

amend Part 240 of Chapter II, Title 17 of the Code of Federal Regulations as follows.

**PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934**

1. The authority citation for part 240 continues to read in part as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

\* \* \* \* \*

2. Section 240.31-1 is proposed to be amended by removing the Preliminary Note and adding Preliminary Notes 1 and 2 and introductory text to read as follows:

**§ 240.31-1 Securities transactions exempt from transaction fees.**

**Preliminary Notes**

1. The section 31 fee for options transactions occurring on a national securities exchange, or transactions in options subject to prompt last sale reporting occurring otherwise than on an exchange (with the exception of sales of options on securities indexes) is to be paid by the exchange or the national securities association itself, respectively, or by The Options Clearing Corporation on behalf of the exchange or association, and such fee is to be computed on the basis of the option premium (market price) for the sale of the option. In the event of the exercise of an option, whether such option is traded on an exchange or otherwise, a section 31 fee is to be paid by the exchange or the national securities association itself, or The Options Clearing Corporation on behalf of the exchange or association, and such fee is to be computed on the basis of the exercise price of the option.

2. The section 31(d) assessment on a round turn transaction on a security future traded on a national securities exchange, or by or through a member of a national securities association otherwise than on a national securities exchange, is to be paid by the exchange or the national securities association itself, respectively, or by The Options Clearing Corporation on behalf of the exchange or association, and such assessment is to be computed on the basis of the number of contracts of sale for future delivery traded on such exchange or by or through any member of such association otherwise than on an exchange. In the event of the physical settlement of a security future, a section

31 fee is to be paid by the exchange on which the round turn transaction on the security future was traded, or, if the round turn transaction on the security future was traded by or through a member of a national securities association otherwise than on a national securities exchange, by the association, or by The Options Clearing Corporation on behalf of such exchange or association. Such fee, whether paid under section 31(b) or section 31(c), is to be computed on the basis of the sale price of the security future, although the obligation to pay such fee does not accrue until the time that physical delivery occurs.

The following shall be exempt from section 31 of the Act:

\* \* \* \* \*

By the Commission.

Dated: May 1, 2002.

**Jill M. Peterson,**

*Assistant Secretary.*

**Note:** This Appendix A to the Preamble will not appear in the Code of Federal Regulations.

**Appendix A**

**Regulatory Flexibility Act Certification**

I, Harvey L. Pitt, Chairman of the Securities and Exchange Commission ("SEC"), on information and belief, hereby certify, pursuant to 5 U.S.C. § 605(b), that the proposed amendment to Rule 31-1 under the Securities Exchange Act of 1934 ("Exchange Act") would not, if adopted, have a significant economic impact on a substantial number of small entities. Section 31 of the Exchange Act requires each national securities exchange and each national securities association to pay fees and assessments to the Commission based on sales of or transactions in certain securities. Section 31 of the Exchange Act was amended by the Commodity Futures Modernization Act of 2000 ("CFMA") to impose assessments on transactions in security futures.

The proposed amendment to Rule 31-1 would clarify the method by which assessments are to be calculated for transactions in security futures and fees are to be calculated for sales of securities resulting from the physical settlement of security futures. Only national securities exchanges and national securities associations are required to pay Section 31 assessments for security futures transactions and fees for sales of securities resulting from the physical settlement of security futures. None of these exchanges or associations is a small entity for purposes of the Regulatory Flexibility Act. Accordingly, the proposed amendment to Rule 31-1 would not have a significant economic impact on a substantial number of small entities.

Dated: April 30, 2002.

Harvey L. Pitt,  
*Chairman.*

[FR Doc. 02-11267 Filed 5-6-02; 8:45 am]

**BILLING CODE 8010-01-P**

**AGENCY FOR INTERNATIONAL DEVELOPMENT**

**22 CFR Part 203**

**Registration of U.S. Private Voluntary Organizations for Foreign Aid Programs**

**AGENCY:** Agency for International Development (USAID).

**ACTION:** Proposed rule.

**SUMMARY:** USAID proposes to amend its regulations by creating a less cumbersome and more streamlined registration process for private voluntary organizations (PVOs).

