotiated approved and signed indirect cost negotiation agreement must be submitted with the application. Furthermore, indirect costs are considered a part of administrative costs for HVRP purposes and, therefore, may not exceed 20% of the total grant award.
- If the applicant does not presently have an approved indirect cost rate, a proposed rate with justification may be submitted. Successful applicants will be required to negotiate an acceptable and allowable rate within 90 days of grant award with the appropriate DOL Regional Office of Cost Determination or with the applicant's cognizant agency for indirect cost rates (See Office of Management and Budget Web site at *http://www.whitehouse.gov/omb/grants/attach.html*).
- Indirect cost rates traceable and trackable through the State Workforce Agency's Cost Accounting System represent an acceptable means of allocating costs to DOL and, therefore, can be approved for use in grants to State Workforce Agencies.

V. Application Review Information

1. Application Evaluation Criteria

Applications may receive up to 110 total points based on the following criteria:

A. *Need for the project: 10 points.*

The applicant will document the need for this project, as demonstrated by: (i) The potential number or concentration of homeless individuals and homeless veterans in the proposed project area relative to other similar areas; (ii) the rates of poverty and unemployment in the proposed project area as determined by the census or other surveys; and (iii) the extent of the gaps in the local infrastructure to effectively address the employment barriers that characterize the target population.

B. *Overall strategy to increase employment and retention in employment: 35 points [and up to 10 additional points (for a total of 45 points) if overall strategy includes an approach for addressing barriers to employment faced by chronically homeless veterans as described below.]*

The application must include a description of the approach to providing comprehensive employment and training services, including outreach, pre-enrollment assessment, job training, job development, obtaining employer commitments to hire, placement, and post-placement follow-up services. Applicants must address how they will target occupations that are locally in demand with career growth potential and that will provide wages to ensure self-sufficiency for the participant. Supportive services provided as part of the strategy of promoting job readiness and job retention must be indicated. The applicant must identify the local services and sources of training to be used for participants. At least 80% of participants must participate in training activities. A description of the relationship with other employment and training programs delivered through the One-Stop Career Center System must be specified. Applicants must indicate how the activities will be tailored or responsive to the needs of homeless veterans. A participant flow chart may be used to show the sequence and mix of services.

Additional Points: Up to an additional 10 points under this section will be awarded to grant proposals that focus some of their effort on addressing the barriers to employment faced by chronically homeless veterans. A veteran who is ''chronically homeless'' is an unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more, OR who has had at least four (4) episodes of homelessness in the past three (3) years. In order to be considered chronically homeless, a person must have been sleeping in a place not meant for human habitation (*e.g.*, living on the streets) and/or in an emergency homeless shelter. A disabling condition is defined as a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability including the co-occurrence of two or more of these conditions. A disabling condition limits an individual's ability to work or perform one or more activities of daily living.

Note: The applicant must complete Appendix D, the Recommended Format for Planned Quarterly Technical Performance Goals, with proposed programmatic outcomes, including participants served, placement/entered employments and job retention.

C. *Quality and extent of linkages with other providers of services to the homeless and to veterans: 20 points.*

The application must provide information on the quality and extent of the linkages this program will have with other providers of services to homeless veterans in the local community including faith-based and community organizations. For each service, the applicant must specify who the provider is, the source of funding (if known), and the type of linkages/referral system established or proposed. Describe, to the extent possible, how the project would be incorporated into the local community's continuum of care approach and the local community's ten (10) year plan to end homelessness, if applicable (see Interagency Council on Homelessness Web page at *http://www.ich.gov for additional information*). Describe how the proposed project links to the appropriate State Workforce Agency and One-Stop Career Center(s) including coordination and collaboration with DVOP/LVER and other One-Stop Career Center staff, HUD, HHS, DVA, and other local community-based programs and the services that will be provided as necessary on behalf of the homeless veteran participants to be served.

D. *Demonstrated capability in providing required program services,*

including programmatic reporting and participant tracking: 25 points.

The applicant must describe its relevant prior experience in operating employment and training programs and providing services to participants similar to those that are proposed under this solicitation. Specific outcomes previously achieved by the applicant must be described, such as number of enrollments, number of participants that were placed into employment, cost per placement into employment, benefits secured, network coalitions, etc. The applicant must also address its capacity for timely startup of the program, programmatic reporting, and participant tracking. The applicant should describe its staff experience and ability to manage the administrative, programmatic, and financial aspects of a grant program. Include a recent (within the last 18 months) grant specific financial statement and/or audit (does not count towards the 75 page limitation). Final or most recent financial and technical performance reports for other relevant programs must be submitted, if applicable. Because prior HVRP experience is not a requirement for this grant, applicants may have other similar type programmatic performance reports to submit as evidence of experience in operating other employment and training type programs.

E. *Quality of overall housing strategy: 10 points.*

The application must demonstrate how the applicant proposes to obtain or access housing resources for participants in the program and participants entering into the labor force. This discussion should specify the provisions made to access temporary, transitional, and permanent housing for participants through various community resources such as HUD, DVA Grant and Per Diem Program, and other locally funded housing programs. HVRP funds may not be used for housing purposes or purchasing or leasing of vehicles.

2. Review and Selection Process

Grant applications will be reviewed by a Department of Labor grant review panel using the point scoring system specified above in section V(1). The grant review panel will assign a score after objectively and carefully evaluating each responsive grant application and all responsive grant applications will be ranked based on this score. The ranking will be the primary basis to identify applicants as potential grantees. The grant review panel will establish a competitive range, based upon the proposal evaluation, for the purpose of selecting qualified applicants. For this solicitation, the minimum acceptable score is 70.

The grant review panel, the Assistant Secretary for Veterans' Employment and Training (ASVET), and Grant Officer may further evaluate grant applications deemed within the competitive range in order to compare goals of other grant applications deemed within the competitive range. The grant review panel, the ASVET, and the Grant Officer may consider any information that comes to their attention, including past performance of a previous grant, and will make a final selection determination based on what is most advantageous to the Government, considering factors such as grant review panel findings, geographical presence of the applicants, existing grants, or the areas to be served and the best value to the government, cost, and other factors considered. The grant review panel's conclusions are advisory in nature and not binding on the Grant Officer. However, if no application receives at least that minimum score, the Grant Officer may either designate no grantee or may designate an entity based on demonstrated capability to provide the best services to the client population. Further, the Grant Officer reserves the right to select applicants with scores lower than the minimum or lower than the competing applications, if such a selection would, in the Grant Officer's judgment, result in the most effective and appropriate combination of services to grant beneficiaries.

The grant review panel will screen all applicant cost proposals to ensure expenses are allocable, allowable, and reasonable. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, e.g. Non-Profit Organizations—OMB Circular A–122. Unallowable costs are those charges to a grant that a grantor agency or its representatives determined not to be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant. If the grant review panel, ASVET, and Grant Officer conclude that the cost proposal contains an expense(s) that is not allocable, allowable, and/or reasonable, the application may be considered ineligible for funding. Further, the grant review panel, the ASVET, and the Grant Officer will consider applicant information concerning the proposed cost per placement, percentage of participants placed into unsubsidized employment, average wage at placement, and 90 and 180-day retention in employment percentages. The national average cost per placement for HVRP for last year was $2,200. The Government reserves the right to ask the applicant for clarification on any aspect of a grant application. The Grant Officer may consult with the Department of Labor staff on any potential grantee and/or sub-awardee(s) concerns. The Grant Officer's determination for award under SGA #06–04 is the final agency action. The submission of the same proposal from any prior year HVRP competition does not guarantee an award under this Solicitation.

3. Anticipated Announcement and Award Dates

Announcement of this award is expected to occur by June 20, 2006. The grant agreement will be awarded by no later than July 1, 2006.

VI. Award Administration Information

1. Award Notices

A. The Notice of Award signed by the Grant Officer is the authorizing document and will be provided through postal mail and/or by electronic means to the authorized representative listed on the SF–424 Grant Application. Notice that an organization has been selected as a grant recipient does not constitute final approval of the grant application as submitted. Before the actual grant award, the Grant Officer and/or the Grant Officer's Technical Representative may enter into negotiations concerning such items as program components, funding levels, and administrative systems. If the negotiations do not result in an acceptable submittal, the Grant Officer reserves the right to terminate the negotiation and decline to fund the proposal.

B. A post-award conference will be held for those grantees awarded FY 2006 HVRP funds through this competition. The post-award conference is expected to be held in August 2006 and up to two (2) grant recipient representatives must be present. The site of the post-award conference has not yet been determined, however, for planning and budgeting purposes, applicants should allot four (4) days and use Washington, DC as the conference site. The post-award conference will focus on providing information and assistance on reporting, record keeping, grant requirements, and also include networking opportunities to learn of best practices from more experienced and successful grantees and sub-awardee(s). Costs associated with attending this conference for up to two (2) grantee representatives will be allowed as long as they are incurred in accordance with Federal travel

regulations. Such costs must be charged as administrative costs and reflected in the proposed budget.

2. Administrative and National Policy Requirements

All grantees and sub-awardees must comply with the provisions of Title 38 U.S.C. and its regulations, as applicable.

A. Administrative Program Requirements

All grantees and sub-awardees, including faith-based organizations, will be subject to applicable Federal laws (including provisions of appropriations law), regulations, and the applicable Office of Management and Budget (OMB) Circulars. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

- 29 CFR part 2—General Participation in Department of Labor Programs by Faith-Based and Community Organizations; Equal Treatment of All Department of Labor Program Participants and Beneficiaries.
- 29 CFR part 30—Equal Employment Opportunity in Apprenticeship and Training.
- 29 CFR part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.
- 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance.
- 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.
- 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance from the Department of Labor.
- 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Assistance.
- 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998.
- 29 CFR part 93—New Restrictions on Lobbying.
- 29 CFR part 94—Government-wide Requirements for Drug-Free Workplace (Financial Assistance).
- 29 CFR part 95—Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations, and with Commercial Organizations.
- 29 CFR part 96—Audit Requirements for Grants, Contracts and Other Agreements.
- 29 CFR part 97—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- 29 CFR part 98—Government-wide Debarment and Suspension (Non procurement).
- 29 CFR part 99—Audit of States, Local Governments, and Non-Profit Organizations.
- Applicable cost principles and audit requirements under OMB Circulars A–21, A–87, A–110, A–122, A–133, and 48 CFR part 31.
- In accordance with section 18 of the Lobbying Disclosure Act of 1995, Public Law 104–65 (2 U.S.C. 1611), non-profit entities incorporated under 501(c)(4) that engage in lobbying activities are not eligible to receive Federal funds and grants.
- 38 U.S.C. 4215—Requirements for priority of service for veterans in all Department of Labor training programs.

3. Electronic Reporting

All HVRP grantees will enter data and electronically attach their quarterly technical performance and financial status reports, success stories, etc. into the U.S. Department of Labor, Veterans' Employment and Training Service, Outcomes and Performance Accountability Reporting (VOPAR) System according to the reporting requirements and timetables described below.

A. Quarterly Financial Reports

No later than 30 days after the end of each Federal fiscal quarter, the grantee must report outlays, program income, and other financial information on a Federal fiscal quarterly basis using SF–269, Financial Status Report, Long Form, and submit a copy of the HHS/PMS 272 draw down report. These reports must cite the assigned grant number.

B. Quarterly Program Reports

No later than 30 days after the end of each Federal fiscal quarter, grantees also must submit a Quarterly Technical Narrative Performance Report that contains the following:

(1) A comparison of actual accomplishments to planned goals for the reporting period and any findings related to monitoring efforts;

(2) An explanation for variances of plus or minus 15% of planned program and/or expenditure goals, to include: identification of corrective action that will be taken to meet the planned goals, if required; and a timetable for accomplishment of the corrective action.

C. 90-Day Final Performance Report

No later than 120 days after the grant performance expiration date, the grantee must submit a final report showing results and performance as of the 90th day after the grant period, and containing the following:

(1) Final Financial Status Report SF–269 Long Form (that zeros out all unliquidated obligations); and

(2) Final Technical Performance Report comparing goals vs. actual performance levels.

D. 180-Day Follow-Up Report/Longitudinal Survey

No later than 210 days after the grant performance expiration date, the grantee must submit a Follow-Up Report/Longitudinal Survey showing results and performance as of the 180th day after the grant expiration date, and containing the following:

(1) Final Financial Status Report SF–269 Long Form (if not previously submitted); and

(2) 180-Day Follow-Up Report/Longitudinal Survey identifying:

(a) The total combined (directed/assisted) number of veterans placed into employment during the entire grant period;

(b) The number of veterans still employed after the 90 and 180 day follow-up period;

(c) If the veterans are still employed at the same or similar job, and if not, what are the reason(s);

(d) Whether training received was applicable to jobs held;

(e) Wages at placement and at the 90 and 180 day follow-up periods;

(f) An explanation of why those veterans placed during the grant, but not employed at the end of the follow-up period, are not so employed; and

(g) Any recommendations to improve the program.

Agency Contact

All questions regarding this SGA should be directed to Cassandra Mitchell, e-mail address: *mitchell.cassandra@dol.gov,* at tel: (202) 693–4570 (note this is not a toll-free number), or Eric Vogt, e-mail address *vogt.eric@dol.gov,* also at tel. (202) 693–4570. To obtain further information on the Homeless Veterans' Reintegration Program of the U.S. Department of Labor, visit the USDOL Web site of the Veterans' Employment and Training Service at *http://www.dol.gov/vets.*

VII. Other Information

A. Acknowledgment of USDOL Funding

1. *Printed Materials:* In all circumstances, the following shall be

displayed on printed materials prepared by the grantee while in receipt of DOL grant funding: ''Preparation of this item was funded by the United States Department of Labor under Grant No. [insert the appropriate grant number].''

• All printed materials must also include the following notice: ''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

2. *Public references to grant:* When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds must clearly state:

• The percentage of the total costs of the program or project, which will be financed with Federal money;

• The dollar amount of Federal financial assistance for the project or program; and

• The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. Use of USDOL Logo

In consultation with USDOL, VETS, the grantee(s) must acknowledge USDOL's role as described below:

• The USDOL logo may be applied to USDOL-funded material prepared for distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The grantee(s) must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event shall the USDOL logo be placed on any item until USDOL has given the Grantee permission to use the logo on the item.

• *All documents must include the following notice:* ''This documentation does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

Resources for the Applicant: The Department of Labor maintains a number of web-based resources that may be of assistance to applicants. The Web page for the USDOL VETS at *http://www.dol.gov/vets/programs/main.htm* is a valuable source of information including the program highlights and brochures, glossary of terms, frequently used acronyms, general and special grant provisions, power point presentations on how to apply for HVRP funding, On-Site Monitoring Visits, etc. The Interagency Council on Homeless at Web page *http://www.ich.gov* has information from various departments that assist homeless persons including updated information on local community ten (10) year plans to end homelessness and continuum of care plans. America's Service Locator Web page at *http://www.servicelocator.org* provides a directory of our nation's One-Stop Career Centers and *http://www.workforce3one.org* is another Department of Labor resource site. The National Association of Workforce Boards maintains a Web page at *http://www.nawb.org/asp/wibdir.asp* that contains contact information for the State and local Workforce Investment Boards. Applicants may also review ''VETS'' Guide to Competitive and Discretionary Grants'' located at Web page *http://www.dol.gov/vets/grants/Final_VETS_Guide-linked.pdf*. For a basic understanding of the grants process and basic responsibilities of receiving Federal grant support, please see ''Guidance for Faith-Based and Community Organizations on Partnering with the Federal Government'' at Web pages *http://www.whitehouse.gov/government/fbci* and *http://www.dol.gov/cfbci,* Also, the National Coalition for Homeless Veterans Web page at *http://www.nchv.org.*

Signed at Washington, DC, this 11th day of April, 2006.

Eric Vogt,

Grant Officer.

Appendices: (Located on U.S. Department of Labor, Veterans' Employment and Training Service Web page *http://www.dol.gov/vets* follow link for the applicable SGA listed under announcements.)

Appendix A: Application for Federal Assistance SF–424

Appendix B: Budget Information Sheet SF–424A

Appendix C: Assurances and Certifications Signature Page

Appendix D: Recommended Format for Planned Quarterly Technical Performance Goals

Appendix E: Direct Cost Descriptions for Applicants and Sub-Applicants

Appendix F: Survey on Ensuring Equal Opportunity for Applicants

Appendix G: List of 75 Largest Cities Nationwide

[FR Doc. 06–3625 Filed 4–19–06; 8:45 am]

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DEPARTMENT OF LABOR

Veterans' Employment and Training Service

[SGA #06–05/PY 06]

Solicitation for Grant Applications (SGA); New Grantee Homeless Veterans' Reintegration Program (HVRP) Grants for Program Year (PY) 2006, July 1, 2006 Through June 30, 2007

AGENCY: Veterans' Employment and Training Service (VETS), Labor.

ACTION: Posting of SGA.

SUMMARY: The Veterans' Employment and Training Service is posting availability of funds for the New Grantee Homeless Veterans' Reintegration Program.

FOR FURTHER INFORMATION CONTACT: Cassandra Mitchell, Grants Management Specialist, Procurement Services Center, at (202) 693–4570.

Date Extension: N/A.

DATES: The closing date for receipt of the application is May 22, 2006 at 5 p.m. (eastern time) at the address listed.