**DATES:** Please submit comments on or before July 8, 2002.

**ADDRESSES:** You may mail written comments concerning the proposed changes to Mary Newton, Registrar, USAID, Office of Private and Voluntary Cooperation, 1300 Pennsylvania Avenue, NW, Washington, DC, 20523-7600. You may submit comments electronically to [mnewton@usaid.gov](mailto:mnewton@usaid.gov).

**FOR FURTHER INFORMATION CONTACT:** Mary Newton, Registrar, Office of Private and Voluntary Cooperation, telephone 202-712-4747; telefax (202) 216-3041; e-mail [mnewton@usaid.gov](mailto:mnewton@usaid.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Explanation of Proposed Changes**

Following an extensive review of the registration process of U.S. private voluntary organizations (PVOs), we propose to amend the regulations to make the registration process less cumbersome and more streamlined for both applicants and the Agency. The major changes are as follows:

1. Defined the term "U.S. PVO" in section 203.2 so that an organization can determine if it needs to be registered. An organization that meets the definition must be registered to be eligible for a subvention or to receive a USAID grant or cooperative agreement. If an organization does not meet the definition, it is not considered a PVO for purposes of registration.

2. Combined two conditions regarding tax exemption and voluntary nature into one condition.

3. Deleted references to other types of nonprofit organizations. Only 501(c)(3) organizations are considered PVOs. Organizations registered before these

changes are implemented will remain in the USAID Registry of PVOs.

4. Added requirement that the organization is incorporated at least 18 months before applying.

5. Separated conditions from documentation requirements for easier reference.

6. Reduced the number of documents required for application from 18 to 7 and for annual submission from 6 to 4.

7. Added Condition No. 8 on U.S. national security issues.

## B. Regulatory Analysis

1. *Executive Order 12866*. USAID has determined that this regulation is not a significant regulatory action as defined in Executive Order 12866 and, accordingly, this regulation has not been reviewed by the Office of Management and Budget.

2. *Regulatory Flexibility Act*. It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required.

3. *Executive Order 13132*. This regulation will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

5. *Small Business Regulatory Enforcement Fairness Act of 1996*. This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic or export markets.

6. *Executive Order 12988—Civil Justice Reform*. USAID has conducted

the reviews required by section 3 of Executive Order 12988 and has determined that, this rule meets the applicable standards in section 3 to mitigate litigation, eliminate ambiguity and reduce burden.

7. *Paperwork Reduction Act*. This rule does contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*). We are in the process of obtaining the necessary approvals.

## List of Subjects in 22 CFR Part 203

Foreign aid, Nonprofit organizations.

Accordingly, 22 CFR part 203 is proposed to be revised to read as follows:

### PART 203—REGISTRATION OF U.S. PRIVATE VOLUNTARY ORGANIZATIONS (PVOs)

Sec.

- 203.1 Purpose.
- 203.2 Definitions.
- 203.3 Conditions of registration.
- 203.4 Documentation requirements for initial registration.
- 203.5 Annual documentation requirements.
- 203.6 Denial of registration, reconsideration and resubmission.
- 203.7 Termination of registration.
- 203.8 Access to records and communications.
- 208.9 Delegation of authority.

Authority: 22 U.S.C. 2381.

#### § 203.1 Purpose.

(a) USAID registers U.S. PVOs for the following purposes:

(1) Registration is a statutory condition of eligibility for U.S. PVOs for subventions.

(2) Registration is a condition of eligibility for U.S. PVOs for USAID grants and cooperative agreements.

(3) Registration provides USAID with information for computing the amount of USAID funding made available to U.S. PVOs.

(4) Registration provides USAID with the information necessary to determine whether a PVO meets the statutory “20 percent privateness test.” The statute requires that a U.S. PVO must obtain at least 20 percent of its financial support (cash) for its international activities from sources other than the U.S. Government to receive certain USAID grants and cooperative agreements. The privateness test is an eligibility criterion for PVO programs; it is not a condition for registration.