Executive Summary (Applicants For Grant Funds Should Read This Notice In Its Entirety): This competition is targeting eligible applicants that have not previously received HVRP or Veterans' Workforce Investment Program (VWIP) Funds. The U.S. Department of Labor (USDOL), Veterans' Employment and Training Service (VETS), announces a grant competition under 38 U.S.C. 2021, as added by section 5 of Public Law 107–95, the Homeless Veterans Comprehensive Assistance Act of 2001 (HVCAA). Section 2021 requires the Secretary of Labor to conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to expedite the reintegration of homeless veterans into the labor force.

Both urban and non-urban areas within the United States and its territories are eligible jurisdictions to receive services under this competition. Urban areas are defined as the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico (See Appendix G). Non-urban areas are defined as the geographic areas other than the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico. Applicants must identify whether they are applying for an urban or non-urban grant award.

HVRP grants are intended to address two objectives: (1) To provide services

to assist in reintegrating homeless veterans into meaningful employment within the labor force, and (2) to stimulate the development of effective service delivery systems that will address the complex problems facing homeless veterans. Successful applicants will design programs that assist eligible veterans by providing job placement services, job training, counseling, supportive services, and other assistance to expedite the reintegration of homeless veterans into the labor force. Successful programs will also be designed to be flexible in addressing the universal as well as the local or regional problems that have had a negative impact on homeless veterans reentering the workforce.

Under this new grantee HVRP solicitation covering Fiscal Year (FY) 2006, VETS anticipates that up to $1,500,000 will be available for grant awards up to a maximum of $300,000 for urban areas and $200,000 for non-urban areas. VETS expects to award approximately six (6) grants. Please be advised that urban area requests exceeding $300,000 and non-urban area requests exceeding $200,000 will be considered non-responsive. This notice contains all of the necessary information and forms to apply for grant funding. The period of performance for these PY 2006 grants will be July 1, 2006 through June 30, 2007. Two (2) optional years of additional funding may be available, depending upon Congressional appropriations, the agency's decision to exercise the optional year(s) of funding, and satisfactory grantee and sub-awardee(s) performance.

I. Funding Opportunity Description

This competition is targeting eligible applicants that have not previously received HVRP or Veterans' Workforce Investment Program (VWIP) Funds. The U.S. Department of Labor (USDOL), Veterans' Employment and Training Service (VETS), announces a grant competition under 38 U.S.C. 2021, as added by section 5 of Public Law 107–95, the Homeless Veterans Comprehensive Assistance Act of 2001 (HVCAA). Section 2021 requires the Secretary of Labor to conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to provide job training, counseling, and placement services (including job readiness, literacy training, and skills training) to expedite the reintegration of homeless veterans into the labor force.

1. Program Concept and Emphasis

HVRP grants are intended to address two objectives: (a) To provide services to assist in reintegrating homeless veterans into meaningful employment within the labor force, and (b) to stimulate the development of effective service delivery systems that will address the complex problems facing homeless veterans.

For this Fiscal Year (FY) 2006 grant solicitation, VETS seeks applicants that will provide services through a case management approach that networks with Federal, State, and local resources for veteran support programs. Successful applicants will have clear strategies and obtainable goals for employment and retention of employment for homeless veterans. Successful applicants will design programs that assist eligible veterans by providing job placement services, job training, counseling, mentoring, supportive services, and other assistance to expedite the reintegration of homeless veterans into the labor force. Successful applicants will also design programs that are flexible in addressing the universal as well as the local or regional problems that have had a negative impact on homeless veterans reentering the workforce. The HVRP in PY 2006 will seek to continue to strengthen development of effective service delivery systems, to provide comprehensive services through a case management approach that addresses complex problems facing eligible veterans trying to transition into gainful employment, and to improve strategies for employment and retention in employment.

2. Project Awareness Program Information and Orientation Activities

In order to promote networking between the HVRP-funded program and local service providers (and thereby eliminate gaps or duplication in services and enhance the provision of assistance to participants), the grantee and sub-awardee(s) must provide project orientation workshops and program awareness activities that it determines are the most feasible for the types of providers listed below. Grantees and sub-awardee(s) are encouraged to propose strategies for incorporating small faith-based and community organizations (defined as organizations with social services budgets of $500,000 or less and ten (10) or fewer full-time employees) into their outreach plans. Project orientation workshops conducted by grantees and sub-awardee(s) have been an effective means of sharing information and informing the community of the availability of other services; they are encouraged but not mandatory. Rather, grantees and sub-awardee(s) will have the flexibility to attend service provider meetings, seminars, and conferences, to outstation staff, and to develop individual service contracts as well as to involve other agencies in program planning.

The grantee and sub-awardee(s) will be responsible for providing project awareness, program information, and orientation activities to the following:

A. Direct providers of services to homeless veterans, including shelter and soup kitchen operators, to make them aware of the services available to homeless veterans to make them job-ready and to aid their placement into jobs.

B. Federal, State, and local agencies such as the Social Security Administration (SSA), Department of Veterans Affairs (DVA), State Workforce Agencies (SWAs) and local One-Stop Career Centers (which integrate Workforce Investment Act (WIA) and other employment and training services), mental health services, and healthcare detoxification facilities: to familiarize them with the nature and needs of homeless veterans.

C. Civic and private sector groups, in particular veterans' service organizations, support groups, job training and employment services, and community-based organizations (including faith-based organizations), to provide information on homeless veterans and their needs.

The grantee and sub-awardee(s) will also be responsible for participating in ''Stand Down'' events. A ''Stand Down'' is an event held in a locality, usually for one (1) to three (3) days, where services are provided to homeless veterans along with shelter, meals, clothing, employment services, and medical attention. This type of event is mostly a volunteer effort, which is organized within a community and brings service providers together such as the Department of Veterans Affairs, Disabled Veterans' Outreach Program Specialists (DVOP) and Local Veterans' Employment Representatives (LVER) staff from the State Workforce Agencies, Veteran Service Organizations, military personnel, civic leaders, and a variety of other interested persons, groups, and organizations. Many services are provided on-site with referrals also made for continued assistance after the Stand Down event. These events can often be the catalyst that enables homeless veterans to get back into mainstream society. The Department of Labor has supported replication of these events and many have been held throughout the nation.

In areas where an HVRP is operating, grantees and sub-awardee(s) are expected and encouraged to participate

fully and offer their services for all locally planned Stand Down event(s). Toward this end, up to $8,000 of the requested HVRP grant funds may be used to supplement the Stand Down efforts, where funds are not otherwise available, and may be requested and explained in the budget narrative.

3. Scope of Program Design

In addition to the activities described above, the project design must include the following services:

A. Outreach, intake, assessment, peer counseling and mentoring to the degree practical, employment services, and follow-up support services to enhance retention in employment. Program staff providing outreach services should have experience in dealing with, and an understanding of the needs of, homeless veterans. Outreach activities must include and coordinate with the DVOP and LVER staff in the State Workforce Agencies or in the workforce investment systems' One-Stop Career Centers System, Veterans' Workforce Investment Program (VWIP), and the Department of Veterans Affairs.

B. Provision of or referral to employment services such as: Job search workshops, job counseling, assessment of skills, resume writing techniques, interviewing skills, subsidized trial employment (work experience), job development services, job placement into unsubsidized employment, and job placement follow-up services to enhance retention in employment.

C. Provision of or referral to training services such as: Basic skills instruction, remedial education activities, life skills and money management training, on-the-job training, classroom training, vocational training, specialized and/or licensing training programs, and other formal training programs as deemed appropriate to benefit the participant. At least 80% of the enrolled HVRP participants must participate in training activities.

D. Grantees and sub-awardee(s) must perform a preliminary assessment of each participant's eligibility for Department of Veterans Affairs (DVA) service-connected disability, compensation, and/or pension benefits. As appropriate, grantees and sub-awardee(s) will work with the veterans' service organizations or refer the participants to DVA in order to file a claim for compensation or pension. Grantees and sub-awardee(s) will track the progress of claims and report outcomes in individual participant case management records.

E. Coordination with veterans' services programs, including: DVOPs and LVERs in the workforce investment system's One-Stop Career Centers, as well as Veterans' Workforce Investment Programs (VWIPs), Department of Veterans Affairs (DVA) services, including its Health Care for Homeless Veterans, Domiciliary Care, Regional Benefits Assistance Program, and Transitional Housing under Homeless Provider Grant and Per Diem programs.

F. Networking, collaborating, and coordinating efforts with veterans' service organizations such as: The American Legion, Disabled American Veterans, Veterans of Foreign Wars, Vietnam Veterans of America, The American Veterans (AMVETS), or etc. to ensure participants apply for and/or receive other veterans' benefits that they may be eligible for.

G. Referral as necessary to health care, counseling, and rehabilitative services including, but not limited to: Alcohol and drug rehabilitation, therapeutic services, Post Traumatic Stress Disorder (PTSD) services, and mental health services as well as coordination with McKinney-Vento Homeless Assistance Act (MVHAA) programs for health care for the homeless, and health care programs under the Homeless Veterans Comprehensive Assistance Act (HVCAA) of 2001.

H. Referral to housing assistance, as appropriate, provided by: Local shelters, Federal Emergency Management Administration (FEMA) food and shelter programs, transitional housing programs and single room occupancy housing programs funded under MVHAA and HVCAA, and permanent housing programs for disabled homeless persons funded under MVHAA and HVCAA.

4. Results-Oriented Model

No specific model is mandatory, but successful applicants will design a program that is responsive to the needs of the local community and achieves the HVRP objectives. The HVRP objectives are to successfully reintegrate homeless veterans into the workforce and to stimulate the development of effective service delivery systems that will address the complex problems facing homeless veterans. Under the Government Performance and Results Act (GPRA), Congress and the public are looking for program results rather than program processes.

For purposes of assessing performance of grantees selected under this SGA, VETS will focus on two performance measures described below. However, grantees also will be required to report additional performance information, as required in DOL guidance on OMB Common Measures and as described below. All performance outcomes will be reported quarterly using an Internet-based reporting system for HVRP, with access provided to successful grantees after the award process has been completed.

There are two (2) outcome measures with established performance targets for HVRP grants. The first outcome measure is the placement rate with a performance target for grantees and sub-awardee(s) to meet a minimum placement rate of 61.5%. This is determined by dividing the number of participants placed into employment by the total number of HVRP participants. While the percentage of HVRP participants placed into employment is an important outcome, it is also necessary to evaluate and measure the program's longer-term results, through the 90-day and 180-day follow-up periods. The second outcome measure is retention following placement with a performance target for grantees and sub-awardee(s) to meet a minimum rate of retention of 58.5% at 180 days following placement. This is determined by dividing the number of participants retained in employment at 180 days following placement divided by the total number of participants placed into employment. While there is no performance target established for retention at 90 days following placement, grantees are required to collect and report the rate of retention in employment at that point.

In applying the Common Measures, grantees will be required to collect additional information according to the Common Measures definitions but no performance targets for grantees will be established according to those definitions during this period of performance. That is because the baseline information required to establish performance targets does not yet exist. Upon award, grantees will be provided with detailed information regarding the specific information required to be collected and reported. At this point, it is sufficient for grantees to be aware of two requirements in addition to the requirements identified above. First, it will be necessary for grantees to collect and report on the rate of retention in employment at 270 days following placement into employment. Second, at the 180 day and 270 day points of retention in employment following placement, grantees will be required to collect and report the average weekly earnings of those retained in employment. This is calculated by multiplying each participant's hourly wage by the average number of hours per week that the participant was employed during the previous quarter.

The applicant's program should be based on a results-oriented model. The first phase of activity should consist of the level of outreach necessary to introduce the program to eligible homeless veterans. Outreach also includes establishing contact with other agencies that encounter homeless veterans. Once the eligible homeless veterans have been identified, an assessment must be made of each individual's abilities, interests, needs, and barriers to employment. In some cases, participants may require referrals to services such as rehabilitation, drug or alcohol treatment, or a temporary shelter before they can be enrolled into the HVRP program. Once the eligible homeless veteran is stabilized, the assessment must concentrate on the employability of the individual and whether the individual is to be enrolled into the HVRP program.

A determination should be made as to whether the HVRP participant would benefit from pre-employment preparation such as resume writing, job search workshops, related employment counseling, and case management, or possibly an initial entry into the job market through temporary jobs. Additionally, sheltered work environments such as the Department of Veterans Affairs Compensated Work Therapy Program, classroom training, and/or on-the-job training must be evaluated. Such services should be noted in an Individual Employment Plan to facilitate the staff's successful monitoring of the participant's progress. Entry into full-time employment or a specific job-training program should follow, in keeping with the overall objective of HVRP, to bring the participant closer to self-sufficiency. The grantee should provide or arrange for these supportive services that will enable the HVRP participant to successfully perform all the activities specified in the Individual Employment Plan.

Job development, a crucial part of the employability process, usually occurs when there are no competitive job openings that the HVRP participant is qualified to apply for; therefore, a job opportunity with an employer is created, developed, and customized specifically for that HVRP participant. HVRP participants who are ready to enter employment and are in need of intensive case management services for employment purposes are to be referred to the DVOP and LVER staff at a One-Stop Career Center. DVOP and LVER staff are able to provide HVRP participants the following services: Job development, employment services, case management for employment purposes, and career counseling. Most DVOP and LVER staff received training in case management for employment purposes at the National Veterans' Training Institute. All DVOP and LVER staff provide employment-related services to veterans who are most at a disadvantage in the labor market. VETS recommends working hand-in-hand with DVOP/LVER and other One-Stop Career Center staff to achieve economies of resources and to avoid duplication of services. DVOP/LVER staff may also be able to provide grantees and sub-awardee(s) valuable assistance in tracking participants within their State wage record management information system for follow-up purposes at 90 and 180 days after a participant enters employment.

The applicant's program must include tracking of program participants. Participant tracking should begin with the referral to supportive services and training activities and continue at placement into employment and through the 90-day and 180-day follow-up periods after entering employment. It is important that the grantee and sub-awardee(s) maintain contact with veterans after placement to ensure that employment-related problems are addressed. The 90-day and 180-day follow-ups are fundamental to assessing program results. Grantees and sub-awardee(s) need to budget for 90-day and 180-day follow-up activity so that it can be performed for those participants placed at or near the end of the grant performance period. All grantees and sub-awardee(s), prior to the end of the grant performance period, must obligate sufficient funds to ensure that follow-up activities are completed. Such results will be reported in the final technical performance report.

II. Award Information

1. Type of Funding Instrument

One (1) year grant with optional funding for an additional two years.

Note: Selection of an organization as a grantee does not constitute final approval of the grant application as submitted. Before the actual grant is awarded, USDOL may enter into negotiations about such items as program components, staffing, and funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in a mutually acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application.

2. Funding Levels

The total funding available for this New Grantee HVRP solicitation is up to $1,400,000. It is anticipated that approximately seven (7) awards will be made under this solicitation. Awards are expected to range from a minimum of $75,000 to a maximum of $200,000 for non-urban areas and $300,000 for urban areas. The Department of Labor reserves the right to negotiate the amounts to be awarded under this competition. Please be advised that requests exceeding $200,000 for non-urban areas and $300,000 for urban areas will be considered non-responsive and will not be evaluated. If there are any residual programmatic funds, the Department of Labor reserves the right to select for funding the next highest scoring applicant(s) on the competitive list developed for this SGA up to one (1) year after the initial performance period begins or June 30, 2007.

3. Period of Performance

The period of performance will be for the twelve (12) month period of July 1, 2006 to June 30, 2007, unless modified by the Grant Officer. It is expected that successful applicants will begin program operations under this solicitation on July 1, 2006. All program funds must be obligated by June 30, 2007; a limited amount of funds may be obligated and reserved for follow-up activities and closeout.

4. Optional Year Funding

Should Congress appropriate additional funds for this purpose, VETS may consider up to two (2) additional years of optional funding. The Government does *not,* however, guarantee optional year funding for any grantee or sub-awardee(s). In deciding whether to exercise any optional year(s) of funding, VETS will consider grantee and sub-awardee(s) performance during the previous period of operations as follows:

A. The grantee and sub-awardee(s) must meet, at minimum, 90% of planned cumulative goals for Federal expenditures, enrollments, placements into employment, and training by the end of the third quarter; and

B. The grantee and sub-awardee(s) must have complied with all terms identified in the Solicitation for Grant Application (SGA), grant award document, and General and Special Grant Provisions; and

C. All program and fiscal reports must have been submitted by the established due dates and the grantee and sub-awardee(s) must verify these reports for accuracy purposes.

III. Eligibility Information

1. Eligible Applicants

In order to be eligible, applicants must not have previously received

HVRP or VWIP funds. Applications for funds will be accepted from State and local Workforce Investment Boards, local public agencies, for-profit/commercial entities, and non-profit organizations, including faith-based and community organizations. Applicants must have a familiarity with the area and population to be served and the ability to administer an effective and timely program.

Eligible applicants will generally fall into one of the following categories:

- State and local Workforce Investment Boards (WIBs), established under sections 111 and 117 of the Workforce Investment Act.
- Public agencies, meaning any public agency of a State or of a general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers. (This typically refers to cities and counties.) A State agency may propose in its application to serve one or more of the jurisdictions located in its State. This does not preclude a city or county agency from submitting an application to serve its own jurisdiction.
- For-profit/commercial entities.
- Non-profit organizations (including faith-based and community organizations). If claiming 501(c)(3) status, the Internal Revenue Service statement indicating 501(c)(3) status approval must be submitted.