(b) It is not the purpose of registration to allow registered U.S. PVOs to make, or enable to be made, any representation

to the public concerning the meaning of being registered with USAID.

(c) Registration does not bring an organization within the Ambassador’s authority and responsibility for the security of U.S. Government operations and personnel abroad.

#### § 203.2 Definitions.

As used in this part:

(a) *Annual report* means a yearly document that describes the PVO’s program activities conducted during the same period as the audited financial statement.

(b) *FAA* means the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151, *et seq.*

(c) *U. S. general public* means U.S. citizens and U.S. nongovernmental organizations, e.g., private citizens, groups, foundations and corporations. U.S. general public does not include government agencies in the U.S. or abroad, or international organizations such as the United Nations, or non-U.S. citizens or institutions.

(d) *Headquarters* means the principal executive office where legal, accounting, and administrative information may be accessed in the daily course of conducting business.

(e) *Public Law 480* means the Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1691 *et seq.*

(f) *Supporting Services* mean the total of general and administration expenses plus fundraising and promotion expenses.

(g) *Subventions* mean the payment of transportation charges under section 123(b) of the FAA, 22 U.S.C. 2151u(b); the sale of the services or commodities, e.g., excess property, under section 607(a) of the FAA, 22 U.S.C. 2357(a); and the furnishing of agricultural commodities under section 202 of Public Law 480, 7 U.S.C. 1722.

(h) *USAID* means U.S. Agency for International Development.

(i) *U.S. PVO* means a private voluntary organization that

(1) Is exempt from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3));

(2) Works in, or intends to work in, foreign development activities;

(3) Receives some portion of its annual support from the private sector;

(4) Receives voluntary contributions of money from the U.S. general public; and

(5) Is not, for registration purposes, a university, college, accredited degree-granting institution of education, private foundation, hospital, organization engaged exclusively in research or

scientific activities, church, or organization engaged exclusively in religious activities.

### § 203.3 Conditions of registration.

There are eight conditions of registration “ the first four conditions define a PVO, and the last four conditions establish standards by which the PVO is evaluated. An applicant shall be registered with USAID as a U.S. PVO if USAID finds that the applicant has satisfied the following conditions:

(a) *Condition No. 1 (U.S.-based)*. Is U.S.-based in that it:

- (1) Is organized under the laws of the United States;
- (2) Has its headquarters in the United States; and
- (3) Has been incorporated for not less than 18 months.

(b) *Condition No. 2 (Private)*. Is not a governmental entity.

(c) *Condition No. 3 (Voluntary)*. Is a voluntary organization in that it:

- (1) Is a public charity and has tax exemption under section 501(c)(3) of the Internal Revenue Code; and
- (2) Solicits and receives cash contributions from the U.S. general public.

(d) *Condition No. 4 (Overseas Activities)*. Conducts, or anticipates conducting, overseas activities that are consistent with the general purposes of the Foreign Assistance Act or Public Law 480, 7 U.S.C. 1691.

(e) *Condition No. 5 (Financial Viability)*. That it:

- (1) Accounts for its funds in accordance with generally accepted accounting principles (GAAP);
- (2) Has a sound financial position; and

(3) Makes its financial statements available to the public upon request.

(f) *Condition No. 6 (Board of Directors)*. Has a board of directors:

- (1) That meets at least annually;
- (2) Whose members serve without compensation or honorarium for such services; and

(3) Whose majority is not composed of the PVO's officers or staff members.

(g) *Condition No. 7 (Program and Supporting Services)*. That it:

- (1) Expendes and distributes its cash and gifts in-kind in accordance with the annual report of program activities; and
- (2) Does not expend more than 40 percent of total expenses on supporting services.

(h) *Condition No. 8 (General Eligibility)*. It is not:

- (1) Suspended or debarred by an agency of the United States Government;
- (2) Designated as a foreign terrorist organization by the Secretary of State

pursuant to section 219 of the Immigration and Nationality Act, 8 U.S.C. 1189, as amended; or

(3) The subject of a decision by the Department of State to the effect that registration or a financial relationship between USAID and the organization is contrary to the national defense, national security, or foreign policy interests of the United States.

### § 203.4 Documentation requirements for initial registration.

(a) In order for USAID to determine if the applicant meets the conditions of registration, an applicant shall submit in duplicate to USAID, Office of Private and Voluntary Cooperation, 1300 Pennsylvania Avenue, NW, Washington, D.C., 20523-7600, the following documents with a cover letter stating the reason the organization is applying for registration, its agreement to the conditions of registration, and its agreement to provide such other information as USAID may reasonably require to determine that the applicant meets the conditions of registration. This information is required for the purpose of determining that the applicant meets the conditions of registration:

(1) Articles of incorporation or charter on state letterhead with state seal and authorizing state official's signature;

(2) Bylaws or other documents establishing corporate structure;

(3) IRS Form 990 or 990-PF (for availability see 26 CFR 601.602) and a copy of IRS letter of tax exemption;

(4) Audited financial statements (for the most recent fiscal year) and an Office of Management and Budget (OMB) Circular A-133 (for availability see 5 CFR 1310.3) audit, if applicable, prepared on an accrual basis in accordance with generally accepted accounting principles (GAAP) certified by an independent certified public accountant (CPA);

(5) Annual report or similar document which describes overseas program activities and lists all board members;

(6) USAID Form 1550-2 for the same reporting period as the financial statements; and

(7) Classification list of activity sectors and countries.

(b) In addition, each applicant shall submit such other information as USAID may reasonably require to determine whether the organization meets the conditions of registration.

(c) USAID may revise this list of documents from time to time.

(d) Other USAID officials may request the same or similar information at a later date for purposes of determining the PVO's eligibility for a particular grant of cooperative agreement.

### § 203.5 Annual documentation requirements.

(a) In order to maintain its registration, each registered PVO shall submit annually, within 180 days after the close of its fiscal year, the following:

(1) Audited financial statements for the registrant's most recent fiscal year and an OMB Circular A-133 audit, if applicable, prepared on an accrual basis in accordance with GAAP by an independent CPA;

(2) Annual report or similar document describing overseas program activities and listing all board members;

(3) USAID Form 1550-2 for the same reporting period as the financial statements; and

(4) Classification listing of activity sectors and countries.

(b) PVOs also must submit any amendments, if applicable, to their articles of incorporation, charter or bylaws and any changes in the organization's tax-exempt status.

(c) In addition, each registrant shall submit such other information as USAID may reasonably require to determine that the organization continues to meet the conditions of registration.

(d) USAID may revise this list of documents from time to time.

### § 203.6 Denial of registration, reconsideration and resubmission.

(a) *Notification of denial of registration*. If USAID decides to deny an applicant registration, USAID will inform the applicant in writing of the denial with a specific statement of those conditions and documentation requirements of registration that the applicant has failed to satisfy.

(b) *Reconsideration*. An applicant may, after receipt of a notification of denial of registration, resubmit its application for reconsideration within the timeframe as designated by USAID. USAID will inform, in writing, the applicant resubmitting its application of USAID's decision upon resubmission.

(c) *Resubmission*. An applicant may at any time resubmit a new application for registration.

### § 203.7 Termination of registration.

(a) USAID may terminate registration for any of the following reasons:

(1) Relinquished voluntarily by the registrant upon written notice to USAID;

(2) Terminated by USAID if registrant does not submit annual documentation within 180 days after its fiscal year end;

(3) Terminated by USAID if registrant has no overseas expenditures within three consecutive years;

(4) Terminated by USAID for failure of the registrant to comply with conditions of registration;

(5) Terminated by USAID if registrant uses promotional material or advertisement suggesting the fact of registration is an endorsement; or

(6) Terminated by USAID if registrant refuses to transfer to USAID any records, documents, or information that are referred to in this regulation and are within registrant's control, or copies of such records or documents, within a reasonable time after requested by USAID.

(b) Termination by USAID shall include prior written notice to the registrant of the grounds for the proposed termination and opportunity for the registrant to file a written statement within 30 days of receipt of the written notice as to why its registration should not be terminated. USAID will inform, in writing, registrant requesting such reconsideration of USAID's decision. In addition, USAID may, at its own discretion, reconsider a termination of registration at any time.