Note that entities organized under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this announcement. Section 18 of the Lobbying Disclosure Act of 1995, Public Law 104–65, 109 Stat. 691 (2 U.S.C. 1611) prohibits instituting an award, grant, or loan of federal funds to 501(c)(4) entities that engage in lobbying.

2. Cost Sharing

Cost sharing and matching funds are *not* required. However, we do encourage grantees and sub-awardee(s) to maximize the resources available to the HVRP program and its participants.

3. Other Eligibility Criteria

A. Both urban and non-urban areas within the United States and its territories are eligible jurisdictions to receive services under this competition. Urban areas are defined as the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico (See Appendix G). Non-urban areas are defined as the geographic areas other than the metropolitan areas of the 75 U.S. cities largest in population and the metropolitan area of San Juan, Puerto Rico. Applicants must identify whether they are applying for an urban or non-urban grant award.

B. The proposal must include a participant outreach component that uses DVOP/LVER staff and/or trained outreach staff. Programs must be ''employment-focused.'' An ''employment-focused'' program is a program directed toward: (1) Increasing the employability of homeless veterans through training or arranging for the provision of services that will enable them to reintegrate into the labor force and (2) matching homeless veterans with potential employers and/or entrepreneurial opportunities.

C. Applicants are encouraged to utilize, through partnerships or sub-awards, experienced public agencies, private non-profit organizations, private businesses, faith-based and community organizations, and colleges and universities (especially those with traditionally high enrollments of minorities) that have an understanding of unemployment and the barriers to employment unique to homeless veterans, a familiarity with the area to be served, linkages with the One-Stop Career Center(s), and the capability to effectively provide the necessary services.

D. Legal rules pertaining to inherently religious activities by organization that receive Federal Financial Assistance. Neutral, non-religious criteria that neither favor nor disfavor religion will be employed in the selection of grant recipients and must be employed by grantees or in the selection of sub-awardee(s). The government is generally prohibited from providing direct financial assistance for inherently religious activities. These grants may not be used for religious instruction, worship, prayer, proselytizing or their inherently religious activities. In this context, the term direct financial assistance means financial assistance that is provided directly by a government entity or an intermediate organization, as opposed to financial assistance that an organization receives as the result of the genuine and independent private choice of a beneficiary. In other contexts, the term ''direct'' financial assistance may be used to refer to financial assistance that an organization receives directly from the Federal government (also known as ''discretionary'' assistance), as opposed to assistance that it receives from a State or local government (also known as ''indirect'' or ''block'' grant assistance). The term ''direct'' has the former meaning throughout this paragraph.

E. To be eligible for enrollment as a participant under this HVRP grant an individual must be homeless *and* a veteran defined as follows:

- The term ''*homeless or homeless individual*'' includes persons who lack a fixed, regular, and adequate nighttime residence. It also includes persons whose primary nighttime residence is either a supervised public or private shelter designed to provide temporary living accommodations; an institution that provides a temporary residence for individuals intended to be institutionalized; or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. [42 U.S.C. 11302 (a)].
- The term ''*veteran*'' means a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable. [38 U.S.C. 101(2)].

IV. Application and Submission Information

1. Address To Request an Application and Amendments

This SGA, together with its attachments, includes all the information needed to apply. Additional application packages and amendments to this SGA may be obtained from the VETS Web site address at *http://www.dol.gov/vets,* the Federal Grant Opportunities Web site address at *http://www.grants.gov,* and from the **Federal Register** Web site address at *http://www.gpoaccess.gov/fr/index.html.* The **Federal Register** may also be obtained from your nearest government office or library. Additional copies of the standard forms can be downloaded from: *http://www.whitehouse.gov/omb/grants/grants_forms.html.*

All grant applications are to be mailed to: Department of Labor, Procurement Services Center, Attention: Cassandra Mitchell, Reference SGA #06–05, 200 Constitution Avenue NW., Room N–5416, Washington, DC 20210. Phone Number: (202) 693–4570 (this is not a toll-free number).

- Applicants may also apply online at *http://www.grants.gov.* Applicants submitting proposals online are requested to refrain from mailing a hard copy application as well. It is strongly recommended that applicants using *http://www.grants.gov* immediately initiate and complete the ''Get Started'' registration steps at *http://www.grants.gov/GetStarted.* These steps may take multiple days to complete, and this time should be factored into plans for electronic submission in order to

avoid facing unexpected delays that could result in the rejection of an application. If submitting electronically through *http://www.grants.gov* it would be appreciated if the application submitted is saved as .doc, .pdf, or .txt files.

• Except provided in section IV.3., any application received after the deadline will be considered as non-responsive and will not be evaluated.

2. Content and Form of Application

The application must include the name, address, telephone number, fax number, and e-mail address (if applicable) of a key contact person at the applicant's organization in case questions should arise. To be considered *responsive* to this solicitation the application must consist of three (3) separate and distinct sections: The Executive Summary, the Technical Proposal, and the Cost Proposal. The information provided in these three (3) sections is essential to demonstrate an understanding of the programmatic and fiscal contents of the grant proposal.

A complete grant application package must not exceed 75 single-sided pages (8½″ x 11″), double-spaced, 12-point font, typed pages (all attachments are included in the 75 page maximum). Applications that contain more than 75 pages total will be considered non-responsive. Major sections and sub-sections of the application should be divided and clearly identified (*e.g.* with tab dividers), and all pages shall be numbered. To be considered responsive grant applications are to include:

• An original, blue ink-signed, and two (2) copies of the cover letter.

• An original and two (2) copies of the Executive Summary (see below).

• An original and two (2) copies of the Technical Proposal (see below) that includes a completed Technical Performance Goals Form (Appendix D). Also include all attachments with the technical proposal, such as the applicant's information showing outcomes of employment and training programs that it has had in the past three (3) years in terms of enrollments and participants who have entered into employment.

• An original and two (2) copies of the Cost Proposal (see below) that includes an original, blue ink-signed, Application for Federal Assistance, SF–424 (Appendix A), a Budget Narrative, Budget Information Sheet SF–424A (Appendix B), an original, blue ink-signed, Assurances and Certifications Signature Page (Appendix C), a Direct Cost Description for Applicants and Sub-applicants (Appendix E), a completed Survey on Ensuring Equal Opportunity for Applicants (Appendix F), and the applicant's grant specific financial and/or audit statement dated within the last 18 months (does not count towards the 75 page limitation).

A. *Section 1—Executive Summary:* A one to two page ''Executive Summary'' reflecting the grantee's and sub-awardee(s) proposed overall strategy, timeline, and outcomes to be achieved in their grant proposal is required. The Executive Summary should include:

• The proposed area to be served through the activities of this grant application.

• The grantee's experience in serving the residents in the proposed service area.

• The proposed projects and activities that will expedite the reintegration of homeless veterans into the workforce.

• A summary of anticipated outcomes, benefits, and value added by the project.

B. *Section 2—Technical Proposal* consists of a narrative proposal that demonstrates the need for this particular grant program, the services and activities proposed to obtain successful outcomes for the homeless veterans to be served; and the applicant's ability to accomplish the expected outcomes of the proposed project design. All applications must respond to the requirements for the program concept, required activities, and results oriented model set forth in Section I of the SGA.

Required Content: There are program activities that all applications must contain to be found technically acceptable under this SGA. Programs must be ''employment-focused'' and must be responsive to the rating criteria in Section V(1). *The required program activities are:* Participant outreach and project awareness activities, pre-enrollment assessments, individual employment plans for each participant, case management, job placement, job retention follow-up (at 90 and 180 days) after individual enters employment, utilization and coordination of employment services through the One-Stop Career Center System, including the DVOP and LVER staff, and with community linkages with other programs that provide support to homeless veterans. All applicants must respond to the requirements for the program concept, required activities and results-oriented model described in Section I. of the SGA.

The following format for the technical proposal is recommended:

Need for the program: The applicant must identify the geographical area to be served and provide an estimate of the number of homeless veterans in the designated geographical area. Include poverty and unemployment rates in the area and identify the disparities in the local community infrastructure that exacerbate the employment barriers faced by the targeted veterans. Include labor market information and job opportunities in the employment fields and industries that are in demand in the geographical area to be served. Applicants are to clearly describe the proposed program awareness and participant outreach strategies.

Approach or strategy to increase employment and job retention: Applicants must be responsive to the Rating Criteria contained in section V(1) and address all of the rating factors as thoroughly as possible in the narrative. *The applicant must:*

• Describe the specific employment and training services to be provided under this grant and the sequence or flow of such services;

• Indicate the type(s) of training that will be provided under the grant and how it relates to the jobs that are in demand, length of training, training curriculum, and how the training will improve the eligible veterans' employment opportunities within that geographical area;

• Provide a follow-up plan that addresses retention after 90 and 180 days with participants who have entered employment;

• Include the completed Planned Quarterly Technical Performance Goals (and planned expenditures) form listed in Appendix D. If the Planned Quarterly Technical Performance Goals form listed in Appendix D is not submitted, the grant application package will be considered as non-responsive.

Linkages with facilities that serve homeless veterans: Describe program and resource linkages with other facilities that will be involved in identifying potential clients for this program. Applicants are encouraged to submit a list of their local area network of service providers that offer and provide services to benefit HVRP participants. Describe any networks with other related resources and/or other programs that serve homeless veterans. Indicate how the program will be coordinated with any efforts that are conducted by public and private agencies in the community. Indicate how the applicant will coordinate with any continuum of care efforts for the homeless among agencies in the community. If an Memorandum of Understanding (MOU) or other service agreement with service providers exists, copies should be provided.

Linkages with other providers of employment and training services to

homeless veterans: Describe the linkages, networks, and relationships the proposed program will have with other providers of services to homeless veterans; include a description of the relationship with other employment and training programs in the One-Stop Career Center System such as Disabled Veterans' Outreach Program (DVOP), the Local Veterans' Employment Representative (LVER) program, and programs under the Workforce Investment Act such as the Veterans' Workforce Investment Program (VWIP); list the type of services that will be provided by each. Note the type of agreement in place, if applicable. Linkages with the workforce investment system are required. Describe any networks with any other resources and/or other programs for homeless veterans. If an MOU or other service agreement with other service providers exists, copies should be provided.

Linkages with other Federal agencies: Describe program and resource linkages with the Department of Housing and Urban Development (HUD), Department of Health and Human Services (HHS), and Department of Veterans Affairs (DVA), to include the Compensated Work Therapy (CWT) and Grant and Per Diem programs. If an MOU or other service agreement with other service providers exists, copies should be provided.

Proposed supportive service strategy for veterans: Describe how supportive service resources for veterans will be obtained and used. If resources are provided by other sources or linkages, such as Federal, State, local, or faith-based and community programs, the applicant must fully explain the use of these resources and how they will be applied. If an MOU or other service agreement with other service providers exists, copies should be provided.

Organizational capability to provide required program activities: The applicant's relevant current and prior experience (within the last three year period) in operating employment and training programs is to be clearly described, if applicable. A summary narrative of program experience and employment and training performance outcomes is required. The applicant must provide information showing outcomes of employment and training programs that it has had in the past three (3) years in terms of enrollments and participants who have entered into employment. An applicant that has operated a HVRP, other homeless employment and training program, or VWIP program must also include the final or most recent cumulative quarterly technical performance report.

Please note that the Department of Labor grant review panel members, who will be reviewing all grant applications submitted as a result of this SGA, do *not* have access to any reporting information systems during the review process, therefore, if final or most recent cumulative quarterly technical performance reports are not submitted, the grant application may be considered non-responsive.

The applicant must also provide evidence of key staff capability to include resumes, staff biographies, organizational charts, statements of work, and etc. It is preferred that the grantee and sub-awardee(s) be a well established service provider and not in the initial start-up phase or process.

Proposed housing strategy for homeless veterans: Describe how housing resources for eligible homeless veterans will be obtained or accessed. These resources must be from linkages or sources other than the HVRP grant such as HUD, HHS, community housing resources, DVA Grant and Per Diem Program, or other local housing programs.

C. *Section 3—The Cost Proposal must contain the following:* Applicants can expect that the cost proposal will be reviewed for allocability, allowability, and reasonableness.

(1) Standard Form SF–424, ''Application for Federal Assistance'' (with the original signed in blue-ink) (Appendix A) must be completed;

The Catalog of Federal Domestic Assistance number for this program is 17.805 and it must be entered on the SF–424, in Block 11.

The organizational unit section of Block 8 of the SF–424 must contain the Dun and Bradstreet Number (DUNS) of the applicant. Beginning October 1, 2003, all applicants for Federal grant funding opportunities are required to include a DUNS number with their application. *See* OMB Notice of Final Policy Issuance, 68 FR 38402 (June 27, 2003). Applicants' DUNS number is to be entered into Block 8 of SF–424. The DUNS number is a nine-digit identification number that uniquely identifies business entities.
There is no charge for obtaining a DUNS number. To obtain a DUNS number call 1–866–705–5711 or access the following Web site: *http://www.dunandbradstreet.com/.*

Requests for exemption from the DUNS number requirement must be made to the Office of Management and Budget. If no DUNS number is provided then the grant application will be considered non-responsive.

(2) Standard Form SF–424A ''Budget Information Sheet'' (Appendix B) must be included;

(3) As an attachment to SF–424A, the applicant must provide a detailed cost breakout of each line item on the Budget Information Sheet. Please label this page or pages the ''Budget Narrative'' and ensure that costs reported on the SF–424A correspond accurately with the Budget Narrative;

The Budget Narrative must include, at a minimum:

- Breakout of all personnel costs by position, title, annual salary rates, and percent of time of each position to be devoted to the proposed project (including sub-grantees) by completing the ''Direct Cost Descriptions for Applicants and Sub-Applicants'' form (Appendix E);
- Explanation and breakout of extraordinary fringe benefit rates and associated charges (i.e., rates exceeding 35% of salaries and wages);
- Explanation of the purpose and composition of, and methodology used to derive the costs of each of the following: travel, equipment, supplies, sub-awards/contracts, and any other costs. The applicant must include costs of any required travel described in this Solicitation. Planned travel expenditures may not exceed 5% of the total HVRP funds requested. Mileage charges may not exceed 44.5 cents per mile or the current Federal rate;
- All associated costs for obtaining and retaining participant information pertinent to the follow-up survey, at 90 and 180 days after the program performance period ends;
- Description/specification of, and justification for, equipment purchases, if any. Tangible, non-expendable, personal property having a useful life of more than one year and a unit acquisition cost of $5,000 or more per unit must be specifically identified; and
- Matching funds, leveraged funds, and in-kind services are not required for HVRP grants. However, if matching funds, leverage funds, or in-kind services are to be used, an identification of all sources of leveraged or matching funds and an explanation of the derivation of the value of matching/in-kind services must be provided. When resources such as matching funds, leveraged funds, and/or the value of in-kind contributions are made available, please describe in section B of the Budget Information Sheet.

(4) A completed Assurance and Certification signature page (Appendix C) (signed in blue ink) must be submitted;

(5) All applicants must submit evidence of satisfactory financial

management capability, which must include recent (within the last 18 months) grant specific financial and/or audit statements (does not count towards the 75 page limitation). All successful grantees and sub-awardee(s) are required to utilize Generally Accepted Accounting Practices (GAAP), maintain a separate accounting for these grant funds, and have a checking account;

(6) All applicants must include, as a separate appendix, a list of all employment and training government grants and contracts that they have had in the past three (3) years, including grant/contract officer contact information. VETS reserves the right to have a DOL representative review and verify this data;

(7) A completed Survey on Ensuring Equal Opportunity for Applicants (Appendix F) must be provided.

3. Submission Dates and Times (Acceptable Methods of Submission)

The grant application package must be received at the designated place by the date and time specified or it will not be considered. Any application received at the Office of Procurement Services after 5 p.m. EDT, May 22, 2006, will not be considered unless it is received before the award is made and:

- It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated; or
- It was sent by registered or certified mail not later than the fifth calendar day before May 22, 2006; or
- It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5 p.m. at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to May 22, 2006.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped or otherwise placed impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper. Applications cannot be accepted by e-mail or facsimile machine.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence or receipt maintained by that office. Applications sent by other delivery services, such as Federal Express, UPS, etc., will also be accepted.

All applicants are advised that U.S. mail delivery in the Washington, DC area has been erratic due to security concerns. All applicants must take this into consideration when preparing to meet the application deadline, as you assume the risk for ensuring a timely submission, that is, if, because of these mail problems, the Department does not receive an application or receives it too late to give proper consideration, even if it was timely mailed, the Department is not required to consider the application.

4. Intergovernmental Review

Not applicable.

5. Funding Restrictions

A. Applications requesting to serve urban areas that exceed $300,000 and applications requesting to serve non-urban areas that exceed $200,000 will be considered non-responsive and will not be evaluated.

B. There is a limit of one (1) application per submitting organization and physical location serving the same HVRP participant population. If two (2) original applications from the same organization for the same physical location serving the same HVRP participant population are submitted, the application with the later date will be considered as non-responsive. Please do not submit duplicate original grant applications as only one (1) grant application will be considered for funding purposes.

C. There will not be reimbursement of pre-award costs unless specifically agreed upon in writing by the Department of Labor.

D. Entities described in section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this announcement because section 18 of the Lobbying Disclosure Act of 1995, Public Law No. 104–65, 109 Stat. 691, prohibits the award of Federal funds to these entities.