#### **§ 203.8 Access to records and communications.**

(a) All records, reports, and other documents that are made available to USAID pursuant to this part shall be made available for public inspection and copying pursuant to the Freedom of Information Act and other applicable law.

(b) All communications to applicants and registrants by USAID are made to the organization's principal executive office, not the organization's registered office or other address.

#### **§ 203.9 Delegation of authority.**

The Assistant Administrator for the Bureau for Democracy, Conflict and Humanitarian Assistance is delegated by the Administrator the authority to administer the registration process, including the authority to waive, withdraw, or amend any or all of the provisions of the regulations in this part.

Dated: April 30, 2002.

**Karl Schwartz,**

*Chief, Information and Program Support Division, Office of Private and Voluntary Cooperation, Bureau for Democracy, Conflict and Humanitarian Assistance.*

[FR Doc. 02-11243 Filed 5-6-02; 8:45 am]

**BILLING CODE 6116-01-P**

## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Parts 1 and 31**

**[REG-142686-01]**

**RIN 1545-BA26**

#### **Application of the Federal Insurance Contributions Act, Federal Unemployment Tax Act, and Collection of Income Tax at Source to Statutory Stock Options; Hearing**

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

**ACTION:** Change of time of public hearing.

**SUMMARY:** This document contains a notice of change of time of public hearing on proposed regulations relating to incentive stock options and options granted under employee stock purchase plan.

**DATES:** The time of the public hearing originally scheduled for Thursday, May 14, 2002, beginning at 10 a.m. has been changed to begin at 9 a.m.

**ADDRESSES:** The public hearing will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. In addition, all visitors must present photo identification to enter the building.

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

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed regulations (REG-142686-01) that was published in the **Federal Register** on November 14, 2001 (65 FR 57023).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. A period of 10 minutes is allotted to each person for presenting oral comments.

After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER**

**INFORMATION CONTACT** section of this document.

**Cynthia E. Grigsby,**

*Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).*

[FR Doc. 02-11311 Filed 5-6-02; 8:45 am]

**BILLING CODE 4830-01-P**

## **DEPARTMENT OF COMMERCE**

### **United States Patent and Trademark Office**

#### **37 CFR Parts 1 and 2**

**RIN 0651-AB51**

#### **Revision of Patent and Trademark Fees for Fiscal Year 2003**

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The United States Patent and Trademark Office (referred to as "we", "us", or "our" in this notice) is proposing to adjust certain patent fee amounts and a trademark fee amount to reflect fluctuations in the Consumer Price Index (CPI). Also, we are proposing to adjust, by a corresponding amount, a few patent fees that track the affected fees. The Director is authorized to adjust these fees annually by the CPI to recover the higher costs associated with doing business.

**DATES:** Comments must be submitted on or before June 6, 2002.

**ADDRESSES:** Comments may be submitted by e-mail addressed to [matthew.lee@uspto.gov](mailto:matthew.lee@uspto.gov). Comments may also be submitted by mail addressed to: Office of Finance, Crystal Park One, Suite 802, Washington, DC, 20231, or by fax to (703) 305-8007, marked to the attention of Matthew Lee.

**FOR FURTHER INFORMATION CONTACT:** Matthew Lee by e-mail at [matthew.lee@uspto.gov](mailto:matthew.lee@uspto.gov), by telephone at (703) 305-8051, or by fax at (703) 305-8007.

**SUPPLEMENTARY INFORMATION:** This proposed rule would adjust our fees in accordance with the applicable provisions of title 35, United States Code, as amended by the Consolidated Appropriations Act, Fiscal Year 2000 (which incorporated the Intellectual Property and Communications Omnibus Reform Act of 1999) (Public Law 106-113); and section 1113 of title 15, United States Code. This proposed rule would also adjust, by a corresponding amount, a few patent fees (37 CFR 1.17(e), (r), (s), and (t)) that track statutory fees (either 37 CFR 1.16(a) or 1.17(m)).