E. *Limitations on Administrative and Indirect Costs*

- Administrative costs, which consist of all direct and indirect costs associated with the supervision and management of the program, are limited to and may not exceed 20% of the total grant award.
- Indirect costs claimed by the applicant must be based on a Federally approved rate. A copy of the current negotiated approved and signed indirect cost negotiation agreement must be submitted with the application. Furthermore, indirect costs are considered a part of administrative costs for HVRP purposes and, therefore, may not exceed 20% of the total grant award.
- If the applicant does not presently have an approved indirect cost rate, a proposed rate with justification may be submitted. Successful applicants will be required to negotiate an acceptable and allowable rate within 90 days of grant award with the appropriate DOL Regional Office of Cost Determination or with the applicant's cognizant agency for indirect cost rates (*See* Office of Management and Budget Web site at *http://www.whitehouse.gov/omb/grants/attach.html).*
- Indirect cost rates traceable and trackable through the State Workforce Agency's Cost Accounting System represent an acceptable means of allocating costs to DOL and, therefore, can be approved for use in grants to State Workforce Agencies.

V. Application Review Information

1. Application Evaluation Criteria

Applications may receive up to 110 total points based on the following criteria:

A. *Need for the project: 10 points.* The applicant will document the need for this project, as demonstrated by: (i) The potential number or concentration of homeless individuals and homeless veterans in the proposed project area relative to other similar areas; (ii) the rates of poverty and unemployment in the proposed project area as determined by the census or other surveys; and (iii) the extent of the gaps in the local infrastructure to effectively address the employment barriers that characterize the target population.

B. *Overall strategy to increase employment and retention in employment: 35 points [and up to 10 additional points (for a total of 45 points) if overall strategy includes an approach for addressing barriers to employment faced by chronically homeless veterans as described below.*] The application must include a description of the approach to providing comprehensive employment and training services, including outreach, pre-enrollment assessment, job training, job development, obtaining employer commitments to hire, placement, and post-placement follow-up services. Applicants must address how they will target occupations that are locally in demand with career growth potential and that will provide wages to ensure self-sufficiency for the participant. Supportive services provided as part of the strategy of promoting job readiness and job retention must be indicated. The applicant must identify the local services and sources of training to be used for participants. At least 80% of participants must participate in training activities. A description of the relationship with other employment and training programs delivered through the One-Stop Career Center System must be specified. Applicants must indicate how the activities will be tailored or responsive to the needs of homeless veterans. A participant flow chart may be used to show the sequence and mix of services.

Additional Points: Up to an additional 10 points under this section will be awarded to grant proposals that focus some of their effort on addressing the barriers to employment faced by chronically homeless veterans. A veteran who is ''chronically homeless'' is an unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more, OR who has had at least four (4) episodes of homelessness in the past three (3) years. In order to be considered chronically homeless, a person must have been sleeping in a place not meant for human habitation (e.g., living on the streets) and/or in an emergency homeless shelter. A disabling condition is defined as a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability including the co-occurrence of two or more of these conditions. A disabling condition limits an individual's ability to work or perform one or more activities of daily living.

Note: The applicant must complete Appendix D, the Recommended Format for Planned Quarterly Technical Performance Goals, with proposed programmatic outcomes, including participants served, placement/entered employments and job retention.

C. *Quality and extent of linkages with other providers of services to the homeless and to veterans: 20 points.* The application must provide information on the quality and extent of the linkages this program will have with other providers of services to homeless veterans in the local community including faith-based and community organizations. For each service, the applicant must specify who the provider is, the source of funding (if known), and the type of linkages/referral system established or proposed. Describe, to the extent possible, how the project would be incorporated into the local community's continuum of care approach and the local community's ten (10) year plan to end homelessness, if applicable (see Interagency Council on Homelessness Web page at *http://www.ich.gov* for additional information).

Describe how the proposed project links to the appropriate State Workforce Agency and One-Stop Career Center(s) including coordination and collaboration with DVOP/LVER and other One-Stop Career Center staff, HUD, HHS, DVA, and other local community-based programs and the services that will be provided as necessary on behalf of the homeless veteran participants to be served.

D. *Demonstrated capability in providing required program services, including programmatic reporting and participant tracking: 25 points.* The applicant must describe its relevant prior experience in operating employment and training programs and providing services to participants similar to those that are proposed under this solicitation. Specific outcomes previously achieved by the applicant must be described, such as number of enrollments, number of participants that were placed into employment, cost per placement into employment, benefits secured, network coalitions, etc. The applicant must also address its capacity for timely startup of the program, programmatic reporting, and participant tracking. The applicant should describe its staff experience and ability to manage the administrative, programmatic, and financial aspects of a grant program. Include a recent (within the last 18 months) grant specific financial statement and/or audit (does not count towards the 75 page limitation). Final or most recent financial and technical performance reports for other relevant programs must be submitted, if applicable. Because prior HVRP experience is not a requirement for this grant, applicants may have other similar type programmatic performance reports to submit as evidence of experience in operating other employment and training type programs.

E. Quality of overall housing strategy: 10 points. The application must demonstrate how the applicant proposes to obtain or access housing resources for participants in the program and participants entering into the labor force. This discussion should specify the provisions made to access temporary, transitional, and permanent housing for participants through various community resources such as HUD, DVA Grant and Per Diem Program, and other locally funded housing programs. HVRP funds may not be used for housing purposes or purchasing or leasing of vehicles.

2. Review and Selection Process

Grant applications will be reviewed by a Department of Labor grant review panel using the point scoring system specified above in Section V(1). The grant review panel will assign a score after objectively and carefully evaluating each responsive grant application and all responsive grant applications will be ranked based on this score. The ranking will be the primary basis to identify applicants as potential grantees. The grant review panel will establish a competitive range, based upon the proposal evaluation, for the purpose of selecting qualified applicants. For this solicitation, the minimum acceptable score is 70.

The grant review panel, the Assistant Secretary for Veterans' Employment and Training (ASVET), and Grant Officer may further evaluate grant applications deemed within the competitive range in order to compare goals of other grant applications deemed within the competitive range. The grant review panel, the ASVET, and the Grant Officer may consider any information that comes to their attention, including past performance, and will make a final selection determination based on what is most advantageous to the Government, considering factors such as grant review panel findings, geographical presence of the applicants, existing grants, or the areas to be served and the best value to the government, cost, and other factors considered. The grant review panel's conclusions are advisory in nature and not binding on the Grant Officer. However, if no application receives at least that minimum score, the Grant Officer may either designate no grantee or may

designate an entity based on demonstrated capability to provide the best services to the client population. Further, the Grant Officer reserves the right to select applicants with scores lower than the minimum or lower than the competing applications, if such a selection would, in the Grant Officer's judgment, result in the most effective and appropriate combination of services to grant beneficiaries.

The grant review panel will screen all applicant cost proposals to ensure expenses are allocable, allowable, and reasonable. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, e.g. Non-Profit Organizations—OMB Circular A–122. Unallowable costs are those charges to a grant that a grantor agency or its representatives determined not to be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant. If the grant review panel, ASVET, and Grant Officer conclude that the cost proposal contains an expense(s) that is not allocable, allowable, and/or reasonable, the application may be considered ineligible for funding. Further, the grant review panel, the ASVET, and the Grant Officer will consider applicant information concerning the proposed cost per placement, percentage of participants placed into unsubsidized employment, average wage at placement, and 90- and 180-day retention in employment percentages. The national average cost per placement for HVRP for last year was $2,200. The Government reserves the right to ask the applicant for clarification on any aspect of a grant application. The Grant Officer may consult with the Department of Labor staff on any potential grantee and/or sub-awardee(s) concerns. The Grant Officer's determination for award under SGA # 06–05 is the final agency action. The submission of the same proposal from any prior year HVRP competition does not guarantee an award under this Solicitation.

3. Anticipated Announcement and Award Dates

Announcement of this award is expected to occur by June 20, 2006. The grant agreement will be awarded by no later than July 1, 2006.

VI. Award Administration Information

1. Award Notices

A. The Notice of Award signed by the Grant Officer is the authorizing document and will be provided through postal mail and/or by electronic means to the authorized representative listed on the SF–424 Grant Application. Notice that an organization has been selected as a grant recipient does not constitute final approval of the grant application as submitted. Before the actual grant award, the Grant Officer and/or the Grant Officer's Technical Representative may enter into negotiations concerning such items as program components, funding levels, and administrative systems. If the negotiations do not result in an acceptable submittal, the Grant Officer reserves the right to terminate the negotiation and decline to fund the proposal.

B. A post-award conference will be held for those grantees awarded FY 2006 HVRP funds through this competition. The post-award conference is expected to be held in August 2006 and up to two (2) grant recipient representatives must be present. The site of the post-award conference has not yet been determined; however, for planning and budgeting purposes, applicants should allot four (4) days and use Washington, DC as the conference site. The post-award conference will focus on providing information and assistance on reporting, record keeping, grant requirements, and also include networking opportunities to learn of best practices from more experienced and successful grantees and sub-awardee(s). Costs associated with attending this conference for up to two (2) grantee representatives will be allowed as long as they are incurred in accordance with Federal travel regulations. Such costs must be charged as administrative costs and reflected in the proposed budget.

2. Administrative and National Policy Requirements

All grantees and sub-awardees must comply with the provisions of Title 38 U.S.C. and its regulations, as applicable.

A. Administrative Program Requirements

All grantees and sub-awardees, including faith-based organizations, will be subject to applicable Federal laws (including provisions of appropriations law), regulations, and the applicable Office of Management and Budget (OMB) Circulars. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

- 29 CFR part 2—General Participation in Department of Labor Programs by Faith-Based and Community Organizations; Equal Treatment of All Department of Labor Program Participants and Beneficiaries.
- 29 CFR part 30—Equal Employment Opportunity in Apprenticeship and Training.
- 29 CFR part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.
- 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance.
- 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.
- 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance from the Department of Labor.
- 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Assistance.
- 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998.
- 29 CFR part 93—New Restrictions on Lobbying.
- 29 CFR part 94—Government-wide Requirements for Drug-Free Workplace (Financial Assistance).
- 29 CFR part 95—Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations, and with Commercial Organizations.
- 29 CFR part 96—Audit Requirements for Grants, Contracts and Other Agreements.
- 29 CFR part 97—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- 29 CFR part 98—Government-wide Debarment and Suspension (Non procurement).
- 29 CFR part 99—Audit of States, Local Governments, and Non-Profit Organizations.
- Applicable cost principles and audit requirements under OMB Circulars A–21, A–87, A–110, A–122, A–133, and 48 CFR part 31.
- In accordance with section 18 of the Lobbying Disclosure Act of 1995, Public Law 104–65 (2 U.S.C. 1611), non-profit entities incorporated under 501(c)(4) that engage in lobbying activities are not eligible to receive Federal funds and grants.
- 38 U.S.C. 4215—Requirements for priority of service for veterans in all Department of Labor training programs.

3. Electronic Reporting

All HVRP grantees will enter data and electronically attach their quarterly

technical performance and financial status reports, success stories, etc. into the U.S. Department of Labor, Veterans' Employment and Training Service, Outcomes and Performance Accountability Reporting (VOPAR) System according to the reporting requirements and timetables described below.

A. Quarterly Financial Reports

No later than 30 days after the end of each Federal fiscal quarter, the grantee must report outlays, program income, and other financial information on a Federal fiscal quarterly basis using SF–269, Financial Status Report, Long Form, and submit a copy of the HHS/PMS 272 draw down report. These reports must cite the assigned grant number.

B. Quarterly Program Reports

No later than 30 days after the end of each Federal fiscal quarter, grantees also must submit a Quarterly Technical Narrative Performance Report that contains the following:

(1) A comparison of actual accomplishments to planned goals for the reporting period and any findings related to monitoring efforts;

(2) An explanation for variances of plus or minus 15% of planned program and/or expenditure goals, to include: identification of corrective action that will be taken to meet the planned goals, if required; and a timetable for accomplishment of the corrective action.

C. 90-Day Final Performance Report

No later than 120 days after the grant performance expiration date, the grantee must submit a final report showing results and performance as of the 90th day after the grant period, and containing the following:

(1) Final Financial Status Report SF–269 Long Form (that zeros out all unliquidated obligations); and

(2) Final Technical Performance Report comparing goals vs. actual performance levels.

D. 180-Day Follow-Up Report/Longitudinal Survey

No later than 210 days after the grant performance expiration date, the grantee must submit a Follow-Up Report/Longitudinal Survey showing results and performance as of the 180th day after the grant expiration date, and containing the following:

(1) Final Financial Status Report SF–269 Long Form (if not previously submitted); and

(2) 180-Day Follow-Up Report/Longitudinal Survey identifying:

(a) The total combined (directed/assisted) number of veterans placed into employment during the entire grant period;

(b) The number of veterans still employed after the 90- and 180-day follow-up period;

(c) If the veterans are still employed at the same or similar job, and if not, what are the reason(s);

(d) Whether training received was applicable to jobs held;

(e) Wages at placement and at the 90- and 180-day follow-up periods;

(f) An explanation of why those veterans placed during the grant, but not employed at the end of the follow-up period, are not so employed; and

(g) Any recommendations to improve the program.

Agency Contact

All questions regarding this SGA should be directed to Cassandra Mitchell, e-mail address: *mitchell.cassandra@dol.gov*, at tel: (202) 693–4570 (note this is not a toll-free number), or Eric Vogt, e-mail address *vogt.eric@dol.gov*, also at tel. (202) 693–4570. To obtain further information on the Homeless Veterans' Reintegration Program of the U.S. Department of Labor, visit the USDOL Web site of the Veterans' Employment and Training Service at *http://www.dol.gov/vets*.

VII. Other Information

A. Acknowledgement of USDOL Funding

1. *Printed Materials:* In all circumstances, the following shall be displayed on printed materials prepared by the grantee while in receipt of DOL grant funding: ''Preparation of this item was funded by the United States Department of Labor under Grant No. [insert the appropriate grant number].''

- All printed materials must also include the following notice: ''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

2. *Public references to grant:* When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds must clearly state:

- The percentage of the total costs of the program or project, which will be financed with Federal money;
- The dollar amount of Federal financial assistance for the project or program; and
- The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. Use of USDOL Logo

In consultation with USDOL, VETS, the grantee(s) must acknowledge USDOL's role as described below:

- The USDOL logo may be applied to USDOL-funded material prepared for distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The grantee(s) must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event shall the USDOL logo be placed on any item until USDOL has given the Grantee permission to use the logo on the item.
- All documents must include the following notice: ''This documentation does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

Resources for the Applicant: The Department of Labor maintains a number of web-based resources that may be of assistance to applicants. The Web page for the USDOL VETS at *http://www.dol.gov/vets/programs/main.htm* is a valuable source of information including the program highlights and brochures, glossary of terms, frequently used acronyms, general and special grant provisions, power point presentations on how to apply for HVRP funding, On-Site Monitoring Visits, etc. The Interagency Council on Homeless at Web page *http://www.ich.gov* has information from various departments that assist homeless persons including updated information on local community ten (10) year plans to end homelessness and continuum of care plans. America's Service Locator Web page at *http://www.servicelocator.org* provides a directory of our nation's One-Stop Career Centers and *http://www.workforce3one.org* is another Department of Labor resource site. The National Association of Workforce Boards maintains a Web page at *http://www.nawb.org/asp/wibdir.asp* that contains contact information for the State and local Workforce Investment Boards. Applicants may also review ''VETS'' Guide to Competitive and Discretionary Grants'' located at Web page *http://www.dol.gov/vets/grants/Final_VETS_Guide-linked.pdf*. For a basic understanding of the grants

process and basic responsibilities of receiving Federal grant support, please see ''Guidance for Faith-Based and Community Organizations on Partnering with the Federal Government'' at Web pages *http://www.whitehouse.gov/government/fbci* and *http://www.dol.gov/cfbci*. Also, the National Coalition for Homeless Veterans Web page at *http://www.nchv.org*.

Signed at Washington, DC this 11th day of April, 2006.

Eric Vogt,

Grant Officer.

Appendices: (Located on U.S. Department of Labor, Veterans' Employment and Training Service Web page *http://www.dol.gov/vets* follow link for the applicable SGA listed under announcements.)

Appendix A: Application for Federal Assistance SF–424

Appendix B: Budget Information Sheet SF–424A

Appendix C: Assurances and Certifications Signature Page

Appendix D: Recommended Format for Planned Quarterly Technical Performance Goals

Appendix E: Direct Cost Descriptions for Applicants and Sub-Applicants

Appendix F: Survey on Ensuring Equal Opportunity for Applicants

Appendix G: List of 75 Largest Cities Nationwide

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Hazardous waste program authorizations:
- Idaho; published 4-20-06

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  - Required and voluntary conversion to tenant-based assistance; cost methodology; published 3-21-06

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- Cessna; published 3-16-06
- McDonnell Douglas; published 3-16-06

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- Mideast; comments due by 4-24-06; published 2-22-06 [FR 06-01586]
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- Findings on petitions, etc.—
  - North Pacific right whale; comments due by 4-26-06; published 1-26-06 [FR E6-01007]

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  - Chiniak Gully; trawl fishing seasonal closure; comments due by 4-26-06; published 3-27-06 [FR 06-02928]
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H.J. Res. 81/P.L. 109–216

Providing for the appointment of Phillip Frost as a citizen regent of the Board of Regents of the Smithsonian Institution. (Apr. 13, 2006; 120 Stat. 331)

H.J. Res. 82/P.L. 109–217

Providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution. (Apr. 13, 2006; 120 Stat. 332)

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